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***The Role of Corporate Social Responsibility in
Corporate Governance in the Context of Employment:
A Comparative Study of the United Kingdom and
China***

By Ms. Yun, Chong

**Submitted in Fulfillment of Requirement for the Degree of Doctor of Philosophy in Law (PhD in
Law)**

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Abstract

The purpose of this thesis is to study the role of corporate social responsibility (hereinafter 'CSR') in corporate governance in the context of employment. This is done through a comparative study of the United Kingdom (hereinafter 'UK') and China in which it is determined whether Chinese companies can adopt UK companies' CSR practices in employment.

The thesis begins with an overview of the theory of corporate governance and the necessity of CSR in corporate governance. The different models and principles of corporate governance and CSR, and how the main corporate organs operate in corporate governance and apply CSR in decision-making to meet stakeholders' needs are introduced. The study then demonstrates the rationale behind the emergence of CSR, the legal impact of CSR on stakeholders and the global application of CSR initiatives, especially the techniques and mechanisms adopted in the UK and China.

The research specifically presents CSR practices in employment in the UK and China against a theoretical background. This comparative study is mainly dependent on companies' information disclosure, since all data were collected from their official CSR reports. The quality of the information disclosure is assured through effective monitoring as stated in the various reports.

The implication of the comparative research on the disclosed information demonstrates the difference in CSR implementation in employment between UK and Chinese companies. The thesis analyses the possibility of adopting UK CSR practice in employment in Chinese companies in terms of the economic, social and political barriers to, and current situation of,

CSR in China.

As China has opened up the global market, overseas companies have invested in the Chinese market. This comparative study of CSR implementation in the context of employment in the UK and China, and the analysis of the current status of Chinese CSR practices also provide foreign enterprises experience to relate their CSR policies in corporate governance to the Chinese context.

Key words: Corporate decision-making, corporate governance, corporate social responsibility, employment, information disclosure, stakeholder theory.

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UK Statutes

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Health and Safety at Work etc. Act 1974 Ch.

Equality Act 2010 Ch. 15

Disability Discrimination Act 1995 Ch. 13

Employment Right Act 1996 Ch. 8

UK Trade Union and Labour Relations (Consolidation) Act 1992 Ch. 52

UK Statutory Instruments

The Companies Act 2006 (Strategic Report and Directors' Report) Regulation 2013

Workplace (Health, Safety and Welfare) Regulation 1992/3004

Work at Height Regulations (Amendment) 2007/320

Construction (Design and Management) Regulations 2007/320

The Reporting of Injuries, Diseases and Dangerous Occurrences Regulation 2013/1471

Stakeholder Pension Schemes Regulations 2000/1403

China Statutes

Chinese Company Law 2005

Securities Law of China 2005

Labour Contract Law of China

The Law of the People's Republic of China on Work Safety

Trade Union Law of China

China Statutory Instruments

Provisions on Prohibition of Child Labour

Provisions on Minimum Wage

Administrative Measures for the Disclosure of Information of Listed Companies

Disposal of Information Disclosure of Production Safety Accidents

European Council

Directive 1998/27/EC of the European Parliament and the Council (1998) OJ, L166/51

Directive 1999/44/EC of the European Parliament and the Council (1999) OJ, L171/12

Directive 2005/29/EC of the European Parliament and the Council (2005) OJ, L149/22

European Accounts Modernisation Directive 2003/51/EC of the European Parliament and the Council (2003) OJ, L178/16

Communication from the Commission to the European Parliament, the Council: 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

Commission Staff Working Document: Impact Assessment Accompanying the Document Proposal for a Directive of the European Parliament and of the Council amending Council Directives 78/660/EEC and 83/349/EEC as regards Disclosure of Non-financial and Diversity Information by Certain Large Companies and Groups COM (2013) 207 Final

The Report on Corporate Social Responsibility: Accountable, Transparent and

Responsible Business Behaviour and Sustainable Growth (2012/2098(INI))

The Report on Corporate Social Responsibility: Promoting Society's Interests and a Route to Sustainable and Inclusive Recovery (2012/2097(INI))

International Instruments

ILO Freedom of Association and Protection of the Right to Organize Convention (No. 87) 1948

ILO Right to Organize and Collective Bargaining Convention (No. 98) 1949

ILO Forced Labour Convention (No. 29) 1930

ILO Minimum Age Convention (No. 138) 1939

ILO Discrimination (Employment and Occupation) Convention (No. 111) 1958

ILO Tripartite Declaration of Principles Concerning Multinational Enterprises and Social Policy

ILO Convention No. 138 on the Minimum Age for Admission to Employment 1973

ILO Convention No. 182 on the Worst Forms of Child Labour 1999

ILO Conventions No. 98 on Right to Organize and Collective Bargaining 1949

ILO Maritime Labour Convention 2006

ILO Convention No.155 on Occupational Safety and Health Convention 1981

ILO Convention No.167 on Safety and Health in Construction Convention 1988

OECD Principle of Corporate Governance

United Nations Framework Convention on Climate Change

United Nations Universal Declaration of Human Rights

Others

Australia Corporation Act 2001

The Sarbanes–Oxley Act of 2002 in the United States

Table of Cases

Re Smith and Fawcett Ltd [1942] Ch 304, [1942] 1 ALL ER 542, CA;

Regentcrest plc v Cohen [2001] 2 BCLC 80;

In re Walt Disney Derivative Litigation (Chancery Court), [2003] 825 A 2d 275;

Dodge vs Ford Motor Company case, [1919]170 NW 668

Abbreviation

Corporate social responsibility=CSR

The United Kingdom=UK

Chinese Communist Party=CCP

Organization for Economic Co-operation and Development=OECD

Socially responsible investment=SRI

Corporate social performance= CSP

The European Union=EU

Corporate governance quotient=CGQ

International Financial Reporting Standards=IFRS

Non-governmental organizations=NGOs

The United Nations=UN

International Labour Organization=ILO

Fair Labour Association=FLA

Transnational corporations=TNCs

World Summit on Sustainable Development=WSSD

Toxics Release Inventory=TRI

Global Reporting Initiatives=GRI

Operating and Financial Review=OFR

Confederation of British Industry=CBI

Multinational corporations=MNCs

Chinese Securities Regulatory Commission=CSRC

State-owned Assets Supervision and Administration Commission=SASAC

State Administration of State Property=SASP

Small- and medium-sized enterprises=SMEs

Abbreviation

State-owned enterprises=SOEs

Gross domestic product=GDP

State Environmental Protection Administration=SEPA

China Social Compliance 9000 for the Textile and Apparel Industry=CSC9000T

New York Stock Exchange=NYSE

Construction (Design and Management) Regulations=CDM 2007

Advisory, Conciliation and Arbitration Service=ACAS

Considerate Construction Scheme=CCS

Reporting of Injuries, Diseases and Dangerous Occurrences Regulations=RIDDOR

Home Builder Federation=HBF

All-China Federation of Trade Unions=ACFTU

Environmental, social and corporate governance=ESG

Occupational Health and Safety Advisory Services=OHSAS

Health, safety and the environment=HSE

Department of Business, Innovation and Skills=BIS

Law of the People's Republic of China on Work Safety=Law on Work Safety

Chinese Industrial Enterprises and Industrial Association of Social

Responsibility=Industrial Guidelines

National Occupational Safety Association=NOSA

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Author's Declaration:

I declare that, except where explicit reference is made to the contribution of others, that this thesis is the result of my own work and has not been submitted for any other degree at the University of Glasgow or any other institution.

Printed Name: Chong Yun

Signature:

Introduction

Corporate social responsibility (hereinafter ‘CSR’) is a voluntary concept whose emergence is based on laws but further developed beyond legislation. It is coincident with the stakeholder approach that company boards of directors should make decisions with the view to ensuring shareholders’ profit in the long term. Following the stakeholder approach, CSR has become the popular trend and the strategic management tool in corporate governance that meets the needs of stakeholders, namely employees, consumers, suppliers, governments, communities and even the environment, and positively improves the efficiency of corporate governance.

The emergence of CSR is primarily dependent on the legal basis, and driven by social and market concerns about sustainable development. It is necessary for public investors and primary stakeholders to know what corporate performance is as a point of reference, so that they can make sound investments or decisions regarding a company based on the company’s positive performance in respect of corporate operations. Information disclosure is currently the generally used approach whereby companies publish information about their CSR exercises that is monitored by public users. When companies’ performance is apparent to the public, it stimulates the implementation of CSR through addressing social and environmental issues, thereby increasing their competitiveness in the marketplace and enhancing their corporate image.

Global adoption of CSR is developed on a legal basis and through voluntary initiatives at different levels. The United Kingdom (hereinafter ‘UK’) has a long history of fulfilling CSR in corporate governance under the stakeholder approach and broadly applying voluntary approaches in practice. Employees as one of the main stakeholders of

companies, to some extent, determine the companies' fate, because they are the human resources and affect the efficiency of corporate operations. UK companies generally involve their employees in their CSR performance to ensure the employees' human rights, good working conditions, fair payment and other interests in the workplace.

China differs from the UK. China first introduced CSR in its domestic market in the late 1990s and is making an effort to improve it through applicable voluntary initiatives on the basis of legal regulations. However, China still has a long way to go in following other countries that have extensive experience of CSR in corporate governance, especially with respect to meeting employees' need and benefits in companies.

The topic of this thesis will be analysed in terms of three research questions to evaluate the role of CSR in corporate governance in the context of employment through a comparative study of the UK and China:

1. What is the role of CSR in corporate governance and what techniques are used to implement CSR?
2. How is CSR implemented with regard to employees in the UK and China?
3. Is it feasible for China to adopt UK practices with regard to CSR in the context of employment?

The research was conducted in the form of comparative studies of information disclosure related to CSR between UK and Chinese companies. It is difficult to conduct primary interviews with employees and other participants in corporate governance or observe the exercise of all companies to obtain precise information on individual company's CSR performance towards their employees in corporate governance, with the result that the research is based on reported information. Companies' information disclosure is analysed

in terms of the data collected from companies' official CSR reports. Through comparative studies conducted among many samples of UK and Chinese companies, the research will demonstrate and summarize the techniques used by UK and Chinese companies in their CSR performance towards their employees in corporate governance. As regards the differences between UK and Chinese companies, the feasibility of adopting UK experience of CSR in Chinese corporate governance in a typically Chinese context will be analysed.

In this research the scope of collected corporate information disclosure is limited as it is impossible to collect all companies' reports in the UK and China. Therefore, the demonstrated approaches to, and analysis of, CSR are limited to the information disclosure of selected companies. As regards those reports that are not accompanied by independent audit and verification, it is necessary, but difficult, to check the quality and validity of the information, so that it will be assumed in this thesis that all information is authentic. Moreover, the research is only an analysis based on the information disclosure and not an evaluation of the quality of companies' substantial exercise of their CSR towards their employees in corporate governance, nor is it a direct observation of the real effect of each action in an individual company. All comparisons and conclusions of this thesis were drawn from the collected reporting material, which was assumed not only to be authentic but reliable by public users.

Additionally, analysis of the research question of whether 'it is feasible for Chinese companies to adopt UK models of CSR to employees in corporate governance' is based on individual companies' own situation whereby they chose to entirely or partly apply UK approaches in corporate governance, and are not relevant to the legal basis, political issues or governmental policy. In the Chinese database more than half of the companies are state-owned or centrally controlled state-owned companies. The result is that state control and government instructions will largely affect companies' performance of corporate

governance and CSR. Combining external factors, such as legal development and political control, in all kinds of companies in this general research is complicated, because state-owned companies not only aim to achieve economic and social profit, but also the political purpose under the Chinese Communist Party's (hereinafter 'CCP') control and government governance. Therefore, in the context of the Chinese CSR characteristics, how these external issues affect the feasibility of Chinese companies, especially state-owned companies, adopting UK CSR models towards their employees will be studied and developed further.

The thesis is divided into five chapters. The first chapter provides a general overview of the theory of corporate governance and the necessity of CSR in corporate governance. The different models and principles of corporate governance and CSR and their correlation are presented and discussed in terms of how the main corporate organs operate in corporate governance and apply CSR to enhance their performance.

The second chapter first demonstrates the rationale for the emergence of CSR, the legal impact on CSR and globally used CSR initiatives, and then illustrates diverse techniques and mechanisms adopted in the UK and China. This chapter introduces the historical context and barriers to the implementation of CSR in China.

Chapters 3 and 4 are both dependent on UK and Chinese companies' published information in various corporate reports to apply empirical research and comparative studies to analyse the strategies and approaches UK and Chinese companies adopted in their CSR exercise in corporate governance. In this thesis there are two tables (Table 1 and 2) that present precise details of each selected company's CSR performance towards its employees.

The fifth chapter relies on the analysis and demonstration of information disclosure to compare the differences in CSR implementation within companies in two countries and to analyse the feasibility of Chinese companies adopting practices from UK models with respect to the fulfilment of CSR in employment in corporate governance.

Chapter 1: Theory of Corporate Governance and Corporate Social Responsibility

Responsibility

In a simple market economy, input owners, who hold resources such as material, labour and even information, exchange their resources under the price mechanism. There is, therefore, no need for integrated control of the free transaction. In a firm, however, input owners transact through contracts leading to transaction costs due to the specificity and uncertainty in contractual relations, so that individual participants are interlinked through varied contracts. A body is necessary to coordinate the relations among all contractual constituents and input resources within a firm in order to reduce transaction costs.¹ Corporate governance emerged as the process of control and coordination of contractual transactions to reduce transaction costs in firms.

With the increased focus on social and environmental development, the efficiency of corporate governance is not only dependent on meeting contractual constituents' financial interests, but also social needs. Companies' success is closely related to the coordination of internal contractual participants, and even external elements, which would affect or be affected by the company's business, such as the community, government and the environment. CSR is the essential approach to meet social interests in corporate governance within the firm and among external elements, which would improve the efficiency of corporate governance as strategic management.

¹ The phrase 'a group to coordinate contractual participants' is derived from Coase's work on the nature of the firm. See Coase, R., 'The Nature of the Firm', in Kroszner, R. S. and Putterman, L., *The Economic Nature of the Firm: A Reader*, 3rd Edition, (ed.), originally published in 1986, Cambridge University Press (2009), 79–82.

This chapter will generally introduce the theory of corporate governance and CSR. It will examine the relationship of both concepts with the nature of the firm, as well as the relationship between corporate governance and CSR. Different models and mechanisms in corporate governance and CSR will be presented and discussed in terms of how the main corporate organs operate in corporate governance and apply CSR to enhance their performance.

1.1 The nature of the firm

Before the emergence of the firm, an individual input owner freely exchanged resources in the marketplace under the price mechanism that each process of production was voluntarily and openly controlled by property investors, such as a worker owning and investing labour for his or her master, and then obtaining payment from the ‘labour buyer’. Every transaction was concluded between a seller and a buyer, with the result that the resource was independently operated by the input owner in the process of production. When the situation was changed and long-term contracts existed between some input providers without price mechanism and control, rights were directed by hired agents in the process of production, and the firm as an economic unity emerged to optimally coordinate and organize the resource and the participant’s activity. This process was defined as ‘corporate governance’, with the main organs, namely the shareholders, board of directors and management, necessary to direct operations relevant to the nature of the firm.² This section will analyse how corporate governance acts within the distinct nature of a firm, as a nexus of contracts and a tool to reduce transaction costs.

² In Kroszner and Putterman’s preface to *Reintroducing the Economic Nature of the Firm*, firms are units to purchase input such as labour and materials, transform them into service and goods, and sell the fruit with the objective of maximizing profit. However, the firm is not the momentary assemblages of co-operating factor suppliers and profit-seekers, but the organization to manage and coordinate the activities of the individual constituents. Kroszner, R. S. and Putterman, L., *The Economic Nature of the Firm: A Reader*, 3rd Edition, (ed.), originally published 1986, Cambridge University Press (2009), 7–9.

1.1.1 A nexus of contracts

In the nineteenth century, typically, business was owned by individuals or small groups so that thousands of workers and enormous wealth would be combined under unified control and management through a corporate mechanism.³ This form of business was then developed into the modern firm in which the independent worker who enters the business would become a wage labourer to his or her master, and the property investors surrender and receive the wages of capital. The gathering of capital and human resource creates an organized firm, in which all resources are uniformly allocated or applied by central control.⁴

Bainbridge regarded the firm as a nexus of contracts that is an aggregate of different individual input owners coordinating together to provide goods or services.⁵ More specifically, employees offer human capital resources; creditors provide debt capital; shareholders provide equity capital, bear the risk of losses and monitor the performance of management; and the managerial group detect employees' performance and coordinates the activities of all input.⁶ Scholars on the theory of a nexus of contracts contend that shareholders put the capital into a firm, and bear the most risk and uncertainty of future return, so that their position in the firm is different from other contractual constituencies and their interest should be protected.⁷ According to

³ Berle, A. A. and Means, G. C., 'From *The Modern Corporation and Private Property*', in Kroszner, R. S. and Putterman, L., *The Economic Nature of the Firm: A Reader*, 3rd Edition, (ed.), originally published 1986, Cambridge University Press (2009), 58.

⁴ Ibid., 59.

⁵ Bainbridge, S. M., *The New Corporate Governance in Theory and Practice*, Oxford University Press (2008), 28-30.

⁶ Ibid., 29.

⁷ Dodd, E. M. (Junior), 'For Whom Corporate Managers are Trustees', *Harvard Law Review* (1932), Volume 45, Issue. 7, 1149–1159; see also Epstein, E. J., *Who Owns the Corporations? Management vs.*

academics from the Chicago School of Law and Economics, the company is the shareholders' property under the agent–board of directors' coordination in the nexus of contracts, so that the standard used to evaluate the success of corporate governance in any particular company is dependent on maximizing shareholders' profits.⁸ The owner of the firm and the shareholders' interests are ensured by the board of directors and management, while other constituencies, such as employers or creditors, would be protected and limited through contracts and statutory laws.⁹

Bainbridge states that shareholders' interests should receive primacy in corporate governance, because it would affect management only in a passive manner, such as in voting. However, other constituencies are able to safeguard their own profit and negotiate with management through varied approaches, such as employees individually or collectively bargaining with employers, or local communities bargaining with employers through tax abatement.¹⁰ Therefore, shareholders who invest capital in a company, but

Shareholders, 20th Century Fund-Priority Press Publications (1986), 13; see also Berle and Means, *supra* note 3, 59–63.

⁸ Clark, T., 'The Stakeholder Corporation: A Business Philosophy for the Information Age', *Theories of Corporate Governance, the Philosophical Foundations of Corporate Governance*, Routledge (1995), 193.

⁹ Blair, M. M., 'Ownership and Control: Rethinking Corporate Governance for the Twenty-First Century', *Theories of Corporate Governance, the Philosophical Foundations of Corporate Governance*, Routledge (1995), 177; Easterbrook and Fischel claimed that 'for most firms the expectation is that the residual risk bearers have contracted for a promise to maximize long-run profits of the firm, which in turn maximizes the value of their stock. Other participants contract for fixed payouts, monthly interest, salaries, pensions, severance payments, and the like.' See Easterbrook, F. H. and Fischel, D. R., *The Economics Structure of Corporate Law*, Harvard University Press (1996), 35.

¹⁰ In some companies, they could run effectively without seeking equity investments for years, but could not survive for long without regular infusion of new employees, new debt financing, or provision of resources. Therefore, in regularly run or well-run companies, shareholders are not as vital as other participants, such as employees, creditors and suppliers. See Bainbridge, *supra* note 5, 50–55; see also Kershaw, D., *Company Law in Context: Text and Materials*, 2nd Edition, Oxford University Press (2012), 335–340; see also Bainbridge, S. M., 'Redirecting State Takeover Laws at Proxy Contexts', *Wisconsin Law Review* (1992), 1088–1090; see also, Macey, J. R., 'An Economic Analysis of the Various Rationales for

receive less protection and remedy should be ensured the maximization of share value and interest.

1.1.2 Transaction cost

From a historical perspective, Arthur Salter stated that '[t]he normal economic system works itself. For its current operation, it is under no central control; it needs no central survey, over the whole range of human activity and by a process that is automatic, elastic and responsive.'¹¹ For example, if the price of factor A becomes higher in X than in Y, then A will move away from X to Y, unless the difference disappears, so that the price mechanism decides the allocation of factors of production.¹² This description assumes that the economic system is able to run automatically under the coordination of the price mechanism, and the exchange and distribution of resource are also directly reliant on it. However, Coase notes that price mechanism will not always work in an individual economic plan for subjective reasons.¹³ If worker A moves from X to Y, because he was required to do so; or if worker A remains in X, except for the price factor, he can receive priority or advantages in X rather than Y, A would be willing to stay in X.¹⁴ Firms came about under such circumstances where an external element partly influenced the exchange, although personal willingness was not a very important reason for the emergence of the firm. Transactions conducted under the price mechanism require costs in order to discover what the relevant prices are and to establish contracts with other

Making Shareholders the Exclusive Beneficiaries of Corporate Fiduciary Duties', 21 *Stetson Law Review* (1992), 29–37.

¹¹ Salter's description of price mechanism was referred to in Coase's theory from Robertson's approval in his book. See Robertson, D.H., *Control of Industry*, Nisbet and Co. (1930), 85; see also Coase, *supra* note 1, 79–82.

¹² See Coase, *supra* note 1, 81–83.

¹³ *Ibid.*

¹⁴ *Ibid.*

constituencies, while transactions coordinated within the firm do not eliminate contracts but greatly reduce them.¹⁵ Therefore, price mechanism cannot always direct the allocation of resources and balance transactions in an arm's-length market in which 'outside the firm, price movements direct production, which is coordinated through a series of exchange transactions in the market. Within a firm, these market transactions are eliminated and in place of the complicated market structure with exchange transactions is substituted by the entrepreneur-coordinator, who directs production.'¹⁶

Coase assumed that 'it may be desired to make a long-term contract for the supply of some article or service. This may be due to the fact that if one contract is made for a longer period, instead of several shorter ones, then certain costs of making each contract will be avoided.'¹⁷ When a series of short-term contracts are substituted by a long-term contract, the uncertainty and risk for the future cannot be forecast. Therefore, contractual parties include uncertainty and complexity in contracts, causing increases in the transactional cost of negotiation. Contractual transaction cost might be reduced, but not eliminated, due to the uncertainty and complexity in the process of contracting.¹⁸

In addition, transaction costs in a firm would not be totally removed, because it is costly to divide a large amount of firm-specific investment, depending on the degree of difficulty of redeploying, especially specific knowledge, skill or technology.¹⁹ When price is not treated as the unique and decisive element in a market transaction, firms come

¹⁵ Ibid., 83.

¹⁶ 'Entrepreneur' is the definition used in Coase's theory to refer to the person who takes the place of the price mechanism in the direction of resources. See Coase, *supra* note 1, 81.

¹⁷ Ibid., 83.

¹⁸ Ibid.

¹⁹ Blair, M. M., Firm-specific Human Capital and Theories of the Firm, *Business, Economics and Regulatory Policy Working Paper* No. 167848 (September 12, 2003), available at: <http://papers.ssrn.com/abstract=167848>, last accessed on 23 March 2013.

out to optimize owned resources and coordinate the contractual relationships with input owners, so that transaction costs exist, no matter what the control of firm-specific investment or contracts is.²⁰

It was necessary to grant the authority over the coordinating function to a coordinator to reduce the cost of the transaction of the specialized production resource and control the future uncertainty. The model of entrepreneur–coordinator came about as a result of corporate governance which could be defined as the hierarchical arrangement that the coordinator governs the firm-specific resources on the basis of the degree of difficulty in redeploying assets to other uses.²¹ This means that in order to reduce the cost in contractual transactions, it is necessary to establish an efficient governance structure, which fits the requirement of hierarchical management, to deal with the uncertainty, complexity and specificity of firm-specific resource. When corporate governance effectively coordinates resources and sets up contracts with input owners, it will attract many more resources from the market that are willing to enter into the firm, rather than being exchanged in the marketplace. Accordingly, when input owners would like to enter into corporate business, they might give up the capital price, to some extent, which will directly decrease transaction costs in the process of exchange.

1.2 Models of corporate governance

According to Clark's research, the term 'corporate governance' was derived from ancient Greek and Latin: the word 'corporate' originated from the Latin word *corpus* meaning 'body', and 'governance' was developed from the Latinised Greek *gubernatio*, meaning

²⁰ Ibid.

²¹ Ibid.

‘management’ or ‘government’.²² Therefore, *corporate governance* is defined as a process of governing a company.²³ Its emergence is close to that of the existence of the firm, which would be more effective to coordinate the relations among contractual constituents and reduce the transaction costs within a firm through diverse mechanisms in different models of corporate governance. In the following section three models of corporate governance will be explained, namely (1) the principal–agent model, (2) stakeholder theory and (3) team production.

1.2.1 Principal–agent model

Before the typical business units in the nineteenth century, owners of physical property or human resource owned full power with beneficial ownership, and control with complete right of use and to the fruits and the proceeds of input. The best guarantee of owner’s profit was to use own property for the purpose of acquiring maximum benefit.²⁴ In the modern corporation, the property owner no longer disposes of his or her own property, but passes it on to the gathered control of another group who secures industrial efficiency, produces profit and obtains interest from control of the resources.²⁵

Blair devised a saying, on the basis of the theory of private property from Berle and Means: shareholders, as the owners, surrendered their property right to the corporation,

²² Clark, T., ‘Cycles of Governance’, *International Corporate Governance: A Comparative Approach*, Routledge (2007), 1–3.

²³ Ibid.

²⁴ As regards the combination of ownership and control of the property owner, Berle and Means also assumed that ‘if the individual is protected in the right both to use his own property as he sees fit and to receive the full fruits of its use, his desire for personal gain, for profits, can be relied upon as an effective incentive to his efficient use of any industrial property he may possess’. See Berle and Means, *supra* note 3, 59–63.

²⁵ Ibid.

which should be operated in their sole interests.²⁶ According to Berle and Means, physical control over the instruments of production would not be held by the resource owner, but be surrendered to centralized groups who manage property in bulk, while control of capital assets would also be passed from individual owners who had the right to enjoy the interest to unified control entirely.²⁷ Shareholders' property rights are divided into a bundle of rights, including the ownership and rights to possess, use, dispose of, exclude others, manage and control. Shareholders, therefore, have the right to receive the residual claim on the property and a limited right of control, while the rights to use and control property go to the board of directors and top management.²⁸

As regards Fama and Jensen's view about the separation of ownership and control, the power to property is divided between the residual risk bearer and decision agent that may cause the latter's opportunistic behaviour to operate or make decision on their own interest.²⁹ This separation led to the emergence of the principal-agent model in corporate governance where shareholders put a capital investment into company and bear the residual risk, so that they are the owners of the firm, while the board of directors controls the company and ensures shareholders' interest.³⁰ It is impossible for all shareholders who lack professional knowledge and skills in corporate governance to be involved in routine decision-making within a company. They would, therefore, grant authority to the

²⁶ See also Blair, *supra* note 9, 176–179.

²⁷ Berle, A. A. and Means, G. C., 'Property in Transition', *The Modern Corporation and Private Property*, This Edition, originally published in 1932, Transaction Publishers (1991), Book I, Chapter I, 7–9; see also Blair, *supra* note 9, 177–178.

²⁸ In production, property was seen as the physical instrument. When men no longer controlled the property, they did not really own material input, but pieces of paper, known as 'stocks', 'bonds' and other securities that would yield capital return in bulk under the controlling group's unified coordination of all physical input and human resource within the corporation. See Blair, *supra* note 9, 181; see also, Berle and Means, *supra* note 3, 62–64.

²⁹ Fama, E. F. and Jensen, M. C., 'Separation of Ownership and Control', *Journal of Law and Economics* (1983), Volume 26, Issue 2, 304–309.

³⁰ *Ibid.*

board of directors to manage corporate issues, including decision-making and implementation, and without control, the board of directors might make decisions based on self-interest.³¹

The agency problem exists due to the separation of ownership and control, caused by the conflict between the shareholders (the principal) and the board of directors (the agent) in the process of decision-making, where residual risk-bearing is separated from the control of the company: shareholders invest in the company, and the agent decides how to employ resources according to corporate governance. In this process, the shareholders invest in the company and take the risk of uncertain return. So, they expect to enhance the benefit for themselves through control of the property by the agent; whereas managerial agents, who initiate and implement decisions, are more like employees with fixed payment. If the board of directors takes actions to deviate from a residual claimant's interest or operate in its own interest, shareholders will take the risk and bear the loss of the inappropriate performance.³²

In an open and complex corporation, this agency problem between shareholders and the board of directors could be relieved through the separation of decision management and control, which includes that initiation and implementation will be monitored or controlled by another group of agents who will ratify and monitor the decision and its operation; the so-called non-executive board of directors.³³ In unusual cases, residual claims integrated into one or a few shareholders lead to simple and direct monitoring and ratification of

³¹ MacNeil, I., 'Corporate Governance: Overview and Evolution', *An Introduction to the Law on Financial Investment*, 2nd Edition, Hart Publishing (2012), 315–316.

³² See Fama and Jensen, *supra* note 29, 304–307.

³³ *Ibid.*, 305–309.

decision-making by the board of directors. Top-level decision control is separated from top decision management and is exercised by residual claimants.³⁴

According to the theory discussed above, corporate governance is a model of principal and agent, in the form of separation of ownership and control where the board of directors and management, as agent, make decisions and operate to maximize shareholders' interests. However, the separation of ownership and control might cause the controlling agent to abuse his or her rights by, for example, working for self-interest, which means that the right of decision-making vested in the board of directors is divided into decision management and decision control, and the board's behaviour and process of decision-making could be controlled and monitored by another group. Therefore, corporate governance means that an agent (the board of directors) holds the right to make decisions and is controlled by another group in a nexus of contracts to ensure the appropriate return to contractual constituents and shareholders and the maximization of their interests.

1.2.2 Stakeholder theory

In the conventional input–output model of corporations, suppliers, investors and employees invest input in a firm and produce output that is sold to customers; while in Donaldson and Preston's foundational research of stakeholder theory, all stakeholders, including employees, suppliers, communities, governments and so on, participate in the

³⁴ In Fama and Jensen's view, the open and complex company stands in contrast to the small, non-complex company in that the specific knowledge of decision-making in the former company is diffused among agents. In an open and complex company with many shareholders, it is costly and not possible for residual claimants to participate in decision control, so that delegation of control to other agent with specific knowledge will be more efficient in corporate governance. See Fama and Jensen, *supra* note 29, 308–309.

production of the firm and derive legitimate interests to obtain benefits.³⁵ The stakeholder theory emphasizes the organizational success in achieving the corporate objective of profitability through stakeholder management.³⁶ In practice, the emphasis on relationships with customers, employees, suppliers and investors indicates that corporate governance is more about satisfying all constituencies' interests than that of the shareholder.³⁷ According to Anthony Cleaver, the Chairperson of IBM UK, many companies in the UK have adopted the stakeholder theory into corporate operation to 'give due weight to all key stakeholders to assure shareholder value'.³⁸

The definition of *stakeholding* was adopted about 400 years ago, according to the records of the *Oxford Dictionary*, and not only referred to employees in a firm, but ranged from contractual stakeholders, such as shareholders, customers, suppliers and lenders, to community stakeholders, such as consumers, regulators, government, the media and local communities.³⁹ Clarkson defines a *firm* as 'a system of stakeholders operating within the larger system of the host society that provides the necessary legal and market infrastructure for the firm's activities. The purpose of the firm is to create wealth or value

³⁵ Donaldson and Preston regarded stakeholder theory as descriptive, instrumental and normative, and it respectively described how boards of directors made decisions concerning all corporate constituents, identified the connection between stakeholder management and achievement of corporate profitable goals, and instructed moral and normative guidelines of corporate governance with integration of stakeholders' interests. Donaldson, T. and Preston, L. E., 'The Stakeholder Theory of the Corporation: Concepts, Evidence, and Implications', *Academy of Management Review* (1995), Volume 20, Issue 1, 68–70 and 75–85.

³⁶ Ibid.

³⁷ Clark, T., 'European Corporate Governance', *International Corporate Governance: A Comparative Approach*, Routledge (2007), 197.

³⁸ RSA, *Tomorrow's Company Inquiry Final Report*, Royal Society of Arts (1995).

³⁹ See Clark, *supra* note 37, 194; see also Woodward, D. G. *et al.*, 'Organizational Legitimacy and Stakeholder Information Provision', *British Journal of Management* (1996), Volume 7, Issue 4, 34.

for its stakeholders who play different roles in [the] company by converting their stakes into goods and services'.⁴⁰

Regarding shareholders' profit, the board of directors is entrusted to ensure that it is maximized. However, the board cannot simply tell shareholders that it will work to maximize their interest; it must reflect whether employees work properly, customers are satisfied with the service or goods the company provides and so on. The success of a corporation is judged on the motivation of employees, the close relationship with customers, maintaining good relations with suppliers and even the positive reputation of the corporation in the community.⁴¹ Even if corporate governance aims to maximize the shareholders' interest, stakeholders will be the foundation in any corporate operation.

Directors should be obliged by law to act in the interest of the whole company, so that shareholder maximization is based on the stakeholder theory that 'only when all of the other constituent relationships of the corporation – with constituent relationships of the corporation – with customers, employees, suppliers, distributors and the wider community are fully recognized and developed that long term shareholder value can be released.'⁴² Stakeholder theory is coherent with the legal requirement of corporate governance to promote the success of the company as a whole, because the stakeholders' benefit is crucial to the company's overall achievement. This would protect the interests of the company's employees, keep positive business relationships with suppliers and customers, ensure a positive social reputation, and reduce the negative impact on the community as a whole.⁴³

⁴⁰ Clarkson, M. B. E., *A Risk Based Model of Stakeholder Theory*, Toronto University Press (1994), 21-24.

⁴¹ Tricker, B., *Corporate Governance: Principles, Policies and Practices*, Oxford University Press (2009), 230.

⁴² Clark, T., 'Corporate Social Responsibility', *International Corporate Governance: A Comparative Approach*, Routledge (2007), 281.

⁴³ Ibid., 283.

1.2.3 Team production

In contrast to Coase's view that markets do not operate without costs, but through firm-to-firm contract, Alchian and Demsetz contended that the firm could obtain comparative advantage by organizing resources through team productivity, meaning that the input owners would increase productivity through team co-operation.⁴⁴ This implies that the aggregate team production is greater than the sum of the individual input. Through ordinary market contracts, each labour input owner could freely exchange with the master through contracts. This contractual exchange is described as 'the centralized contractual agent in a team productive process – not some superior authoritarian directive or disciplinary power.'⁴⁵ Team production, in contrast, is a process in which '(1) several types of resources are used and (2) the product is not a sum of separable outputs of each cooperating resource and (3) not all resources used in team production belong to one person'; that is, not the simple accumulation of separable individual productivity.⁴⁶

This model poses the problem that if a team member receives a fixed return irrespective of whether or not he or she works hard, it would lead to the incentive of shirking where the team member would allocate rewards from the surplus of total output, and the reward might be higher than which that team member really achieved.⁴⁷ In order to avoid

⁴⁴ Alchian, A. A. and Demsetz, H., 'Production, Information Costs, and Economic Organization', *American Economic Review* (1972), Volume 62, Issue 5, 777–781.

⁴⁵ See Blair, *supra* note 19.

⁴⁶ See Alchian and Demsetz, *supra* note 44, 779.

⁴⁷ The increase of total output was produced through the effort from some team member in team production, so that the final return to all team members would be accordingly increased. However, other team members who were shirking or just achieved the normal burden of work in team production would also receive a higher income in relation to their true performance due to the total growth of output. See Blair, M. M. and Stout, L. A., 'A Team Production Theory of Corporate Law,' *Virginia Law Review* (March 1999), Volume 85, Issue 2, 264–268; see also Alchian and Demsetz, *supra* note 44, 776–780.

shirking, it is necessary to detect and monitor the team member's performance through someone who is specialized as a monitor to check the input performance of team members. The monitor is entitled to distribute the net earnings of the team and payments to other input owners, who are just involved in routine work in team production, and the team monitor will receive the residual product above the prescribed amounts that are agreed by other input owners. The person who receives the residual rewards will measure output performance, apportion rewards and detect or estimate the team member's marginal productivity. The monitor has the authority to revise or even terminate an input owner's contract without any termination of contract with other team members. This would discipline team member's behaviour and reduce shirking. By observing the input behaviour, the central party to all contracts with input owners may alter the membership of the team as well.⁴⁸ The monitoring is not only to avoid shirking, but also to measure the output and reward each team member, which ensures fair return on the relevant output of the individuals.⁴⁹

In the theory of team production, *individual input* is defined as the free transaction in a firm whereby each owner provides the resource for firm through contract, but not appointment. When the corporate operation is dependent on teamwork, problems of reward and shirking arise. Corporate governance in team production means that a small group of team members with authorized rights to observe the input performance for rewarding individuals monitors shirking in team production and coordinates the input owners within the whole organization as the nexus of contracts. As the agent, the board of directors is regarded as the mediating organ to balance team members' interest, that is, to 'keep everyone happy enough' and avoid shirking in team production.⁵⁰ Corporate

⁴⁸ See Alchian and Demsetz, *supra* note 44, 785.

⁴⁹ Ibid.

⁵⁰ The theory of corporate governance in team production refers to public corporations with wide and free direct control over the 'team'; whereas a private company adheres more to the 'grand-design

governance in team production is also the extreme stakeholder model that actively offers better conditions to attract individual input owners' collective work within a firm.

1.3 Division of power: Shareholders, board of directors and management

In terms of the separation of ownership and control, shareholders' right of decision-making is surrendered to a board of directors who controls the operation of the company in corporate governance. However, this might lead to the agency problem that the board of directors might act in self-interest, in which case shareholders have the right of control over decision-making.⁵¹ In the early stage, shareholders, as the principal owner, exercise the power of control to dominate and influence the decision-making and implementation of the board of directors, to secure individual profit and to act in their own interests in matters of corporate governance. Shareholders' control makes the board of directors titular and dependent on the will of the principal shareholders, which might cause profit-seeking in the shareholders' interest, but not in the corporate interest as a whole.⁵² As the main organs of corporate governance, shareholders own the company and the right of control to decision-making; and the board of directors is entitled to control the property independently and ensure shareholders' benefit and the company's success through decision management and decision control. In the classical pyramid of management, it is only in a hierarchical structure that the chief executive officer's (CEO) authority and responsibility are delegated by managers downwards and reported upwards

principal-agent model', because the converged share ownership, to some extent, deprives the board of directors of the control of the firm. See Blair and Stout, *supra* note 47, 280–282.

⁵¹ Shareholders' right of control is distinguished from control in the board of director; the former is to monitor whether self-interested misbehaviour occurred in the process of decision-making among the board of directors, while the latter means the board of directors and management made decisions to ensure the company's success, and coordinates the property and physical instruments of production in the company.

⁵² Berle, A. A. and Means, C. G., 'The Legal Position of "Control"', *The Modern Corporation and Private Property*, This edition, originally published in 1932, Transaction Publishers (1991), Book II, Chapter VI, 235–239.

in return. It used to be the obvious structure between the board of directors and management that the board made the decisions and management hierarchically practised these decisions and implemented the routine operation of the company in corporate governance.⁵³ However, in Tricker's board circle and management triangle, the executive directors not only hold a position on the board of directors, but also sit at the top of the managerial triangle. In practice, top management is the catchphrase for those who work at the apex, and companies often define their *top* as a few senior officials sitting on the executive board of directors.⁵⁴

The following section will mainly present how shareholders and boards of directors, who respectively control and make decisions, exercise their power as the main organs in corporate governance.⁵⁵

1.3.1 Shareholder control

It is said that a shareholder is the only corporate participant with the residual, unfixed, *ex post* claim on corporate investment and future return, and therefore plays an important role in corporate governance.⁵⁶ Shareholders' interests are easily harmed due to the separation of ownership and control, so the rights of decision control are conferred on a

⁵³ See Davis, G. F. and Useem, M., 'Top Management, Company Directors and Corporate Control', in Pettigrew, A. *et al.*, *Handbook of Strategy and Management*, (ed.), SAGE Publication (2002), 247–251.

⁵⁴ See Tricker, *supra* note 41, 35–36; see also Davis and Useem, *supra* note 53, 249–253.

⁵⁵ In this thesis, the definition of 'corporate governance' is limited to complex companies, which distinguishes a hierarchical structure among three organs: (1) shareholders invest property and own the company, (2) while the board of directors makes decisions on corporate governance and (3) management implements the decisions made by the board of directors. Different from a complex company, are a family company and shareholders who own a company, who also hold the main right of control in corporate governance. The role of management is sometimes assumed by family members due to loyalty to the owners of a company, so that organs of corporate governance are not different between shareholder and management (including the board of directors).

⁵⁶ See Bainbridge, *supra* note 5, 49–51.

board of directors, decision management is monitored and the board of directors is required to enhance the corporate portfolio.⁵⁷

1.3.1.1 Transferrable shares

When the corporate operation and performance are not satisfactory to achieve the maximization of corporate profit, shareholders are allowed to sell their shares to ensure own interest, which indirectly affects the board of directors' behaviour in corporate governance. Bainbridge adopted an example in his book that 'the probabilities of CEOs being fired and replaced by executives from outside the firm are higher after large sell-offs by institutional investors'.⁵⁸ If shareholders' interests cannot be ensured by effective corporate governance, they are able to transfer their shares to avoid risk due to the poor corporate performance. The loss of capital and investment from shareholders is also a warning sign of weak corporate governance, in which case the board of directors has to improve decision-making and meet shareholders' profit in corporate governance.

1.3.1.2 Voting rights

Shareholders normally vote at shareholder meetings, which are usually held annually and mostly through proxy. As the owners of a firm-specific investment with uncertain return, they have the right to vote to elect the board of directors; and if management fails to enhance shareholders' residual claim, they could vote to remove the incumbent board of directors. Voting rights give shareholders *de facto* and *de jure* control to elect directors and 'the right to know' about the board of directors' performance in corporate governance.

⁵⁷ See Fama and Jensen, *supra* note 29, 306–311.

⁵⁸ See Bainbridge, *supra* note 5, 53–56.

The Organisation for Economic Co-operation and Development (hereinafter ‘OECD’) regulates that:

effective shareholder participation in key corporate governance decisions such as the nomination and election of board members, should be facilitated. Shareholders should be able to make their views known on the remuneration policy for board members and key executives. The equity component of compensation schemes for board members and employees should be subject to shareholder approval.⁵⁹

1.3.1.3 Participation and asking rights

Shareholders have the right to participate in, and be informed about, any general corporate changes, such as amendments to the statutes or articles of incorporation, or similar governing documents of the company; the authorization of additional shares; and extraordinary transactions.⁶⁰ Shareholders should be informed efficiently about the position of the corporate operation and decisions; should enquire from the board of directors about corporate issues, including annual external audits; and should make advisory proposals as solutions within reasonable limitations.⁶¹

Owing to the separation of ownership and control, shareholders’ a residual claim is not assured without limitation, so that they would be more eager to enhance corporate profit. Hence, shareholders’ voting and participation are not only to monitor and deter the board of directors and management, but also, as an auxiliary function, to provide constructive

⁵⁹ See Tricker, *supra* note 41, 33; see also OECD Principles of Corporate Governance 2004, 18, available at: <http://www.oecd.org/corporate/ca/corporategovernanceprinciples/31557724.pdf>, last accessed on 12 November 2013.

⁶⁰ See Tricker, *supra* note 41, 33–38.

⁶¹ *Ibid.*

and valuable advice to corporate governance. This aims to ensure shareholders' own interests and assist in improving corporate governance, which is mainly controlled and operated by the board of directors and management.

1.3.2 Board of directors

As the main organ of corporate governance, the board of directors is the shareholders' agent in decision-making and in conducting the strategic operations of the company through its management. To coordinate corporate elements within the company optimally and ensure shareholders' profit in corporate governance, the process of decision-making and implementation would also be monitored through the division of functions in the board of directors. In Tricker's theory, the function is divided into four parts: (1) strategy formulation, (2) policy-making, (3) supervision of executive management, and (4) accountability to shareholders and others.⁶² The OECD Principles of Corporate Governance specify the duties as reviewing and guiding corporate strategy; monitoring the effectiveness of corporate governance practice; monitoring and replacing key executives; ensuring board nomination and election processes; and overseeing the information disclosure, among others.⁶³

1.3.2.1 Decision-making in corporate governance

Under the circumstance of separation of ownership and control, the agent (i.e., board of directors) should make decisions and control the company in the interest of the principal (i.e., the shareholder). In the UK, with the emergence of public-held corporations, shareholders had been moved from positive owners to passive investors, and their

⁶² Ibid., 37.

⁶³ See OECD Principle of Corporate Governance, *supra* note 59, 24–25.

ownership and interest had been steadily weakened.⁶⁴ In Ireland's view, modern company law emphasizes the independent existence of a company and the eroded shareholder ownership rights, while it fails to personify a company as a separate corporate personality and still grants shareholders the title of 'owner'.⁶⁵ In the period before the UK Company Act 2006, directors' duties were enforced as being 'to act in the best interest of the company', which is the same as 'in the best interest of shareholder'.⁶⁶ Therefore, boards of directors had to be extremely concerned with maximizing shareholders' profit without being distracted from consideration of other corporate constituents when making decisions in corporate governance. The 'shareholder-focused' model of corporate governance ignored the comprehensive operation associated with stakeholder participation in the nexus of contracts.

Directors' duties were developed in later regulation such as the Companies Act 2006. Section 172 (1) modified the way in which the board of directors' duty could be enforced: a director 'must act in the way he considers, in good faith, would be most likely to promote the success of the company for the benefit of its members as a whole', including the interests of employees, suppliers, customers, community and environment.⁶⁷ The standard to judge the promotion of the success of the company was explained in a ministerial statement as 'long-term shareholder value'.⁶⁸ The Company Law Review

⁶⁴ In modern open companies, shareholders as the money capitalists, stand outside the company, whereas the board of directors is more directly involved in the company's operation and production process which is 'moved from seeing directors as subject to the direction and control of the company' to 'a self-standing organ of the company as a separate depersonified entity'. See Ireland, P., 'Company Law and the Myth of Shareholder Ownership', 62 *Modern Law Review* (1999), 39–43.

⁶⁵ See Ireland, *supra* note 64, 47–49.

⁶⁶ The failure to separate corporate personality from shareholders' ownership created the vagueness in the board of directors' duty between the company's interest and shareholder's interest. See Ireland, *supra* note 64, 47–52; see also Kershaw, *supra* note 10, 335–340.

⁶⁷ UK Companies Act 2006 Ch. 46, Section 172.

⁶⁸ Department of Trade and Industry, 'Companies Act 2006: Duties of Company Directors', *Ministerial Statements* (2007), available at: www.berr.gov.uk/, last accessed on 12 November 2012; also see Kershaw,

Steering Committee applied an enlightened shareholder value approach to reflect the benefit of its members as a whole in respect of shareholder value in the long term: it would be achieved through promoting other corporate constituencies' interests.⁶⁹ Thus, all corporate constituencies, shareholder and non-shareholder groups should be concerned about decision-making on the board of directors, which is the approach that should be followed to ensure the success of the company for the benefit of its member as a whole in the long term.

Still, The Companies Act 2006 (Strategic Report and Directors' Report) Regulation 2013 also requires boards of directors to disclose information in the directors' reports about business review; it should include a fair review of the company's business and a description of the principal risks and uncertainties in the company; and information about environmental matters (including the impact of the company's business on the environment), the company's employees, social and community issues and so on.⁷⁰ The Companies Act regulation generally confirms the accountability of the board of directors to stakeholders and to treat corporate benefits as a whole in decision-making.

When there is litigation involving the directors' decision, the court would issue a judgment on the consideration of whether the board of directors had taken into consideration the interests of the company in its decision-making; for example, in the case of *Re Smith and Fawcett Limited*, the incorporated company was operated by Joseph Fawcett and Norman Smith who both held the same portion of issued shares and were the

supra note 9, 381–382. Department of Trade and Industry was a UK government department formed on 19 October 1970. It was replaced with the creation of the Department for Business, Enterprise and Regulatory Reform and the Department for Innovation, Universities and Skills on 28 June 2007.

⁶⁹ Company Law Review Steering Committee, 'Modern Company Law for a Competitive Economy: The Strategic Framework' (1999), Chapter 5 (1); see also Kershaw, supra note 10, 335–342.

⁷⁰ The Companies Act 2006 (Strategic Report and Directors' Report) Regulation 2013, Section 414A-C.

directors of the company. After Fawcett had passed away, his wife and son would inherit the shares as the late Fawcett's will had appointed. However, one of the directors, Smith, refused to register any transfer of shares to Fawcett's wife and son. In the lawsuit, the final judgment stated that Smith had the express power to refuse to register a transfer of shares which they purported to exercise. As Lord Greene said:

the principles to be applied in cases where the articles of a company confer a discretion on directors with regard to the acceptance of transfers of shares are, for the present purposes, free from doubt. They must exercise their discretion *bona fide* in what they consider – not what a court may consider – is in the interests of the company, and not for any collateral purpose.⁷¹

Shareholders have normal rights to transfer shares freely. However, Smith and Fawcett Ltd was a private company and in this circumstance, the control of directors over the members would be stricter than in public corporations.⁷² Therefore, in order to ensure the company's interests, Smith's refusal did not violate shareholders' free right to transfer shares. Based on this case, the court will not judge whether the board of directors made the proper decision, but whether the company's interest was maximized in the corporate decision as a whole.

Another typical case that could be cited to illustrate how the court judges directors' duty is *Regentcrest v Cohen*. Here the Richardson brothers, who were the directors of Regentcrest, were sued by Cohen for breach of their fiduciary duty. Jonathan Parker J,

⁷¹ *Re Smith and Fawcett Ltd* [1942] Ch 304, [1942] 1 ALL ER 542, CA. There are no objective standards about what directors should honestly consider as companies' interests as a whole when they make decisions. What directors *bona fide* believe is an objective issue that is based on the particular circumstance in the company; the decision-making might be truly relevant to the company's fate.

⁷² Private companies are analogous to partnerships, so that the free transfer of shares may cause the loss of, or damage to, a company's profit.

concluded that the Richardson brothers were not in breach of their duty, because they not only honestly believed that their decision was in the interests of company, but also injected 5 million GBP of their own funds into the company and kept supporting Regentcrest even though the company might have failed. Meanwhile, their waiver of claw-back and their support of Scott and Farley, who were another two directors of Regentcrest, were essential to maintaining a unified board, which was also crucial to the survival of the company.⁷³ Therefore, the Richardson brothers' decision was judged as honestly taking the best interests of the company into consideration. Jonathan Parker J questioned 'whether the director honestly believed that his act or omission was in the interests of the company', which means that when directors make a decision, they must decide whether they actually believed it was in the company's interests at that time and honestly achieved their fiduciary duty in the process of decision-making.⁷⁴

In the period governed by the Company Act 2006, the standards by which directors' decisions and the process of decision-making were judged were changed so as 'to promote the success of the company' and to 'exercise reasonable care, skill and diligence'. However, the approach of the courts in reviewing compliance with the duty is still similar to the pre-Company Act era. The court will adopt the legislation to judge whether

⁷³ *Regentcrest plc v Cohen* [2001] 2 BCLC 80. In Parker's view, directors honestly believed' is the subjective issue of whether the directors actually thought it was in the company's interests at the time of the decision. The assessment of directors' behaviour depends on whether the decision was to the benefit of the company's interest as a whole, and not that the final result is positive or negative to the company. See also Kershaw, *supra* note 10, 343.

⁷⁴ Jonathan Parker J thought that the question challenged by the court should not be 'whether the particular act or omission which is challenged was in fact in the interests of the company', or 'whether the court, had it been in the position of the director at the relevant time, might have acted differently'. See also Kershaw, *supra* note 10, 343–345.

directors performed reasonable care, skill and diligence in the process of decision-making to promote the success of the company.⁷⁵

The situation of courts' judgment in the United States of America (hereinafter 'US') is different from the UK: in Delaware,⁷⁶ the court adopted the Business Judgment Rule to review directors' decision and decision-making processes. In the case of *In re Walt Disney Co. Derivative Litigation*, Chancellor Chandler asserted that the Business Judgment Rule was a presumption that the directors honestly believed the decision to be in the best interests of the company. If, according to this rule, directors had exercised the duty of care and had not been guilty of any gross negligence, the court would only adopt a rationality review to consider whether the basis of the decision was rational. Conversely, if it is proved that directors had violated their fiduciary duty, the court would apply the entire fairness review to determine whether the decision was fair to the company.⁷⁷ Plaintiffs should take the burden to prove directors' breach of fiduciary duty to rebut the presumption of the Business Judgment Rule. The gross negligence standard is the basis of review whether directors honestly achieved the duty of care in the decision-making

⁷⁵ Companies Act 2006, sections 172 and 174, *supra* note 67. Sub-paragraph (a) to (f) about employees, suppliers, customers and so on should be also considered as factors in decisions to promote the success of the company. Section 174 regulates directors to exercise reasonable care, skill and diligence that the three words refer to the same expectation of care and competence and cannot be applied separately. See also Kershaw, *supra* note 10, 448–449.

⁷⁶ The duty of care is not set out precisely in the Delaware General Corporation Law, but in case law the Delaware duty of care requires that directors of a Delaware corporation 'use that amount of care which ordinarily careful and prudent men would use in similar circumstances' and 'consider all material information reasonably available' in making business decisions. *In re Walt Disney Derivative Litigation* (Chancery Court) 825 A 2d 275 (2003).

⁷⁷ It is necessary to assess whether or not the process of directors' decision-making about whether they act in good faith in the best interests of the companies, complies with the duty of care and duty of loyalty. If the decision-making process complies with the requirement, the decision would only be subject to rationality review, which is actually not court review. The court only has the right to judge whether the decision itself is appropriate after confirming the breach of duty of care. See Kershaw, *supra* note 10, 457.

process to make a decision in the best interests of the company;⁷⁸ in other words, if the gross negligence happened in the decision-making process, the court would have the right to review whether the decision itself was fair to the company in relation to the fairness standard.

1.3.2.2 Decision management and decision control

Fama and Jensen separate decision-making control from decision-making management so as to avoid the agency problem of decision-makers initiating decisions and implementing them in their own interests. In an open and complex company, the specific knowledge of decision-making is diffused among agents, so that the agents specialized in initiation and implementation of decisions may not have special knowledge in ratification and monitoring of decision that would lead to misbehaviour in decision-making, such as improper monitoring or acting in the agent's own interests.⁷⁹ Decision management, including initiating and implementing the decision, is operated by a decision-making body and top management, while decision control to ratify and monitor the decision is operated by other independent agents on the board of directors who are not involved in decision-making.⁸⁰ Separation of the two functions leads to the division of function and powers in the board in the form of executive directors and non-executive directors, while the entire board is there mainly to ensure the shareholders' interest and to safeguard the stakeholders' rights through effective division of functional powers.

⁷⁸ The gross negligence standard is relatively subjective, that is, it is defined as 'reckless indifference to, or a deliberate disregard for, the whole body of stockholders of actions which are without the bounds of reason'. See *In re Walt Disney Derivative Litigation*, supra note 76; see also Kershaw, supra note 10, 464–465.

⁷⁹ See Fama and Jensen, supra note 29, 308.

⁸⁰ Ibid., 307–311.

In Baysinger and Butler's view, executive directors are compared to the facilitators of strategy formulation/implementation and are also depicted as engaging in strategic manoeuvres, such as providing implicit status rewards to favoured subordinates, facilitating the communication of relevant information to outsider directors during board meetings.⁸¹ In addition, they are more suited to evaluating the performance of management, because they can directly and internally monitor managerial behaviour and observe the financial performance that is affected by corporate management.⁸² Non-executive directors have specific knowledge since most of them work in professional fields that are related to corporate governance, such as finance, consultancy and law, and are able to observe or monitor managerial conduct and performance. It is a requirement that non-executive directors must not currently be employed by the firm or have any strong psychological or economic dependence on its managers.⁸³ Therefore, non-executive directors have the power to monitor and ratify the decision-making and implementation of executive directors, in order to impede the infringement of shareholder's profit, and enhance the quality of decision-making and top management.

The performance of boards of directors, which is intangible, is always monitored by financial performance, such as shareholders selling their shares on the stock market due to the poor performance of management. Davis and Useem contended that a 'manager's wealth is tied to share price through numerous devices, including outright ownership, stock options, and compensation keyed to stock performance that align executive and shareholder interest'.⁸⁴ Share price will not directly reflect the internal corporate

⁸¹ Baysinger, B. D. and Butler, H. N., 'Corporate Governance and the Board of Directors: Performance Effects of Changes in Board Composition', 1 *Journal of Law, Economics and Organizations* (1985), 107–108.

⁸² Baysinger, B. D. and Hoskisson, R. E., 'The Composition of Boards of Directors and Strategic Control: Effects on Corporate Strategy', *Academy of Management Review* (1990), Volume 15, Issue 1, 76–80.

⁸³ See Baysinger and Butler, *supra* note 81, 109.

⁸⁴ See Davis and Useem, *supra* note 53, 237.

information, but whether managers efficiently co-operate with stakeholders and enhance corporate interests.⁸⁵ Relating managers' rewards and punishments to financial performance is an effective mechanism to stimulate manager's motivation to operate on corporate interest and solve the problem of shirking.⁸⁶

1.3.2.3 Information disclosure by board of directors

Executive directors are not only in charge of initiation and implementation of decisions, but also disclose information about corporate governance to stakeholders and non-executive directors to ratify and monitor their decisions. In corporate governance, monitoring by shareholders and independent directors increases agency cost, because without applicable information, shareholders only get access to knowledge of management performance through communication with top management, such as frequent shareholder meetings.⁸⁷ Therefore, if a board of directors completely discloses information, including agency information and accuracy information, the extra governance device for shareholders to monitor managerial performance and evaluate share value is not necessary, which leads to the reduction of agency costs.⁸⁸ Although information disclosure involves cost, Holland believes that 'the management will publish

⁸⁵ Any failure to achieve stakeholders profit might cause the share price to go down, such as quality rumours, customer complaints, environmental risk and so on.

⁸⁶ See Baysinger and Butler, *supra* note 81, 80.

⁸⁷ Eng, L. L., and Mak, Y. T., 'Corporate Governance and Voluntary Disclosure', *Journal of Accounting and Public Policy* (2003), Volume 22, Issue 4, 329–330.

⁸⁸ Ho, S. M. and Wong, K. S., 'A Study of the Relationship between Corporate Governance Structures and the Extent of Voluntary Disclosure', *Journal of International Accounting, Auditing & Taxation* (2001), Volume 10, Issue 2, 143–144; Guttentag, M. D., 'Accuracy Enhancement, Agency Costs, and Disclosure Regulation', *Review of Law and Economics* (2007), Issue 3, Issue 2, 613–614. In Guttentag's article, 'agency information' was defined as 'detailed information about management's compensation and transactions between managers and the company, relevant to information about corporate governance'; while 'accuracy information' was defined as 'any information that would affect the stock price', facilitating shareholders in analysing accurate share price and investment.

until they reach the point when they will observe that the capital agency costs reduction has equaled to the increase of the information publication costs for the market and the other users'.⁸⁹

The firm-specific factors of a corporate governance structure would affect information disclosure, resulting in better-functioning boards of directors, greater board independence and effective audit committees. First, the proportion of independent directors on a board is connected to the quality of information disclosure, as pointed out by Ho and Wong. A larger proportion of independent directors on a board means that the strength of monitoring managerial behaviour would be increased, so that information disclosure required by independent directors is strictly access to knowledge about managerial operation and performance. Ho and Wong postulated the hypothesis that 'companies with a higher portion of independent nonexecutive directors are more likely to have higher extent of voluntary disclosure'.⁹⁰ Second, share ownership also has negative effects on the level of corporate disclosure in that less integration of shares among substantial shareholders (e.g., shareholdings of 5% and more) would lead to a much more urgent need for information disclosure about corporate governance; in other words, when share ownership is broadly diffused, shareholders would lose relatively powerful control of shares, so that outside monitoring of management is imperative to ensure that the share values are retained. Hence, managers should disclose accurate and credible information to shareholders for the purpose of external monitoring.⁹¹ Third, an effective audit committee influences the quality of information disclosure positively through professional assurance of reliability and accuracy of disclosed reports. In Forker's argument, 'the existence of audit committees may improve internal control and thus regarded it as an effective

⁸⁹ Holland, J., 'Private Voluntary Disclosure, Financial Intermediation and Market Efficiency', *Journal of Business Finance and Accounting* (1998), Volume 25, Issue 1, 36–42.

⁹⁰ See Ho and Wong, *supra* note 88, 143–144; see also Fama and Jensen, *supra* note 29, 301–326.

⁹¹ See Eng and Mak, *supra* note 87, 330–331.

monitoring device for improving disclosure quality’.⁹² McMullen supports the positive connection between the existence of audit committees and reliable financial reporting.⁹³

Research conducted on the interlink between corporate governance and information disclosure found that effective internal corporate governance enhanced the quality and level of information disclosure. From Verriest *et al.*’s study on the impact of the adoption of the International Financial Reporting Standards (hereinafter ‘IFRS’) in corporate governance, it can be concluded that higher corporate governance with strong investor protection would increase the level of corporate information disclosure. Their hypothesis stated, ‘ceteris paribus, firms’ governance strength is positively associated with the quality of compliance and disclosure to IFRS adoption’.⁹⁴

As one of the board’s duties and vital corporate governance tool, sufficient information disclosure provides an objective, credible and accurate portrait of corporate operation and performance to market participants. In information disclosure, risk and uncertainty in business activity would be presented through reports, so that investors are able to predict the value of future investment.⁹⁵ Through the board of directors’ authentic and

⁹² Forker, J. J., ‘Corporate Governance and Disclosure Quality’, 22 *Accounting and Business Research* (1986), 111–117.

⁹³ McMullen, D. A., ‘Audit Committee Performance: An investigation of the Consequences Associated with Audit Committee’, *Auditing: A Journal of Theory and Practice* (1996), Volume 15, Issue 1, 87–93.

⁹⁴ Verriest, A. *et al.*, The Impact of Corporate Governance on IFRS Adoption Choices, *Working Paper Series* (November 6, 2011), 5–7, available at: http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1266698, last accessed on 12 December 2013. In Verriest *et al.*’s research, the adoption of IFRS does not only mean mandatory information disclosure, but also the voluntary information that would be closely related to the efficiency of corporate governance.

⁹⁵ Lowenstein, L., ‘Financial Transparency and Corporate Governance: You Manage What You Measure’, 96 *Columbia Law Review* (1996), 1341–1343 and 1361; see also Ferran, E., ‘The Role of the Shareholder in Internal Corporate Governance: Enabling Shareholders to Make Better-Informed Decision’, 4 *European Business Organization Law Review* (2003), 496–497; see also Villiers, C., *Corporate Reporting and Company Law*, in *Cambridge Studies in Corporate Law*, Volume 5, Cambridge University Press (2006), 80–82.

comprehensive information disclosure, investors increase their confidence in supporting the investment to companies with a transparent mechanism of information disclosure and high credit.⁹⁶ Eliminating information asymmetry between companies and investors would reduce the cost of capital in transactions, and attract potential investment associated with an increase in the stock price of the offering company. Therefore, as a corporate governance device, information disclosure effectively enhances a company's market value through obtaining investment and increasing the share price on the stock market to maximize the company's interest.

1.4 Emergence of CSR

The emergence of the stakeholder theory, and adoption of social and environmental issues in decision-making, led to the establishment of CSR. Managers are currently encountering the need from multiple stakeholders to achieve the new notion of a wise approach to enhance corporate financial return, harmonize the relationship among stakeholders and improve corporate governance. In Dunfee's work on stakeholder theory, Windsor defined CSR as 'any concept concerning how managers should handle public policy and social issues'; McWilliams and Siegel, in turn, contend that 'CSR appears to

⁹⁶ Hermalin, B. E. and Weisbach, M. S., Information Disclosure and Corporate Governance, *Working Paper Series in Fisher College of Business* (January 30, 2011), available at: <http://www.ssrn.com/abstract=1082513>, last accessed on 12 December 2013, 1 and 31–32; see also Fong, A., Practicing Corporate Governance through Corporate Disclosure?, *Working Paper Series in Chinese University of Hong Kong* (October 19, 2013), available at: http://papers.ssrn.com/sol3/papers.cfm?abstract_id=2342480, last accessed on 21 December 2013, 8–9. The cost of capital is the rate of return that capital could be expected to earn in an alternative investment of equivalent risk, defined as the risk-weighted projected return required by investors, so that the expected return would be positively dependent on expected risk and uncertainty under investor's evaluation. Information disclosure is able to largely reduce the uncertainty and risk of investment, so that expected return of capital, equivalent to cost of capital, would be relatively reduced.

further some social good, beyond the interests of the firm and that which is required by law'.⁹⁷

CSR has the critical and sustainable long-term objective that both external and internal stakeholders' social, environmental and other interests should be integrated into the business operations. Such sustainable development should be connected to the main stakeholders and employees, and be established on a voluntary basis. CSR and sustainability are derived from numerous trends, namely the heightened increase in the population, which causes the imbalanced distribution of wealth, education, health care and so on; overuse of energy and its omission, which bring about environmental pollution; the development of urbanization and mobility; and the emergence of ecosystems.⁹⁸ A company is an organization with a resource-based business that needs physical and human resources. CSR in the context of sustainability is to maintain the use of ecological resources and human capital continuously in future. The triple bottom line is 'profit, people and planet' that CSR not only enhances the financial performance of a company, but also sustains the development of people and the earth.⁹⁹

1.4.1 Indirect legal effect of CSR

⁹⁷ Dunfee, T. W., 'Stakeholder Theory: Managing Corporate Social Responsibility in a Multiple Actor Context', in Crane, A. *et al.*, *The Oxford Handbook of Corporate Social Responsibility*, (ed.), Oxford University Press (2008), 347–348.

⁹⁸ Fortuna, M. *et al.*, *Sustainability and Corporate Social Responsibility Trends: An Empirical Analysis of Drivers, Success Measures and Competitive Value for Multi-National Corporations Within the Information and Communications Technology Industry*', available at: <http://ssrn.com/abstract=1839825>, last accessed on 23 February 2014.

⁹⁹ Orlitzky, M. *et al.*, *Strategic Corporate Social Responsibility and Environmental Sustainability*, available at: <http://ssrn.com/abstract=1737465>, last accessed on 23 November 2013, 9–10; see also Fortuna *et al.*, *supra* note 98.

The law seldom regulates CSR directly in statutes, because it is difficult to enforce the scope and mechanism in a company where public interests are involved in its commercial objectives. However, public interest is the root of all corporate legitimacy, so that social responsibility is strongly recommended in current legislation to avoid social harm, such as pollution, dangerous products or discrimination.¹⁰⁰ As the minimum standard, the law reinforces the fact that boards of directors must take social respect into consideration in their decision-making and leave an open mind on the way in which social responsibility is to be practised. Boards would exercise CSR voluntarily and be incorporated into decision-making in terms of varied understanding and the situation in each individual company.¹⁰¹

Specific regulations related to various stakeholders are the indirect basis on which directors perform in the best interest of the company as a whole. In order to improve corporate governance, boards of directors should go beyond the legal minimum standard and should apply CSR to ensure stakeholders' interests are taken into account in their decision-making; for example, in the marketplace, the customer is safeguarded by relevant regulation, namely the UK Consumer Protection Act 1987, or Unfair Trading Regulations 2008, in respect of the provision of qualified product and after-sales service. Beyond the legal basis, companies should provide high-quality products with the achievement of CSR, because ethical issues influence consumer behaviour; the so-called purchasing votes on social responsibility issues, which leads to the emergence of new concepts, such as 'conscience consumerism', 'ethical consumerism', or the 'green consumer'. Consumers support and reward companies who devote resources to CSR,

¹⁰⁰ The corporate legitimacy of public interest is more like the passive way which refrains from destroying social benefits rather than an active safeguard. Parkinson, J. E., *Corporate Power and Responsibility*, Oxford University Press (1993), 10–14; Parkinson treated social decision-making power as the power to make decisions that have social effect.

¹⁰¹ See Parkinson, *supra* note 100, 12–15; see also Kershaw, *supra* note 10, 369–371.

believing that companies with CSR are more reliable and able to provide products with higher quality.¹⁰² The Body Shop, which is famous for anti-product-testing on animals, is popular among consumers not only because of the cosmetics themselves, but also the consistent insistence on protection of the ecological balance. Negative achievement of CSR will cause consumer punishment, such as boycotts. Top management should, therefore, make strategic decisions on the development of CSR to cater for consumers' preference, such as Fair-Trade products or 'dolphin-friendly' tuna.¹⁰³ With the advent of ethical consumerism, ethical branding was subsequently introduced as the strategy to follow in decision-making. In Smith's view, ethical branding is a developing method, no matter whether the ethical value is central to brand meaning or differentiated to other items to develop the ethical meaning.¹⁰⁴ In the latter case, it is also a strategy to expand the range of a company's business, because new products or services may be developed to accomplish the ethical value.

According to basic legal protection, employees demand good working conditions and fair treatment; investors expect reliable and transparent financial statements; consumers require high quality in products and safety; and societies exert pressure for sustainable development and environmental protection.¹⁰⁵ Instead of creating an adversarial effect, boards of directors must increase stakeholders' interest through CSR in a positive way. This could be achieved by making decisions based on the achievement of CSR, which would pursue the economic purpose positively. In the following section, the decision-making in CSR will be analysed in terms of mechanism and accountability.

¹⁰² Smith, N. C., 'Consumers as Drivers of Corporate Social Responsibility', in Crane, A. *et al.*, *The Oxford Handbook of Corporate Social Responsibility*, (ed.), Oxford University Press (2008), 283.

¹⁰³ *Ibid.*, 291–292.

¹⁰⁴ *Ibid.*

¹⁰⁵ Swanson, D. L., 'Top Managers as Drivers for Corporate Social Responsibility', in Crane, A. *et al.*, *The Oxford Handbook of Corporate Social Responsibility*, (ed.), Oxford University Press (2008), 233.

1.4.2 Theory and mechanisms of decision-making in CSR

Berle and Means, and Milton Friedman support the theories that the corporate executive is the employee of the owners of the business, and that they should 'make money as much as possible [for the] principal owners'.¹⁰⁶ However, corporate executives also play the role of social employee to achieve public benefit. Therefore, the decision and activities to increase profit should be limited within the rules of social norms without deception and fraud.¹⁰⁷ In the model of principal and agent, the corporation falls under the shareholders' ownership and the board of directors is appointed to enhance and protect shareholder's investment effectively, and even the OECD Principles which are alleged to ensure shareholder's interests in the long term.¹⁰⁸ With the development from shareholder profit maximization to the company's interest as a whole, the goal of a company's success would be achieved through the company's long-term value of making decisions with complete consideration of the stakeholders' interest.

Achievement of CSR is the path to satisfying stakeholders. However, CSR is costly and unquantifiable if companies invest negligible amounts of money in it. In this case, the amount of profit that will be returned from the investment cannot be evaluated accurately because it is difficult to calculate the exact relationship between the cost of CSR and its

¹⁰⁶ A corporate executive is an employee of shareholders and has direct responsibility to his or her employer to make as much profit as possible; when he or she imposes taxes and spends the proceeds of social purpose, he or she also becomes a public employee or a civil servant to social objectives. Therefore, corporate executives have the responsibility to increase profit to owners, but also the social responsibility to ensure social interest in corporate governance. Friedman, M., 'Social Responsibility of Business is to Increase its Profits', *The New York Times Magazine* (13 September 1970), available at: <http://www.colorado.edu/studentgroups/libertarians/issues/friedman-soc-resp-business.html>, last accessed on 12 March 2014.

¹⁰⁷ Ibid.

¹⁰⁸ Keay, A., Shareholder Primacy in Corporate Law: Can it Survive? Should it Survive?, available at: <http://ssrn.co/abstract=1498065>, last accessed on 12 November 2012.

return. The achievement of CSR in stakeholders will definitely increase shareholder value, so that when the cost of CSR is equal to the profit for the shareholder, the investment of CSR is the most effective. McWilliams and Siegel advocated that in order 'to maximize profit, the firm should offer precisely that level of CSR for which the increased revenue (from increased demand) equals the higher cost (of using resources to provide CSR)'.¹⁰⁹ The application of CSR should be maintained up to that point at which 'the social cost curve intersects the social benefit curve'.¹¹⁰ As Keay said, when managers do not concern themselves with constituency interest, the company might lose firm specific investment from stakeholders. However, according to Keay, the company should only distribute resources to stakeholders at the point of 'where the marginal dollar spent yields at least a dollar in return to shareholders'.¹¹¹ However, in practice, it is impossible to meet shareholders' interests and stakeholders' needs at the same time. Thus, the following conflict exists: when the achievement of CSR has increased shareholder value, can the company stop practising CSR? The answer is that if the performance of CSR still does not meet the stakeholders' primary requirement, they may withdraw their investment from the company, so that the long-term profit and shareholders' interests will not be ensured for a long period. Stakeholders' interests are various and continuously enhanced. Therefore, it is necessary to standardize the mechanism to meet stakeholders' requirement of optimization.

First, as mentioned before, stakeholders are classified as primary stakeholders and secondary stakeholders when they are correlated to the company's survival and future. Top management should make decisions on the basis of satisfying primary stakeholders' needs to ensure reliable and authentic financial investment and return to investors; the

¹⁰⁹ McWilliams, A. and Siegel, D., 'Corporate Social Responsibility: A Theory of the Firm Perspective', *Academy of Management Review* (2001), Volume 26, Issue 1, 124.

¹¹⁰ See Dunfee, *supra* note 97, 350.

¹¹¹ See Keay, *supra* note 108.

provision of safe working conditions and fair treatment to employees; safeguarding of high-quality products and services to consumers; and the protection of the environment and concern for sustainable development in society. Satisfying secondary stakeholders is also costly, but costs could be reduced or avoided in an effective corporate mechanism; for example, the board of directors need not pay extra to the media to improve a company's reputation, because the primary stakeholders' satisfaction itself is the advertisement to the media and public for the achievement of CSR. The spreading of favourable feedback from primary stakeholders has therefore become the persuasive media.

Second, as regards the division of stakeholders, Mitchell *et al.* provide an efficient method, namely the so-called stakeholder saliency as the mechanism used to make decisions about the board of directors to conceptualize and measure the validity of stakeholder claims.¹¹² 'Stakeholder saliency' is 'the extent to which a stakeholder is powerful, legitimate, and the claim is urgent, and suggested that stakeholder saliency helps managers to identify who and what really matters in any given stakeholder decision.'¹¹³ In Mitchell *et al.*'s model, salience is categorized into high salience, moderate salience and low salience. In high salience, stakeholders' claims should combine power, legitimacy and urgency.¹¹⁴ In moderate salience, the claim could associate any two of the elements, and, in low salience, there is only one element in the stakeholders' claim. In this hierarchy, the board's decision-making will first pay attention to the high salience stakeholders whose claim is not only legitimately urgent, but also

¹¹² Mitchell, R. K. *et al.*, 'Toward a Theory of Stakeholder Identification and Salience: Defining the Principle of Whom and What Really Counts', *Academy of Management Review* (1997), Volume 22, Issue 4, 865–870.

¹¹³ Reynolds, S. J. *et al.*, 'Stakeholder Theory and Managerial Decision Making: Constraints and Implications of Balancing Stakeholder Interests', 64 *Journal of Business Ethics* (2006), 287–288.

¹¹⁴ See Mitchell, *supra* note 112, 867-870.

powerful to respond to any reward or punishment of the company.¹¹⁵ As a long-term mechanism, it will avoid the unnecessary wasting of resources in the achievement of CSR among stakeholders and balance every single claim to satisfy all stakeholders in corporate governance.

There is another important issue concerning decision-making that requires attention and that is the mechanism of fixing prices because the cost of products or services with CSR is higher than products or services without CSR; the price will be higher than normal. Consumers prefer products or services that embrace CSR, only when the price is equal or a little higher than others. If the price largely exceeds the average price range, some consumers will move away from corporate socially responsible goods or services. The result is that the fixing of reasonable prices is a vital component to attract consumers when managers make decisions in CSR.¹¹⁶

1.4.3 CSR: A corporate governance strategy

The result of taking stakeholder interests into consideration in decision-making in CSR is that stakeholders' needs are satisfied, and enforcement is voluntary and exercised beyond the legal requirement, which means that CSR could be defined as an effective strategy in corporate governance. The effects of CSR, to some extent, meet the function and objective of corporate governance to achieve complete success of the company as a whole through the adoption of a stakeholder approach and social matters in decision-making. In the section that follows, CSR as a corporate governance strategy to maximize shareholders' profit and ensure companies' general success will be analysed.

¹¹⁵ See Dunfee, *supra* note 97, 356–357.

¹¹⁶ See McWilliams and Siegel, *supra* note 109, 124.

1.4.3.1 Reducing transaction costs

In the nexus of contracts, not only every constituency that transacts in the firm through contracts causes transaction costs due to the uncertainty and firm-specificity in the long-term contracts, transactions cost also emerge when the board of directors coordinates the relationship between contractual constituent and company in the transaction process;¹¹⁷ for example, in order to stabilize the relationship with the consumer, companies have to spend a large amount of money on advertising or customer service; some of them even offer rewards to attract consumers. If companies could successfully achieve CSR, to some extent, the expense of ensuring the relationship with consumers would be avoided. Most people prefer vegetables with the green label 'environmental protection', if the price is not much higher than that of other products; as in the case of the Body Shop, which purchases special ingredients and formulations that have not been tested on animals, which is broadly welcomed among consumers. The specific characteristic of CSR is, therefore, to reduce the cost of attracting many more consumers in the transaction.¹¹⁸

In addition, transaction costs also exist in the relationship of employment. Companies should establish labour unions or organize a forum for employees to assert their rights and to ensure that they will make an effort in their work. The cost will be decreased if CSR can reach employees' satisfaction in so far as they would like to work voluntarily for their companies, and the moral royalty to the company would be stimulated by the achievement of CSR. However, when there is a shortage of human resources, the cost of recruitment will arise, such as of a recruitment fair or on-campus recruitment. Companies that achieve CSR and have a good reputation, a positive social effect and appropriate

¹¹⁷ See Reynolds *et al.*, *supra* note 113, 287–288.

¹¹⁸ See McWilliams and Siegel, *supra* note 109, 121–122.

working conditions would be largely welcomed, which would minimize the cost of recruitment. The case of Foxcoon in China is a typical example of a company that does not meet the requirement of socially responsible employment, due to the failure of CSR. It was reported that during 2010–2011, more than ten serious incidents occurred in the workplace, employees committed suicide and some even died as a result of being overworked. The feedback and investigation among corporate employees reflected that the work burden was extremely stressful, the payment was low and employees' basic rights could not be safeguarded. The company then embarked on salvaging its reputational crisis by recruiting new employees: many of its employees had resigned and it would not be able to attract new employees to work in the company because of its negative reputation and inadequate CSR.¹¹⁹

Moreover, it is costly to coordinate the relationship between the company and the community. Through CSR, the community could reduce or exempt the expenditure or provide preferential company policies; for example, the local community might provide competition-enhancing tax breaks or reduced regulation to companies who properly achieve CSR in the community, which would cut down the costs of corporate governance.¹²⁰

When companies own equal rights to capital resources, intangible strength, such as CSR, will play an important advantageous role in defeating competitive rivals, will resolve problems that arise among the contractual constituencies during transactions and reduce transaction costs. When consumers are attracted by high-quality products, employees are satisfied with their working conditions and other corporate participants are happy with

¹¹⁹ The detailed investigation and report about the Foxcoon suicide incidents is published at: <http://www.huanqiu.com/zhuanli/tech/fushikang/>, last accessed on 12 July 2012.

¹²⁰ Waddock, S. A. and Graves, S. B., 'The Corporate Social Performance-Financial Performance Link', *Strategic Management Journal* (1997), Volume 18, Issue 4, 306–307.

the requirement of CSR. Stakeholders' support definitely brings companies extra benefits through the decreased expenditure on transactions among stakeholders.

1.4.3.2 Stimulating team production

As introduced before, team production refers to the employment in a firm and stresses the importance of co-operation in a company; productivity comes from teamwork. The reward is dependent on team productivity. However, it is difficult to measure individual productivity in practice, because of the unavoidable and undetected shirking in team production. CSR will effectively reduce shirking in team production, due to its feature of advantageous competition. When companies achieve CSR towards their employees, such as providing good working conditions, ensuring employees' rights and appropriate payment; and obtain a positive reputation through performing CSR towards other corporate constituencies, most of their employees would prefer to stay with these competitive and excellent companies. As Adam Smith showed in *The Wealth of Nations*, participants will perform as best as they can, not for public interest, but primarily for their own self-interest.¹²¹ In order to work in the company they preferred, employees have to enhance individual competition in teamwork by working harder. Therefore, CSR will stimulate employees' motivation to improve individual productivity and relieve the problem of shirking in team production.

Furthermore, to some extent, CSR reflects the corporate culture and attitude of top executives, which directly affects employees' attitude to their teamwork;¹²² for example, in a food manufacturer, if the company is involved in the achievement of CSR to ensure

¹²¹ Smith, A., 'From The Wealth of Nations', in Kroszner, R. S. and Putterman, L., *The Economic Nature of the Firm: A Reader*, 3rd Edition, (ed.), originally published in 1986, Cambridge University Press (2009), 36–38.

¹²² See Swanson, *supra* note 105, 232–234.

high quality to consumers, a safe workplace to employees, environmental protection to the community and sustainable development to society, its employees will be affected consciously or unconsciously. They might take to heart the quality control, ensured safety in the workplace and concern for environmental development in the process of production, in order to provide the public with CSR and protect the reputation of their company. Thus, CSR pushes employees voluntarily to enhance the efficiency in team production and concern about other stakeholders' interests in teamwork.

1.4.3.3 Maximizing shareholders' profit

The OECD Principles of Corporate Governance regulate that boards of directors are primarily responsible for maximizing shareholder profits. Under these circumstances, the achievement of CSR in corporate governance does meet shareholders' needs and enhances shareholder value. These factors will respectively be discussed in terms of socially responsible investment (hereinafter 'SRI') and improvement of shareholder value through CSR.

SRI implies that all social investors base their decision processes on the considerations of financial risk and return, combined with ethical, religious, social and environmental concerns; for example, shareholders whose concerns relate to social issues will not invest in companies involved in tobacco, alcohol, or gambling; the so-called sin stocks. Social investors are divided into three types: (1) value-based investors who desire investments that are consistent with their moral beliefs; (2) value-seeking investors who adopt social and environmental data to enhance portfolio performance; and (3) value-enhancing investors who concentrate on corporate governance to enhance investment value.¹²³

¹²³ Kurtz, L., 'Socially Responsible Investment and Shareholder Activism', in Crane, A. *et al.*, *The Oxford Handbook of Corporate Social Responsibility*, (ed.), Oxford University Press (2008), 250–251.

SRI is subjectively coherent to some of the needs of shareholders who prefer to invest in companies with high CSR performance, such as people with religious beliefs or who care about charity. For instance, Christian shareholders believe that ‘for those who would follow Jesus, economic questions are really spiritual questions’. Therefore, they would seldom become involved in businesses that sacrifice other people’s interest, whether physically or in monetary terms, such as the sale of alcohol or tobacco.¹²⁴

Moreover, SRI objectively enhances shareholder value in the process of investment from other outside investors so that the companies who achieve CSR attract higher investment from the public. Social investors will implement social screening to choose a potential business when making an investment, because they have to sift businesses to find those with a good reputation and successful achievement of CSR, which will attract many more social and institutional investors, which directly affects the returns on their shares. The majority of social investors in the US declined to buy tobacco stocks and some Islamic clients will not be involved in companies with revenues from alcohol, tobacco, gambling or pornography.¹²⁵ The US Social Investment Forum 2003 estimated that ‘the rapidly growing market for assets that are deemed socially, morally or environmentally responsible covers about 10% of the financial market as whole. The largest institutional investors around the world are demonstrating their interest in investing based on SRI principles’.¹²⁶ This trend shows that CSR positively affects SRI, and vice versa, so that the achievement of CSR will attract much more potentially socially responsible investment from social investors and improve the ability to ensure shareholders’ profit maximization.

¹²⁴ Ibid., 254.

¹²⁵ Ibid., 262–263.

¹²⁶ Derwall, J. and Koedijk, K., ‘Socially Responsible Fixed-Income Funds’, 36 *Journal of Business Finance and Accounting* (January/March 2009), 210–211.

Shareholder value increases through the achievement of CSR for three main reasons. First, shareholder value is accomplished by establishing relationships with key stakeholders on the basis that that long-term value creation requires co-operation from suppliers, customers, employees and external stakeholders. Therefore, Hillman and Keim contended that ‘firms that contract with their primary stakeholders on the basis of mutual trust and cooperation will have a competitive advantage over [other] firms. And to increase shareholder value, a company must address the needs of its stakeholders more efficiently and effectively than the companies against which it competes’. Thus, CSR would work to benefit a company and improve shareholder value creation.¹²⁷ Hillman and Keim also mentioned that other social issue participation, which is not directly relevant to main stakeholders, such as avoiding nuclear energy, not engaging in sin industries or refusing to sell to the military and so on, will not create this advantage.¹²⁸ However, if a company is involved in research and development relevant to the field of nuclear energy, the technology or techniques may be applied in creating nuclear weapons in future that may subsequently cause a crisis of peace and even battles among countries. Investors who support world peace might, therefore, refuse to invest in that company, and public stockholders might give up the stock to protest the damage to world peace, so that the industry lack of social concern decreases public investment and reduces shareholder value creation.

Second, CSR is a theme for companies to advertise and is positive for corporate diversification. Companies could develop new sectors or products in terms of CSR that will be the persuasive topic of advertisement;¹²⁹ for instance, in a clothing manufacturer

¹²⁷ Hillman, J., ‘Shareholder Value, Stakeholder Management, and Social Issues: What’s the Bottom Line?’, *Strategic Management Journal* (2001), Volume 22, Issue 2, 127–128.

¹²⁸ Ibid.

¹²⁹ See McWilliams and Siegel, *supra* note 109, 122–124.

that wants to design and produce new textile products, managers could label the products ‘made by disabled employees’. It is not only to accomplish CSR in the process of manufacturing, but also to attract consumers who care significantly concerned about CSR. In the process of production and transaction, a company takes input out of the economy, and puts back output in the form of goods and services into the economy, then it makes profit when revenue covers cost. If a company takes the element of CSR into production and transaction with high-value goods or services with CSR, the cost of CSR will also be covered by high revenue, which produces profit and social outcomes. In this trend, stakeholders prefer goods or services with CSR, and value its price higher than normal products. Thus, the attraction of consumption with social concerns will lead to efficient increases in profit in companies.¹³⁰

Third, CSR is treated as a remedy after negative events have happened. Godfrey, Merrill and Hansen provided some hypothesis about this issue, namely that in a negative event, the decline in shareholder value is smaller for companies engaged in CSR than for companies that are not, while shareholder value-loss mitigation is greater for companies with CSR activities than companies without.¹³¹ Stakeholders might overlook a negative outcome for a company with CSR achievement, because they believe that misbehaviour that happens in the company with social and environmental concerns was essentially done in good faith and is comparatively forgivable due to the enhancing social effects of CSR.

1.4.3.4 Promoting the company’s success as a whole

¹³⁰ Jensen, M. C., ‘Value Maximization, Stakeholder Theory, and the Corporate Objective Function’, *Journal of Applied Corporate Finance* (2001), Volume 14, Issue 3, 9–13.

¹³¹ Godfrey, P. C. *et al.*, ‘The Relationship between Corporate Social Responsibility and Shareholder Value: An Empirical Test of the Risk Management Hypothesis’, *Strategic Management Journal* (2009), Volume 30, Issue 4, 428–433.

The emergence of CSR is extremely relevant to stakeholders' requirements, especially institutional shareholders, such as pension funds. Stakeholder theory is the primary resource for CSR. If it satisfies stakeholders' needs, CSR will be the wise investment to enhance firm efficiency and benefit. In a company, investors put capital into a firm, employees provide labour, consumers buy the products from the firm and the community provides resources to the company, so that the survival of the company is closely dependent on the positive relationship with stakeholders. The company withdraws resources from society, including income from customers, labour from employees and some natural resource from the environment, and then should provide a return to society.¹³² Jones developed a model that integrates economic purpose and ethics. In this model the firm conducts business with stakeholders on the basis of trust and co-operation. Its commitment to ethics will be its competitive advantage, because of the lasting and productive relationships with its stakeholders.¹³³ Employees require good working conditions, customers want low prices accompanied by high quality and the community expects a high charitable contribution. CSR enlightens the strategic approach according to stakeholder theory and coordinates positive relations with all constituents, and concerns the long-term interests and success of companies through satisfying stakeholders in corporate governance.¹³⁴ The vital connection between stakeholder and corporate fate means that the achievement of CSR is an effective instrument not only to increase corporate profit, but also to stimulate the sustainable and potential development of companies over a relatively longer period.

¹³² See McWilliams and Siegel, *supra* note 109, 117–119.

¹³³ Jones, T. M., 'Instrumental Stakeholder Theory: A Synthesis of Ethics and Economics', 20 *Academy of Management Review* (1995), 410–414.

¹³⁴ Melé, D., Corporate Social Responsibility Theories, in Crane, A. *et al.*, *The Oxford Handbook of Corporate Social Responsibility*, (ed.), Oxford University Press (2008), 60–62; see also Jensen, *supra* note 130, 12–17; see also Dunfee, *supra* note 97, 347–348.

In stakeholder theory, it is important to introduce the concept ‘corporate social performance’ (hereinafter ‘CSP’). CSP among stakeholders is related to the financial performance of a company. CSP is always interchangeable with CSR. However, it is described differently as the specific ‘moment’ of the overall corporate social performances.¹³⁵ In Wood’s description of CSP, it is ‘a business organization’s configuration of principles of social responsibility, processes of social responsiveness, and policies, programs, and observable outcomes as they relate to the firm’s social relationships’.¹³⁶ Some opponents thought that the implicit cost of stabilizing the relationship with stakeholders, such as product control or environmental protection, would result in a large amount of agency cost that might negatively affect corporate social financial performance. However, stakeholder theory predicts that the lower implicit costs to achieve social responsibility will incur higher explicit cost;¹³⁷ for instance, positive employee relationships are expected to enhance employees’ morale, productivity and satisfaction, and if the company can provide in the special concerns of, and fair job opportunities for, women and minority labourers, it might establish a good reputation. CSP would positively affect a company’s attractiveness, because employees would like to be employed by employers who engage in much more social responsibility.¹³⁸ In addition, customers are willing to choose products from companies that fulfil socially responsible action, which is more reliable to their publics. Efficient corporate social performance does positively affect corporate financial performance, both in cutting down the cost of corporate governance and in increasing income in the marketplace.

¹³⁵ Barnett, M. L., ‘Stakeholder Influence Capacity and the Variability of Financial Returns to Corporate Social Responsibility’, *Academy of Management Review* (2007), Volume 32, No. 3, 797.

¹³⁶ Wood, D. J., ‘Corporate Social Performance Revisited’, *Academy of Management Review* (1991), Volume 16, Issue 4, 699.

¹³⁷ See Waddock and Graves, *supra* note 120, 306.

¹³⁸ Turban, D. B. and Greening, D. W., ‘Corporate Social Performance and Organizational Attractiveness to Prospective Employees’, *Academy of Management Journal* (1997), Volume 40, Issue 3, 660.

However, the concept of ‘stakeholder’ is too broad; it is problematic whether all stakeholders’ requirement should be treated equally. Stakeholders are theoretically divided into two groups, namely (1) primary stakeholders and (2) secondary stakeholders. The primary stakeholder group is generally comprised of shareholders, other investors, employees, customers and suppliers; and public stakeholders are governments and communities that provide infrastructure and markets.¹³⁹ If individual stakeholders are not satisfied with the corporation, they might withdraw their investment from the corporate system. Therefore, the stakeholder satisfaction will directly affect the survival and continuing success of the company.¹⁴⁰ If a company is unable to obey the regulations or laws issued by public stakeholders, it will face dire results, such as legal sanctions. Secondary stakeholders, ‘who influence or affect, or are influenced or affected by, the corporation, but . . . are not engaged in transactions with the corporation and are not essential for its survival’, are media or non-governmental organizations, who are involved in monitoring environmental protection or human rights among labours.¹⁴¹ Although secondary stakeholders do not directly participate in corporate governance, they play an important role in leading public opinion into a particular direction. If any opposition to the corporation emerges, it will directly ruin the company’s reputation, and negatively affect its competition and development.

1.5 Correlation between corporate governance and CSR

The analysis of corporate governance and CSR in previous paragraphs showed that the emergence of CSR is accordingly coherent with the need to reduce transaction costs, coordinate the nexus of contracts to enhance team production, meet shareholder value maximization and protect stakeholders’ interests as a whole. From the comparison

¹³⁹ See Clarkson, *supra* note 40, 106.

¹⁴⁰ *Ibid.*

¹⁴¹ *Ibid.*

between these two concepts in different aspects, it is evident that corporate governance is closely related to the achievement of CSR in modern markets, in which the main role of CSR is to enhance the efficiency and effectiveness of corporate governance. The following section will demonstrate the relationship between corporate governance and CSR, and how corporate governance is affected by CSR.

1.5.1 CSR: Meeting stakeholder theory in corporate governance

After the 1970s, stakeholder theory became popular, including social, economic and political perspectives that the duty of top management was to balance value for all social actors optimally in the long term, which might affect or are affected by corporate decisions.¹⁴² In terms of the legal regulation of the protection of stakeholders' profit, such as the UK Companies Act, CSR is the superior, positive and voluntary approach to accomplishing the corporate objective of value maximization that includes individuals and groups, claimholders and employees, customers and communities, among others.¹⁴³ In terms of the nexus of contracts, firms not only establish the contractual relationship with shareholders, but also the social participants, namely employees, customers and even the community. Therefore, the stakeholder theory broadens the interest of all constituencies in a wider scope and the concept of value maximization is no longer limited to only shareholder profit maximization.¹⁴⁴

¹⁴² Keay, A., Moving Towards Stakeholderism? Constituency Statutes, Enlightened Shareholder Value, and All That: Much Ado About Little?, available at: <http://ssrn.com/abstract=1530990>, last accessed on 12 September 2013.

¹⁴³ See Jensen, *supra* note 130, 8–9.

¹⁴⁴ Freeman, R. E. and McVea, J., A Stakeholder Approach to Strategic Management, Darden Graduate School of Business Administration, University of Virginia, *Working Paper* No. 01–02 (March 16, 2001), available at: http://papers.ssrn.com/paper.taf?abstract_id=263511, last accessed on 12 September 2013.

Subsequently, the strategic management stakeholder approach was introduced through stakeholder theory which set up systems and methods to manage the complicated groups and relationships to fulfil the corporate objective and harmonize the connection between stakeholders.¹⁴⁵ In decision-making in corporate governance, it is necessary to recognize stakeholders' actions and needs, so that the board of directors is able to predict the long-term outcome and adapt the future managerial strategy effectively and accurately. The stakeholder approach will successfully integrate the interests of all stakeholders, rather than put one specific group in a better position than others. A detailed and knowledgeable strategy approach will provide complete support for solving the problems of all members within the network.

The corporate objective should be unique, that is, to maximize the total market value of the firm, including the equity, debt and any other contingent claims of the firm, therefore, Jensen maintains that 'a company that takes inputs out of the economy and puts its output of goods and services back into the economy increases aggregate welfare if the prices at which it sells the goods more than cover the costs it incurs in purchasing the inputs'.¹⁴⁶ As a result, the board of directors has to make the optimal tradeoff among stakeholders by satisfying the needs of individual constituencies and attracting investment from investors who are concerned about CSR in business, so that it will increase total value and achieve the company's profit maximization.¹⁴⁷

However, to some extent, it is not possible to completely achieve the stakeholder theory to safeguard all constituencies in every individual firm, including the primary stakeholders, such as employees, suppliers, consumers, and external stakeholders, such as the environment, communities and governments. This situation might exist ideally or in a

¹⁴⁵ Ibid.

¹⁴⁶ See Jensen, *supra* note 130, 12.

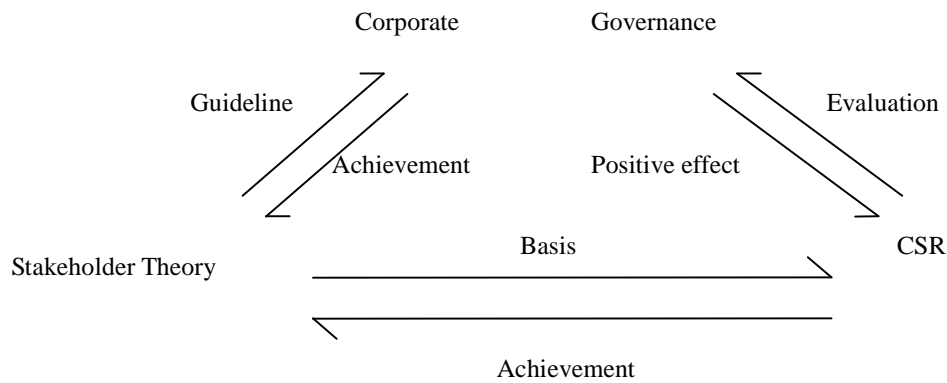
¹⁴⁷ Ibid.

communistic society, but not in the current corporate scenario, which is rife with competition, because it is impossible to accomplish the absolutely fair distribution of social profit in reality and to redistribute social welfare to every single stakeholder within a firm.

The goal of stakeholder theory will be achieved and affected by effective corporate governance in a firm, where the board of directors has to satisfy stakeholders' interests in improving the environment in the workplace; increasing employees' safety and wellbeing, attracting many more potential labourers; stabilizing the relationship with employees; coordinating the positive connection with customers; enhancing the firm's reputation among its customers; participating in charity; or overcoming domination to establish good relationships with government. The stakeholder approach is supportive in creating strategic corporate governance.

Stakeholder theory is the basis of CSR and is aimed at performing the fiduciary duty to every corporate stakeholder in corporate governance, so that stakeholder theory, corporate governance and CSR set up the triangular relationship in which all elements interact with one another reciprocally (Figure 1.1). More specifically, stakeholder theory clarifies the goal of corporate governance in meeting all stakeholders' needs. The relevant stakeholder approach is the guideline for corporate governance in strategic management, while efficient corporate governance will achieve the principle of stakeholder theory. The achievement of CSR is to ensure every stakeholder's interests as a whole are met. The interaction between corporate governance and CSR is closely linked; CSR is extended corporate governance; the achievement of CSR will evaluate whether corporate governance is successful. Effective corporate governance is to satisfy stakeholders' requirements and coordinate the relations among various participants internally and externally, which is to assist in the achievement of CSR.

Figure 1.1



1.5.2 CSR: Extended corporate governance

CSR comes from the concept ‘business ethics’, which refers to ‘the system of moral principles and rules of conduct applied to business, which is a ‘social organ’ and shall not conduct itself in detrimental to the interests of the society and the business sectors’.¹⁴⁸ Therefore, social responsibility is relevant to the implementation of good governance methods. The scope of corporate governance is expanded by the new concept of CSR contained in the decision-making mechanism. CSR is adopted into the corporate governance system as a new approach in different models. It is regarded as a remedy to the legal deficit in the process of corporate governance and is closely linked to the decision-making in corporate governance as a vital process.

1.5.2.1 CSR in the governance system

¹⁴⁸ Sacconi, L., ‘Corporate Social Responsibility (CSR) as a Model of “Extended” Corporate Governance. An Explanation Based on the Economic Theories of Social Contract’, *Reputation and Reciprocal Conformism*, Liuc Papers No. 142, Serie Etica, Diritto ed Economia 10, suppl. A Febbraio (2004), 6–7.

The European Union (hereinafter 'EU') Commission declares that:

by stating their social responsibility and voluntarily taking on commitments which go beyond common regulatory and conventional requirement, which they would have to respect in any case, companies endeavour to raise the standards of social development, environmental protection and respect of fundamental rights and embrace an open governance, reconciling interests of various stakeholders in an overall approach of quality and sustainability.¹⁴⁹

This means that CSR is present in the transaction between firms and their stakeholders, firms are coordinated hierarchically into authority holders and that the CSR approach would reduce transaction costs in corporate governance. Firms are filled with uncertainty and complexity, due to the uncertain and imperfect contract among all constituencies. Corporate governance is aimed at avoiding accidental incidents through harmonizing the relationship with customers and employees, internal and external audit control, and information disclosure in public. Effective corporate governance is able to attract customers through CSR-achieved products or services, such as mild or anti-animal-tested goods; stabilizing the relationship with employees through providing good working conditions and welfare; and coordinating the connection with the community, which would reduce or exempt the expenditure of, or limitation on, the company. If the performance of CSR could bring about these advantages naturally, corporate governance will reduce the transaction costs of obtaining the positive response and effect from its stakeholders.

¹⁴⁹ European Union, Promoting a European Framework for Corporate Social Responsibility, Green Paper, Brussels (18/7/2001), 4.

In team production, all employees work and coordinate together within one firm. The main question is how to monitor employees working for reward and avoiding shirking among team members. In teamwork, the project would be entirely organized, which makes it difficult to evaluate individual employee's work: who works better or who is shirking throughout the entire operation. Therefore, people who work better would balance the loss caused by people who work worse in a team. If the company improves the working environment and concerns of employees, the employees would benefit highly and the company would be competitive among its rivals. Employees have to compete with their peers by working hard, in order to stay in a company with good working conditions and a positive reputation. The achievement of CSR will indirectly solve the problem of how to avoid shirking in corporate governance.

Moreover, the ultimate goal of corporate governance is the maximization of corporate value, which will be stimulated by the performance of CSR. The conclusion drawn from prior analysis is that companies who fulfil their social responsibilities will effectively promote themselves among customers who care about social ethics. They are more willing to accept goods with the notion of environmental protection, or services with the goal of improving social welfare. In addition, employees who are eager to work in companies with safe working condition would work harder and create more fruitful products. Therefore, corporate governance will increase corporate income and profit through the achievement of CSR.

1.5.2.2 CSR: The remedy of incomplete contracting with stakeholders

When firms transact with stakeholders, there are a large number of contracts among them that would be impossible to complete and in which all aspects related to dispute resolution are covered. Legal regulation is just the basic framework in specific areas, such

as contract law, employment law or environmental law, but cannot regulate every single situation in individual cases or disputes. To some extent, the notion of CSR will offset the deficit of contract and legal flaws due to the imperfect contract in corporate governance.

In a famous lawsuit in the US, a woman sued McDonald's because she had eaten too much of the company's 'junk' food, which was rich in fat, calories and sugar, which led to obesity on her part. The reason for the lawsuit was that McDonald's had not at any stage informed her that the company's food was bad for her health if she ate too much. Finally, the court accepted the woman's appeal and assessed the compensation owed to her. In this case, there was only a legal relationship between the buyer and seller, which was that McDonald's sold the food and the woman paid for the goods. In the law of contract, there is no stipulation or regulation about the fiduciary duty of McDonald's to inform its customers about how to eat healthily. This is, therefore, a matter of corporate governance, and the performance of CSR might remit the negative effects of similar situations. In the food business, it is the companies concerned's social responsibility to take into account customers' food safety and health, hence McDonald's should make it part of its corporate governance system to inform its customers about food health, telling them through promotional advertising or posters to eat the fried and frozen food responsibly. Although the company is not obliged to disclose relevant information in specific contractual relations, CSR will effectively resolve and avoid the conflict that is beyond the scope of the law of contract and legislation. Consciousness of CSR will provide corporate governance with a remedy when a contract is incomplete.

1.5.2.3 CSR: The process of decision-making in corporate governance

Owing to the separation of ownership and control, the authority of decision-making is transferred from the input owner to the agency, so that claim holders' interests cannot be

safeguarded, and the abuse of authority in agency might occur. Introducing CSR into decision-making in corporate governance amounts to strategic management and ensures the residual claimant's value. Epstein defined CSR as:

a system of decision making whereby corporate managers try to anticipate and consider the total consequences of business policies and operations before they act. What managers consider to be relevant to formulating and implementing corporate policy encompasses not only economic factors but also the social, political, environmental, and cultural consequences of corporate action.¹⁵⁰

CSR in the process of decision-making means that corporate managers regard CSR as one element when they make decisions in the process of corporate governance. Therefore, the company is required to adopt CSR as a decision criterion when it creates a structure for, and practice of, corporate governance.

Companies' decision-making should not only concern shareholders' interests, but also how to accomplish the value maximization of other stakeholders. When employees want to work in preferred conditions, the firm will not necessarily focus on how to recruit potential employees and to avoid shirking in the process of work. In relation to the achievement of CSR towards a community, firms would be granted privileges by government, so that it is not necessary for corporate governance to make policy to meet society's preference for receiving priority from government or the community. Therefore, CSR is an effective strategy in decision-making to meet companies' profit and enhance the efficiency of corporate governance.

¹⁵⁰ Epstein, E. M., 'Societal, Managerial, and Legal Perspectives on Corporate Social Responsibility: Product and Process', 30 *Hastings Law Journal* (1978–1979), 1303.

1.5.3 Standard to evaluate corporate governance

CSR is one of the standards used to evaluate the success of corporate governance by indicating whether companies have performed well and achieved positive results.¹⁵¹ In this scheme, the standard evaluates how a company achieves socially responsible behaviours, such as ‘reducing or eliminating the amount of toxic effluents a firm puts into the environment, increasing the proportion of high-level jobs held by women, minority, and handicapped employees, improving the quality and increasing the longevity of a company’s products, and contributing company monies to support good works within the community’.¹⁵² Except for the general recognition and standard of social responsibility, such as environmental protection or charity, CSR also operates on the basis of the particular situation in each firm with reference to different economic and financial goals, specific competitive environment, diversified constituencies among stakeholders and so on.¹⁵³ According to the different circumstance, CSR should be combined with the specific requirements of individual firms in corporate governance.

The extent and effect of CSR will show the outcome of corporate governance that is similar to the quality of product reflecting the production process. Relating CSR to corporate governance is a strategic management process that plots a new direction for integrating all stakeholders in the long run. Although effective corporate governance is judged by various aspects, CSR is one of the main measures of evaluation. If corporate executives are able to adapt this corporate strategy or policy smoothly to cater in stakeholders’ requirements or to integrate economic, political and moral aspects into decision-making, corporate governance will be regarded as successful with respect to the

¹⁵¹ Ibid., 1300.

¹⁵² Ibid.

¹⁵³ Ibid.

achievement of CSR.¹⁵⁴ As analysed in the point on extended corporate governance, firms will cut agency and transaction costs, and stimulate employee's willingness to work or create a good reputation for the firm among members of the public. Excellent representation means that the product of corporate governance is of high quality and CSR is properly adopted in the process of corporate governance. The quality of corporate governance relevant to CSR can be scored both by systematic corporate governance ranking service and stakeholders' response.

1.5.3.1 Corporate governance ranking

It has been a common phenomenon that more investors are taking the quality of corporate governance into consideration when they make decisions, so that many organizations offer services of corporate governance ranking that provide the public with more precise, direct and comparable information. Institutional Shareholder Services (hereinafter 'ISS'), The Corporate Library, Governance Metrics International, and Moody's Investor Services are organizations who offer rating information to institutional investors, fund managers, small investors, executive search firms, compensation and governance consultancy firms, insurers offering directors' and officers' liability insurance, rated companies, and academics.¹⁵⁵

The ISS corporate governance quotient (hereinafter 'CGQ') will be used as an example to show two scores: (1) according to the relevant market index of a company in the Russell 3000 and (2) according to the appropriate peer group.¹⁵⁶ Each CGQ is a comparative

¹⁵⁴ See Freeman and McVea, *supra* note 144.

¹⁵⁵ Barrett, A. *et al.*, Corporate Governance Ratings, available at: http://www.directorsforum.com/resources/related_articles/corp_gov_ratings3-05.pdf, last accessed on 12 March 2012, 4–9.

¹⁵⁶ *Ibid.*

score scaled from 1 to 100, representing the company's rank among its relevant peer group. It assesses audit issues, board structure and composition, charter and bylaw provisions, and so forth. It does not directly refer to the evaluation of corporate governance and CSR, but analyses some issues in this field. In ISS, the ranking and analysis of sustainability in corporate governance are applied not only to the ratings, but also to instructions on how to improve in practice. ISS sustainability analytics established the 'Peer Benchmarking Report' to measure companies against direct and sector peers according to a set of sustainability criteria encompassing key environmental, social and governance practices. Areas of strong performance are highlighted, as well as areas needing improvement. The report presents specific 'next steps' to show how to apply this analysis in its reports to investors now and over the next several years. It also assesses the climate risk, sustainability risk and issues about socially responsible investment to conclude what are investors' concerns in corporate governance.¹⁵⁷

All corporate governance ranking services obviously reflect the situation with regard to corporate governance. Although there is no direct ranking of CSR, some of its issues emerge in the general ranking system which affects the final score in the particular rating. When the score of social or environmental issues is higher in the entire corporate governance ranking system, it will increase the basic value of the total points. Good practice in CSR presents effective corporate governance, as well as positive company performance. ISS arrived at the conclusion through a series of comparative examinations that firms with weaker corporate governance performed more poorly, had lower profits and more risk, and accelerated principal-agent conflict faster than firms with stronger corporate governance.¹⁵⁸

¹⁵⁷ ISS Corporate Services, available at: <http://www.isscorporateservices.com/sustainability>, last accessed on 12 March 2012.

¹⁵⁸ The analysis is made on the basis of the CGQ database (5,460 firms) as of 26 September 2003. The detailed information for the examination is explained in the relevant article: Brown, L. D. and

1.5.3.2 Stakeholders' response to corporate governance relevant to CSR

Taking CSR towards consumers as an example, firms implement varied approaches to cater for customers' needs, such as providing complete after-sales service, ensuring product safety, and satisfying customers' concerns about social responsibility, such as animal protection or reducing the emission of polluted air. Customers prefer firms that fulfil their CSR; will treat the goods or service as prime choice; and even advertise to people around them. Every company has to spend a large amount of money on maintaining its relationship with its existing customers, absorb as many future customers as possible and make an impact on the public through advertising. Good corporate governance that includes CSR will lead to stable and expanded resources of customers and an advantageous reputation among the public, so that the quality of the corporate governance process is reflected from the extent of the achievement of CSR as the final product. In terms of stakeholders' replies, it is the feedback on the performance of corporate governance and stakeholders' interest that makes the difference: if stakeholders are not satisfied and provide negative responses, it means that corporate governance is not effective, to some extent, due to the insufficient fulfilment of CSR.

According to public anticipation, stakeholders expect to be reassured by corporate strategy and to establish a positive relationship with the company, which would affect the achievement of corporate governance. For example, employers should provide appropriate working conditions and welfare, and perform their duties to protect employees' rights or else striking or shirking among employees will cause the loss of human resources and financial performance. Safeguarding the authenticity and good

Caylor, M. L., 'Corporate Governance Study: The Correlation between Corporate Governance and Company Performance', *Research Study Commissioned by ISS*, available at: <http://www.stybelpeabody.com/isscoresandshareholdervalue.pdf>, last accessed on 9 April 2012, 2–5.

quality of products and services is important to set up corporate integrity, which leads to a good public reputation; the investment in environmental protection is necessary to the community, which is the return on the use of social resources, so that the community will provide many more concessions to a firm who cares about the protection of social interests; a focus on the sensitive issues of human rights, the region, the protection of women and so on will avoid political or moral conflicts.¹⁵⁹ Accordingly, the achievement of CSR among stakeholders will indirectly increase the income, reduce agency cost and improve the financial performance of a firm, so that shareholders' interests can be ensured through sufficient financial income. In terms of the analogy, if most of a company's stakeholders are satisfied with the board of directors' achievement of CSR, the company's benefits will increase, agency costs will be reduced, its reputation will be enhanced and conflict with its publics will be avoided, which proves that positive results come from good corporate governance practices.

In turn, effective corporate governance is also to improve the performance of CSR internally and externally. When companies take concerns about CSR into account in their corporate governance strategy and policy, stakeholders' interests will be safeguarded better; for example, in order to stimulate employees' working motivation, some big companies run nurseries internally with specialized staff to look after babies. Women employees can bring their babies to work during lactation periods, in order to feed them when necessary. This will enable employees to concentrate on their work and remove the worry about feeding their baby. New mothers are highly likely to be fired, because employers are afraid that they are always distracted by taking care of their babies. Therefore, women employees' working rights might be vulnerable. If boards of directors could consider the dilemma of employees in decision-making, it would avoid conflict in

¹⁵⁹ See Epstein, *supra* note 150, 1306.

employment relationships and ensure employees' legal rights. This could be achieved through the adoption of a CSR strategy in corporate governance.

1.5.4 CSR: A supplementary guideline for corporate governance

Legislation is the legal basis of corporate governance with which all operations in a company should comply. Statutes, regulations and other laws are the instructive and directive code of corporate operation. For example, Sacconi argued that welfare state regulations, labour market and environmental regulations establish a general legal framework, but they cannot regulate every detail of firms' decision.¹⁶⁰ They may lay down minimal compulsory conditions, but in many settings their application requires interpretation of a 'grey' zone; or else the conditions for verifying compliance with them may not be observable.¹⁶¹ Moreover, even when management decisions closely affect the stakeholders, the law cannot regulate these decisions in every respect: the decision whether or not to restructure or downsize a firm is always a business decision, notwithstanding the requirements of the law with regard to the protection of third parties or employees.¹⁶²

Under this circumstance, there are, inevitably, insufficient regulations in corporate decision-making and operation, so that CSR, to some extent, fills the gap when legal regulation cannot cover the specific aspect or when any unexpected events or contingencies occur. CSR is voluntary, beyond the legal basis and derived from various references, such as industrial codes of conduct, internal self-regulations and international initiatives in specific aspects; for example, the board of directors generally applies employment law to coordinate the relationship between employers and employees in

¹⁶⁰ See Sacconi, *supra* note 148, 7.

¹⁶¹ *Ibid.*

¹⁶² *Ibid.*

corporate governance. In the UK, employment legislation has specifically been divided into different items, such as the Sex Discrimination Act 1975, the Equal Pay Act 1970, Employment Equality Regulations 2003, the Race Relations Act 1976, the Employment Rights Act 1996, EC Equal Treatment Directive 76/207 and so on. In the Employment Rights Act 1996, employers are regulated to carry out activities to prevent or reduce risk to health and safety at work, and to pay attention to protect employees from danger.¹⁶³

In plants where there is a lot of noise, employers have to take employees' safety and health into consideration and provide them with earplugs to safeguard their hearing health in terms of relevant regulations. However, the regulations do not provide specific standards about what kind and quality of earplugs are appropriate. In order to reduce costs, some companies supply low-quality earplugs, which do not effectively prevent harm to employees' hearing. In these instances, the companies are merely performing their legal obligation, but not CSR. If firms try to achieve CSR, under the circumstances of relatively balanced cost and interests, employer should provide earplugs of good quality to workers in order to fulfil a more complete and detailed protective system of health and safety to their workers in corporate governance.

It is obvious that although the law only regulates minimum standards in companies, the adoption of CSR will provide a precise notion to fill the deficiency, and inform corporate decision-making and operation specifically and appropriately in corporate governance. It is aimed at filling the gap between legislation and practical operations, and introducing boards of directors to the accurate basis for corporate governance, in order to meet stakeholders' interest comprehensively and to achieve companies' success.

¹⁶³ Employment Rights Act 1996 Ch. 18, Part V.

1.5.5 CSR: applicable instrument in Chinese corporate governance

In China the model and purpose of corporate governance tend to follow Anglo-American corporate governance where the board of directors has the duty to ensure shareholder value maximization in the long term through promoting companies' success as a whole in a market-based model.¹⁶⁴ However, owing to the different institutional structures of boards of directors in Chinese companies, the adoption of the Anglo-American model is not completely appropriate in all Chinese companies.¹⁶⁵ From the collective economy to the market economy, many state-owned companies that are integrally controlled and invested in by the majority shareholder, the state, dominate the Chinese market, which leads to the 'special Chinese situation'. In the period of a collective economy, the market and allocation of resource were controlled under a state plan, so that it was not necessary for companies to compete with peers to enhance financial performance or obtain much more market resources; while in the period of a market economy, private companies emerged and competed with state-owned companies for market investment and resources. However, depending on powerful financing and priorities from governments, state-owned companies still possessed abundant resources and hampered the development of private companies, causing the over-exploitation of profit among these companies.¹⁶⁶ The ineffective market competition between state-owned companies and private companies and the profit-seeking corporate governance impede the emergence and innovation of

¹⁶⁴ The market-based governance model consists of an independent board, dispersed ownership, transparent disclosure, and legal infrastructure. In China corporate governance arrangements, accordingly, upheld the Anglo-American style as the governance paradigm. See Tam, O. K., 'Models of Corporate Governance for Chinese Companies', *Corporate Governance: Empirical Research-Based and Theory-Building Papers* (2000), Volume 8, Issue 1, 53; see also Bai, C. and et al., 'Corporate Governance and Market Valuation in China', 32 *Journal of Comparative Economics* (2004), 603-604.

¹⁶⁵ Cai, Z. and Wheale, P., 'Creating Sustainable Corporate Value: A Case Study of Stakeholder Relationship Management in China', *Business and Society Review* (2004), Volume 109, Issue 4, 508.

¹⁶⁶ See Tam, *supra* note 164, 53-54.

CSR in Chinese markets. That is the reason for delayed development in the special Chinese context. This point will be analysed in more detail in Chapter 2.

The separation of ownership and control in the Anglo-American corporate governance model is adopted in Chinese companies to ensure decision-making by the board of directors in favour of shareholder value maximization. In reality, it is more applicable to achieve independent decision-making on the executive board and independent monitoring on the non-executive board in private companies than state-owned companies. When 'state shares' largely or completely account for companies' shareholding, in practice the whole corporate governance process is arranged by the CCP and government officials to nominate both the executive and supervisory board.¹⁶⁷ In the context of centrally controlled corporate governance, the power exercised by the CCP and government representatives has been more capable of satisfying state shareholder's value, and ignored the wealth of minority shareholders and other stakeholders.¹⁶⁸ In order to balance the market between state-owned companies and private companies, and protect minority shareholders and stakeholders' profit, the China National Party Committee claimed the 'Revolution of Stated-owned Companies' as the main goals of CCP's 17th Party Conference that state and governments should reduce the control of state-owned companies and open up policies to companies' own top management in corporate governance, increase the efficiency in corporate governance and minimising negative corporate images in public.¹⁶⁹

Moreover, when CCP and Chinese governments provide strong financial and political support to state-owned companies, they are required to include the administrative

¹⁶⁷ Xu, X. and Wang, Y., 'Ownership Structure and Corporate Governance in Chinese Stock Companies', 10 *China Economic Review* (1999), 82-83; see also Tam, supra note 164, 54-55.

¹⁶⁸ See Xu and Wang, supra note 167, 84.

¹⁶⁹ See Cai and Wheale, supra note 165, 508-509.

function in the government or industrial strategy, in order to instruct other companies' operation in the same industry, and achieve social and environmental benefit to societies for long-term sustainable value.¹⁷⁰ CSR is a necessary and applicable instrument in the Chinese economic transition to avoid the over-integral state share value maximization to majority shareholder through independent monitoring by other stakeholders; provide social and environmental benefits as an administrative function through corporate governance in state-owned companies; and to open fair market competition to private companies.

1.5.5.1 CSR: fulfilment of administrative function in corporate governance among state-owned companies

In state-owned companies, shareholder value maximization is not the unique purpose of corporate governance that many of them, especially centrally controlled state-owned companies, have. They have administrative responsibility for 'leading the industry in which the company operates, and other state and provincial officials act in what they see as the interest of the state and the people'.¹⁷¹ The existence and mechanism of state-owned companies largely filled the governmental governance gaps left by the weak and under-resourced market mechanism and government administration.¹⁷² Effective corporate governance in state-owned companies would relieve the unacceptable economic and social stress such as unemployment, bankruptcy and industrial financial pressure.¹⁷³

¹⁷⁰ Ibid, 510.

¹⁷¹ See Tricker, *supra* note 41, 197.

¹⁷² Visser, W., 'Corporate Social Responsibility in Developing Countries', in Crane, A. et al., *The Oxford Handbook of Corporate Social Responsibility*, (ed.), Oxford University Press (2008), 483-484.

¹⁷³ See Tricker, *supra* note 41, 197.

Compared with private companies, state-owned companies are more capable of implementing CSR in corporate governance, because they receive adequate financial support and investment from government that would reduce companies' consideration of the cost of implementing CSR. In order to achieve the administrative responsibility, boards of directors have adopted CSR and considered stakeholders' interests in decision-making, so that it would provide plenty of job opportunities, ensure environmental protection, accomplish social welfare, set positive examples in specific industries and so forth.¹⁷⁴

Additionally, as mentioned before, the Chinese government is practising the 'Revolution of State-owned Companies', so that they cannot totally depend on government 'back-up'. The state has relatively reduced the direct control to companies' operation, and the support and priority on finance and political policy. That is to say that the Party, Party Committee in companies, and government have changed their attitudes from centralized instruction in decision-making to market-oriented competition with private and overseas companies.¹⁷⁵ In the new market context state-owned companies lose the advantage of governmental support and have to optimize a stakeholder approach in corporate governance for positive internal and external relationships, so that the corporate value creation would be partly dependent on stakeholders' support.¹⁷⁶ When state-owned companies effectively perform CSR to ensure stakeholders' interest in corporate governance and voluntarily take the administrative responsibility in respects of social, environmental and community matters, they would receive advantages such as a

¹⁷⁴ See Visser, *supra* note 172, 484-485; see also Wang, H. and Song, T., 'Corporate Economic Performance and Corporate Social Responsibility—Empirical Research on Chinese Listed Companies [我国上市公司社会责任与企业绩效的实证研究, woguoshangshigongsishehuizerenyuqiyejixiaodeshizhengyanjiu]', 2 *Journal of Nanjing Normal University* (2007), 59.

¹⁷⁵ See Tricker, *supra* note 41, 199.

¹⁷⁶ See Cai and Wheale, *supra* note 165, 510.

reduction in tax or priorities in policy from governments to ensure long-term value maximization.¹⁷⁷

1.5.5.2 CSR: effective independent monitoring of misbehaviour in corporate governance in state-owned companies

In China the State-owned Assets Supervision and Administration Commission of the State Council (hereinafter ‘SASAC’) holds the Chinese Government’s shareholding in all China’s state-owned companies. It is the largest institutional shareholder in the world, so that the state as shareholder plays the most important role in these companies.¹⁷⁸ Fudan University provided research in 2007 revealing that in Chinese state-owned companies, 40% of directors on boards of directors were shareholder directors who were largely nominated by the CCP, the State Council or the SASAC. In the Chinese two-tier board structure the shareholder directors both sit in the positions on the executive board and supervisory board, and the two boards are simultaneously located under the shareholders’ meetings.¹⁷⁹ Unlike the supervisory board in the German model the supervisory board in the Chinese model sits under the shareholders’ meeting, but is above the executive board, and it has ‘no responsibility on the shareholders behalf for return on investment. Neither does the supervisory board in China have the power to hire and fire directors as in the German case’.¹⁸⁰ Officially, the directors of the supervisory board should oversee finances, the due diligence of directors and shareholders’ interests, and nominate an external auditing company to monitor the company’s performance. However, in practice leaders of companies’ Party Committee always take the chair of the supervisory board, so

¹⁷⁷ See Wang and Song, *supra* note 174, 59-60.

¹⁷⁸ See Tricker, *supra* note 41, 197.

¹⁷⁹ *Ibid*, 198.

¹⁸⁰ *Ibid*, 195.

that the supervision by the Party leader or members of the Party or government-nominated director seems more decorative than functional.¹⁸¹

When officially assigned party members or government officers, who lack professional knowledge and practice of corporate governance take the seats of CEOs or top management, it might lead to flawed decision-making and impede efficiency in corporate governance.¹⁸² Meanwhile, the assigned shareholder directors dominate the executive board or have stronger power than other directors and in the ‘Revolution of State-owned Companies’ government and SASAC will reduce the direct instruction and control of companies’ decision-making and corporate operation. Therefore, the lack of limitation from other executive directors and the supervisory board, and direct control from the state would cause acting in self-interest, corruption, insider-trading and other misbehaviour on the part of top management.¹⁸³

In addition, there is a misunderstanding of shareholder value maximization in state-owned companies that is partially defined as the interest of majority shareholder or governmental shareholder. In the nexus of contracts, all corporate constituencies’ interest should be ensured in decision-making, including majority and minority shareholders, employees, consumers, suppliers, communities, environments and so on. Nevertheless, in most state-owned companies, government-nominated directors, acting in the interest of state assets, will maximize majority shareholders’ interests and ignore minority

¹⁸¹ Ibid, 196.

¹⁸² Wang, J. and He, J., ‘Corporate Governance, Corporate Economic Performance and CSR—Empirical Research of Chinese Listed Companies in the Industry of Manufacturing [公司治理、企业经济效益与企业社会责任—基于中国制造业上市公司数据的经验研究, gongsizhiliqiyexiaoyuqiyeshihuizeren—jiyuzhonggongzhizaoyeshangshigongsishujudejingyanyanjiu]’, 2 *Economic Survey* (2009), 84.

¹⁸³ See Visser, *supra* note 172, 483; see also Cai and Wheale, *supra* note 165, 508-509.

shareholders' value and other corporate constituencies' interests in corporate governance.¹⁸⁴

Bringing CSR into corporate governance, boards of directors would include stakeholders in decision-making, which would engage stakeholders in corporate governance in state-owned companies. The adoption of CSR could balance the interests between majority shareholder and other stakeholders, in order to prevent the monopoly of state profit, and achieve companies' value creation in long-term coordination with minority shareholders and stakeholders. Moreover, owing to the low efficiency in the supervisory board, stakeholder engagement in state-owned companies would stimulate the independent monitoring from stakeholders to supervise boards of directors' illegal action in corporate governance, which would lead to the negative effect on stakeholders' benefits. In particular, CSR to employees would directly achieve employee representatives' function on the supervisory board that monitors and reflects the board of directors' decision-making and behaviour in corporate governance.

1.5.5.3 CSR: stimulation of investment from public investors

Compared with state-owned companies, which can get strong financial support from the state, private companies face the difficulty of attracting investment, including individual and public investors. As discussed in previous sections, good performance in CSR would not only attract consumers in the marketplace, but also encourage investment from institutional investors, such as banks, investment corporations, industrial associations and other public investors. For example, a bank, as the creditor, would provide abundant capital to companies, but cannot directly engage in company's decision-making, so that it

¹⁸⁴ Yang, R. and Zhou, Y., 'Company's Collective Governance under Stakeholder Theory [论利益相关者合作逻辑下的企业共同治理机制, lunliyixiangguanzhehezuoluojixiadeqiyegongtongzhilijizhi]', 1 *Chinese Industrial Economy* (1998), 39-41.

has to ensure that the company is capable of and reliable to return the loan and interest. In Cai and Wheale's study, they proposed that the achievement of CSR would increase companies' trust, reliability and commitment to public investors, and encourage them to invest in companies with good social performance and credibility.¹⁸⁵

The commencement of the Green Loan Programme helped trigger the launch of the Green Evolution in the Chinese banking sector. Many banks adopted the programme checklist to ensure companies' environmental performance and provide loans to companies who made great strides in environmental protection. In this programme companies strictly comply with the financial and environmental regulations, and co-operate with international banks and NGOs for further development, so that the Green Programme in banks also requires reliable information disclosure from companies of their corporate environmental index.¹⁸⁶ Therefore, the achievement of CSR in environmental matters would increase companies' sustainable value and open 'green access' to obtain investment in the development of SRI in China. Competing with state-owned companies and good financial performance in CSR is a positive approach for private companies to receive capital support from institutional investors.

1.6 Case studies on corporate governance and CSR

Good corporate governance is to ensure the appropriate treatment of all stakeholders so that employees, consumers, suppliers and other public stakeholders can get transparent information disclosure, and that the capital of investors and lenders is utilized equitably and effectively. Meanwhile, successful corporate governance also positively affects the

¹⁸⁵ See Cai and Wheale, *supra* note 165, 516-518.

¹⁸⁶ The Green Evolution: Environmental Policies and Practice in China's Banking Sector, available at: http://www.banktrack.org/download/the_green_evolution_environmental_policies_and_practice_in_the_chinese_banking_sector/green_evolution_2008_foe_final.pdf, last accessed on 27 October 2014.

environment, sustainability and local community. The achievement of CSR will urge companies to implement successful corporate governance, such as through the provision of clean and safe working conditions for their employees; good-quality products produced in a safe working environment for their consumers; a stable and credible supply chain with suppliers; sustainable protection of the environment; and charities or activities that benefit communities.

In the following section the case of the world-famous Ford motor manufacturer will be used as an example to illustrate CSR actions in corporate governance. By 1916, the Ford Motor Company was sued by Dodge Brothers due to the alleged damaged caused to the minority shareholders' interests.¹⁸⁷ Parkinson described the *Ford Motor Company* case as 'a rare example of a successful challenge' to management to fulfil CSR in employment and ensure long-term shareholder interest'.¹⁸⁸ Ford had long history of CSR. In 2012 *Newsweek* published the Green Ranking of corporate sustainability in the US that Ford was nationally ranked in the 50th position out of 500 companies rated and was in the top position in the industry of vehicles and components.¹⁸⁹

¹⁸⁷ The Ford Motor Company is one of the global leaders in the automotive industry and has spread its business into Africa, Asia-Pacific, Europe, North America and South America. By 1916, the company's president and majority shareholder, Henry Ford, decided to end special dividends to shareholders and reduce the price of his cars, and declared my ambition is to employ still more men, to spread the benefits of this industrial system to the greatest possible number, to help them build up their lives and their homes. To do this we are putting the greatest share of our profits back in the business'. The minority shareholders, Dodge Brothers, sued Ford for the damage to profit. In the case of *Dodge vs Ford*, the Court claimed that as a profitable organization, the company should operate for the shareholders' profit and could not turn the profit into charity without consideration of shareholders' interests. See *Dodge vs Ford Motor Company* case, 170 NW 668 (1919).

¹⁸⁸ Although the Court judged Ford to operate primarily on behalf of shareholders' interest, Ford's exercise was regarded as a successful example of achieving CSR for employees and the community. See Parkinson, J., 'The Legal Context of Corporate Social Responsibility', *Business Ethics* (January 1994), Volume 3, Issue 1, 20.

¹⁸⁹ *Newsweek*, which is an American media house with a history of over 80 years, published the Green Ranking of large companies in the US through tracking the footprint of company's exercise of

Ford had an outstanding environmental performance and background in CSR. It adopted a large amount of approaches to achieve CSR and enhance its influence in the international market in the fields of sustainability, societal education, community development, employment and so on.

1.6.1 Taking action

1.6.1.1 MEDICOS Special School Project

In South Africa, Ford established the MEDICOS Special School, which is located in Soshanguve, north of Pretoria. It is a special day school for children who suffer from mental disabilities such as infantile autism. Most of them live in the surrounding areas of Soshanguve, Mabopane and Ga-Rankuwa. The mentally handicapped children often encountered the problem on their way to and from school that they would get lost and some of them were even abused en route. In order to solve this problem, the Ford Motor Company of Southern Africa laid on a bus service for these children free of charge. The buses were manufactured by Ford. In addition, the company and employees often make cash and other donations of valuable items such as freezers to this special school.

1.6.1.2 Employee involvement and protection

The Ford Motor Company in the US participates in the fight for 'labour rights' of workers across the world. It makes its own employees feel comfortable that the company is

environmental protection and sustainable information disclosure. See Green Ranking 2012: US Companies, available at: <http://www.newsweek.com/2012/10/22/newsweek-green-rankings-2012-u-s-500-list.html>, last accessed on 2 April 2014.

fighting for their reasonable rights. Ford's website notes that the company achieves in employment as follows:

[t]he Ford Motor Company has already taken great strides to eradicate labour issues all around the world. Much of [Ford's] focus is on eradicating labour abuses within international supply chains, whether in pig iron from Brazil, cotton from Uzbekistan or cocoa from West Africa. Ford will not tolerate any of their suppliers abusing workers, no matter the country. Ford's stand should be a model for all world companies, large and small; they understand that happier employees produce better products and profits, and that all people have certain rights.¹⁹⁰

In addition, the Ford Motor Company implements various charitable activities and encourages its employees to become involved in such actions; for example, the Ford Motor Company of Southern Africa Employee Community Action Program was set up in the Ford Motor Company of Southern Africa. It encouraged every employee to donate 16 hours of community service in Tshwane and Port Elizabeth. Many of them have become involved in community projects over the past years. Wise and Ali comment that:

[t]hrough involvement, Ford created a broader awareness and understanding as a caring company, which accepts its corporate citizenship responsibilities. This supports the company's declared vision and values. It is planned to involve increasing numbers of employees in the projects; thus developing improved team spirit and a caring attitude amongst employees, true to the company's

¹⁹⁰ Kinzel, S. A., Ford Motor Company and Corporate Social Responsibility, available at: <http://cowgirlkitty.com/2011/04/17/ford-motor-company-and-corporate-social-responsibility>, last accessed on 12 March 2014; and Ford Motor Company: available at: <http://corporate.ford.com/news-center/news/featured-stories-details>, last accessed on 12 March 2014.

vision. Furthermore, these activities provide an opportunity for employees to demonstrate one of the key leadership behaviours, i.e., community commitment.¹⁹¹

1.6.1.3 Safeguarding sustainability

The Ford Motor Company keeps focusing on exploring the issue of sustainable development, which is a social and environmental issue. Ford treats sustainability as a long-term strategic priority, and effectively reduces resource use and develops innovative 'green' and safer goods and technologies. One of the main problems in the automotive industries is fuel efficiency and related carbon dioxide (CO₂) vehicle emissions, so that cutting down pollution emission is imperative. Ford has been making and producing electric and new electric and hybrid automobiles, such as the Lincoln MKZ Hybrid which is steadily improving the lessening of the company's carbon impact on the world.¹⁹² Ford was the pioneer in adopting solar panels at its Bridgend Facility in South Wales. In order to reduce the local contribution to climate change through diminishing its greenhouse gas emissions, Ford supplies renewable energy to its plants.

In addition, Ford innovated the new generation of power, namely the feasibility of using wind turbines on site to provide 100% of the electricity to the new local plants in Dagenham, East London, UK. However, the adoption of wind power would cause some problems, such as the potential noise to local residents or employees; or the visual presence of the turbines, which might be a problem for aircraft using the local London City Airport. Owing to these challenges, Ford tried to ensure that all issues could be

¹⁹¹ Wise, V. and Ali, M. M., 'Case Studies on Corporate Governance and Corporate Social Responsibility', *South Asian Journal of Management* (July 2008), Volume 15, No. 3, 141.

¹⁹² Ford, W. C. and Mulally, A., *Blueprint for Sustainability: The Future at Work*, 18 February 2011, available at: <http://www.corporate.ford.com/about-ford/>, last accessed on 12 June 2012.

solved properly. It held consultations and face-to-face meetings with local residents and wildlife groups, and chose the gearless turbine which produces little noise. Although the Dagenham site is over 500 acres in size, only a few possible sites fulfilled the criteria needed to utilize wind power.¹⁹³ Therefore, it was reported that 'Ford would pay for the planning permission and lease out the land for 30 years to an energy provider, the specialist wind developer and green energy supplier Ecotricity'.¹⁹⁴ During the viable operating time, this supplier would provide the energy direct to Ford for 12 years, and Ford would pay the expenditure of installation and connection. It will avoid the negative conflict and inconvenience on local residents, employees and municipal construction.¹⁹⁵

1.6.2 Positive effect on CSR and good corporate governance

In terms of the MEDICOS Special School, the Ford Motor Company is involved in sharing the social burden involving the education and safety of the mentally handicapped children. It achieves CSR towards the community through giving care to vulnerable groups. This is the best and most direct way to advertise the company and the vehicles (buses) manufactured by Ford. The good corporate governance strategy that Ford followed in the process of performing CSR and charity demonstrated its conduct and products to the public with the result that, to some extent, it has reduced the agency cost of advertising in corporate governance.

Ford's attention to its employee and relevant activities also improved its corporate governance. The company made 'labour rights' an important issue in its operations and

¹⁹³ Ibid.

¹⁹⁴ Ibid.

¹⁹⁵ Ford: Investing in Renewable Energy Generation on Its Operational Site, Reducing Greenhouse Gas Emissions, available at:
<http://corporate.ford.com/microsites/sustainability-report-2012-13/environment-operations-emissions>, last accessed on 12 June 2012.

strives to provide a comfortable, safe and relaxing working environment, and ensures the related rights to its employees. When employees are happy with their working conditions, they concentrate on their work and produce products of high quality. This is an automatic encouragement mechanism for employees and will effectively avoid shirking in teamwork. the result is that it is not necessary for top management to invest much more time and money in stimulating employees. By contrast, employees are encouraged to participate in charitable activities which enhances their sense of belonging and that they have achieved CSR for their company and have brought benefits to the whole community. In corporate governance, this would be an effective way to shorten the distance between employers and employees rather than lobby the employees through some artificial speech.

Green energy and sustainable innovation, such as wind power and solar panel, would environmentally and economically bring long-term benefits to sustainability, which would be one of the most vital challenges to human beings. It was expected that the price of renewable energy would be equal to ordinary energy generation. However, the wind power has brought about considerable cost savings because the prices of the turbines were fixed prices, while other energy prices have been soaring.¹⁹⁶ The decision to adopt innovation not only indirectly makes the Ford Motor Company more competitive, but also produces significant benefits. Instead of ingratiating publics through promotion or television advertisements, Ford's achievement of CSR has enhanced its corporate image and identity, has had a broad impact on local residents and the community.

¹⁹⁶ Ibid.

1.7 Summary

When transactions are not only decided by the price mechanism but other factors affect the process, firms emerge to organize the resource exchange and production among varied input owners, including material and labour. Instead of direct transactions between buyer and seller, participants set up contracts with firms to conclude transactions, so that the firm operates in the form of a nexus of contracts. A specific body is needed to coordinate the transaction and the behaviour among corporate constituents and resources. This is called *corporate governance*, of which the main organs are shareholders, the board of directors and management. Transactions within firms conducted through contracts would also incur costs, due to the firm specificity and uncertainty of the transaction. The emergence of corporate governance has reduced transaction costs and enhanced the efficiency of corporate operations.

In terms of the firm as property, ownership and control between shareholders and the board of directors has been separated, and the latter is the former's agent in decision-making, based on the maximization of shareholders' interests. However, contractual participants enter into a nexus of contracts which affects companies' success, so that the stakeholder theory was adopted in corporate governance that boards of directors should take stakeholders' profit into account (which is closely related to shareholders' interest) when decisions are made. Team production is an extreme form of stakeholder theory: individual members are involved in collective teamwork, which is not an accumulation of separable single productivity. Therefore, corporate governance is a form of monitoring shirking among team members and measures the fair rewarding of each member in a production team.

Shareholders can make decisions and take actions through the transfer of shares when they are dissatisfied with corporate governance in meeting the need of profit maximization; the right to vote to elect the board of directors; and the rights to participate and ask information about corporate governance. The law requires that boards of directors make decisions to ensure their company's success as a whole and so that stakeholders' interests are taken into consideration in decision-making in corporate governance. Power is divided between shareholders and the board of directors in corporate governance, in order to avoid the agency problem where decision management and decision control are respectively conferred on the board of directors and shareholders. Furthermore, the two functions are shared between executive directors and non-executive directors in complex companies.

CSR is coincidental to stakeholder theory and concerns about social issues within transactions. Therefore, it improves the efficiency of corporate governance to reduce transaction costs, stimulate team production, maximize shareholders' profits and meet stakeholders' need to achieve the company's success. CSR is the extended strategy and guideline for corporate governance beyond the legal requirement to optimize relationships with stakeholders under the stakeholder theory and covers the deficit in a nexus of contracts to meet stakeholders' interests. CSR is also the standard used to evaluate the quality of corporate governance through whether the board of directors makes decisions based on the comprehensive concern to achieve shareholders' profit maximization, and the company's success entirely with respect to financial, social and environmental issues, which relate to all stakeholders.

Chapter 2: Rationale for and Methods Used to Achieve Corporate Social Responsibility

As discussed in Chapter 1, CSR meets the requirements of the stakeholder theory and is broadly applied in boards of directors' decision-making to achieve companies' success in corporate governance. The emergence of CSR is affected by the legal basis of, and, more specifically, the need for, social benefits that the public, namely consumers, employees, governments, markets and communities, require from companies to fulfil social performance. The public request for corporate information disclosure is the specific driver behind the emergence of CSR, because the public gains access to a company's CSR performance and makes investment decisions on the basis of the information revealed.

The definition of CSR and the methods used to implement CSR are both influenced by legal regulations, but they are developed further beyond the law in the varied voluntary/non-mandatory initiatives that numerous international bodies and non-governmental organizations (hereinafter 'NGOs') published and that have been adopted worldwide. This chapter provides the rationale behind the emergence of CSR, the legal impact of CSR and globally used CSR initiatives, and compares the specific background and techniques of CSR in a developed country, the UK, and a developing country, China. In doing so, the chapter explains the evolution and practice of CSR so as to provide an understanding of the background against which the specific CSR practices with regard to employees in the two countries are discussed in Chapter 3 and 4.

The UK, as a developed country, applies its experience and systematic mechanism to achieve CSR on the basis of the stakeholder theory. In contrast, China, which is a developing country, lacks empirical and practical knowledge about CSR practice.

However, governments, industrial organizations and NGOs have been involved in the development of, and research into, CSR, and have published initiatives that would be suited to the Chinese situation. This thesis uses comparative studies on CSR conducted in the UK and China. The following section demonstrates the different mechanisms adopted in the two countries:

2.1 Emergence of CSR and general methods

Hohnen defined CSR as ‘the voluntary acts of the business sector – outside the realm of legislation – to develop sustainability in the field of business they operate in’.¹ CSR is not included in, and regulated by, law; it goes beyond law and is achieved through voluntary action. Owing to the nature of CSR, its emergence and methods are not directly regulated through regulations, but affected by law with respect to the notion and scope used to define and implement CSR. The reason for the emergence of CSR and its implementation are more influenced by public need, and developed through voluntary methods. Section 1 of this chapter will present and discuss the rationale for the emergence of CSR in respect of its legal, social and market effects, and the different voluntary approaches to the general methods used in CSR.

2.1.1 Rationale for CSR

The emergence of CSR conforms to the global development in which people and business realize the importance of social responsibility. The new business trend makes stakeholders’ interests vulnerable, so that civil society has to put pressure on business to ensure

¹ Hohnen, P., ‘Government and CSR: Three Simple Steps to Improvement’, *Climate News for Business*, 30 July 2012, available at: <http://www.climatechangecorp.com/content.asp?ContentID=3657>, last accessed on 12 September 2013. This paper was posted in the Organization for Economic Co-operation and Development (hereinafter ‘OECD’) Forum on 2 May 2005.

stakeholder's rights and societal sustainability.² In the information age corporate behaviour and operation are more transparent to the public. Moreover, the legislation related to the relevant duties of boards of directors and companies enhances the social understanding of CSR.

2.1.1.1 Social pressure in the new business trend

Unlike traditional business, which involves direct transactions between parties, outsourcing and subcontracting are broader in the new era of business; for example, Nike, Adidas and other famous brands are merely the 'brand', and most of their production business is subcontracted to manufacturers in different areas, in order to reduce labour and raw material costs. Under the contract of sale, the direct contractual relationship is between Nike and consumers. This means that when it comes to the quality of the product, the latter is not directly safeguarded against subcontractors who hide behind Nike and easily escape from CSR. They avoid public scrutiny while under Nike's veil. In the supply chain, consumers' right to obtain quality goods will not be directly protected by the manufacturer and Nike. Furthermore, some manufacturing plants were established in developing countries where the workers are paid less than legal minimum wages and work long hours in bad conditions. The public, especially consumers who care deeply about CSR, will find it difficult to identify the series of violations of CSR, because only Nike's CSR, and not the subcontractor's or the manufacturer's, is presented to them. Even though Nike is

² The definition of *societal sustainability* is referred in the Global Community Assessment Centre (hereinafter 'GCAC'), which is an organization that evaluates and discusses the issues about people's home and their community, and the planet. Societal sustainability means a sustainable society or community that balances the activities between humans and their surroundings. See the GCAC Evaluation of Social Indicators and Indices, available at: <http://globalcommunitywebnet.com/globalcommunity/societalsustainability.htm>, last accessed on 17 April 2014.

corporately socially responsible, there is still some behaviour that works against it in the supply chain. Therefore, consumers' appropriate right to know is vulnerable.³

However, with the emergence of the Internet and social media such as Twitter and Facebook, the scope of, and speed with which, information is spread are broader and faster respectively. Not only journalists, but the public are able to dig up the truth and find information transparently and directly. This is an efficient approach to exposing the hidden problems in subcontractors' corporate operation. Access to updated information allows society to take measures to protest against corporate behaviour that goes against human rights or environmental protection via campaigns, publicity and boycotts.⁴ In order to avoid social pressures, companies have to take CSR seriously, not only internally, but also in the operations of their subcontractors.

2.1.1.2 Market pressure from consumers and investors

As mentioned before, the corporate socially responsible consumer market is dominating significantly; a survey conducted in 2007 showed that more than a third of consumers are willing to spend money on 'ethical foods', compared to just 25 per cent in 2002.⁵ While in the US an LRN study of ethics in the market noted that '70 percent of those surveyed reported they had decided not to purchase products or services from a company they thought had questionable ethics'.⁶ From the statistics it is evident that people prefer to

³ McBarnet, D., 'Corporate Social Responsibility Beyond Law, Through Law, for Law': The New Corporate Accountability, in McBarnet, D. *et al.*, *The New Corporate Accountability*, (ed.), Cambridge University Press (2007), 14–15.

⁴ Ibid.

⁵ Ibid., 17.

⁶ LRN is an authoritative company that provides education and support to companies on how to connect with their employees, the environment and community, and on how to create corporate values in the right

spend money on suppliers with CSR-oriented practices; for instance, organic products, such as organic cotton and sustainably produced timber, are becoming widely welcomed.

Moreover, SRI is also a vital element in pushing the attainment of CSR even at the global level. In April 2006 former United Nations (hereinafter 'UN') Secretary-General, Kofi Annan, launched the UN's investment principles at the New York stock exchange: 'the six principles underlying the initiative, all voluntary, were developed with pension funds and foundations as well as experts, and are underpinned by a set of 35 possible actions that institutional investors and asset managers can take to integrate environmental, social and corporate governance (hereinafter 'ESG') considerations into their investment activities.'⁷ Therefore, the performance of social responsibility has been the standard individual or institutional investors have used. The relevant initiatives are also required by the FTSE4 Good Index in the UK and the Dow Jones in the US, which will be analysed in the following section. Hence, the motivations for CSR in companies are to attract public consumption and absorb investment from institutional and even individual investors.

2.1.1.3 Public notion of CSR and legal regulation

Although CSR is a voluntary action and not enforced through law, the latter increased the public notion of CSR through relevant regulations. For example, Article 172 of the UK Companies Act 2006 regulates the duty of directors 'to promote the success of the company . . . a director of a company must act in the way he considers, in good faith, would be most likely to promote the success of the company for the benefit of its members as a

way. See LRN News, 30 January 2006, available at: www.lrn.com/news/releases, last accessed on 15 August 2012

⁷ Standing, G., 'Decent Workplaces, Self-regulation and CSR: From Puff to Stuff?', DESA Working Paper No. 62, available at: http://www.un.org/esa/desa/papers/2007/wp62_2007.pdf, last accessed on 21 November 2013.

whole’ and ‘to foster the company’s business relationships with suppliers, customers and others’ and to emphasize ‘the impact of the company’s operations on the community and the environment, in order to enhance the company’s reputation for a high standard of business conduct’.⁸ In this article, company directors are accountable for operating the company in good faith and for the benefit of all members, including employees, customers, the community and the environment.

In addition, legislation enforces the protection of the environment, safeguards consumer’s rights and ensures employees’ working conditions, payment and so on. All relevant regulations provide the general framework for corporate accountability and enhance public attention on how companies show their corporate accountability to their stakeholders. When the importance of stakeholder protection is presented in public, companies must perform optimally to increase their market competition. Consequently, this will indirectly stimulate the achievement of CSR, which is voluntary, broader and a more detailed approach to accomplish social responsibility.

2.1.1.4 Public need for information disclosure

The *New Palgrave Dictionary of Economics and the Law* defines the term *information regulation* as ‘a format of governmental intervention to correct the lack of information in the market so that when the information available to consumers from all of these sources is insufficient to provide complete information about a good or service, then competitive markets yield inefficient allocations and there is at least a potential role for government regulation to ‘correct’ for these informational market failures’.⁹ According to this

⁸ UK Companies Act 2006 Ch. 46, Section 172.

⁹ Newman, P., *The New Palgrave Dictionary of Economics and the Law*, Palgrave Macmillan (2002), 307–308. In this definition information regulation originated from the market failure of information imperfection, so that governmental intervention in the form of regulation or information provision as

definition, consumers acquire information in the market about the characteristics and quality of goods or service when they consider purchases from among numerous sources.

Information is provided to all market participants to evaluate and make investment decisions. For example, workers would like information on employers such as the efficiency of the management and the annual profit of a company, and the salaries offered, in order to decide whether they would want to be employed by a company. Suppliers, in turn, need to know buyers' creditworthiness and whether they are able to pay their suppliers in time, in order to decide whether or not to supply products to them. Information is especially important in the capital market, where financial investors, lenders and other creditors make decisions about providing capital resources to companies.¹⁰ Many companies realize stakeholders' urgent need for information on companies' CSR activities related to labour, consumers, government, the environment and their community, and the importance of transparency and accountability of CSR reporting to 'grow the business, serve shareholders' interests and create a better world'.¹¹

regulatory remedy forces firms to provide sufficient trading information to consumers in the process of market transactions.

¹⁰ International Financial Reporting Standards (hereinafter 'IFRS'), The Conceptual Framework for Financial Reporting 2011, 1 January 2012, available at: <http://www.ifrs.org/IFRSs/Documents/English%20Web%20summaries/Conceptual%20Framework.pdf>, last accessed on 16 January 2014. This extract has been prepared by IFRS Foundation staff and has not been approved by the International Accounting Standards Board (hereinafter 'IASB'). IFRS takes account of the financial reporting needs of emerging economies and small and medium-sized entities (hereinafter 'SMEs'); IASB is the independent standard-setting body of the IFRS Foundation. Its members (currently 15 full-time members) are responsible for the development and publication of IFRSs, including the IFRS for SMEs and for approving interpretations of IFRSs as developed by the IFRS Interpretations Committee (formerly called the *IFRIC*)

¹¹ See IFRS, *supra* note 10; see also Lowenstein, L., 'Financial Transparency and Corporate Governance: You Manage What You Measure', 96 *Columbia Law Review* (1996), 1342–1345; see also Adina, P. and Ion, P., Aspects regarding Corporate Mandatory and Voluntary Disclosure, 1407–1410, available at: <http://steconomice.uoradea.ro/anale/volume/2008/v3-finances-banks-accountancy/256.pdf>, 407–411, last accessed on 28 November 2013.

2.1.2 CSR and the law

CSR is a voluntary concept that is not enforceable through laws. However, laws set up the minimum standards of corporate accountability to society and, to some extent, affect the scope of CSR. Domestic regulations, treaties and international agreements, which are valid obligations in companies, have influenced the direction and content of CSR policy in individual companies and in specific industries. In order to avoid confusion about the correlation between law and CSR, it could be said that CSR exists due to the reasons mentioned above, and goes beyond the scope of legislation, and its implementation is varied and voluntarily exercised in individual companies as needed. There is, however, no accurate measure of how CSR is achieved in companies. Regulation is the lowest standard that companies should meet. They are free to exercise CSR at higher or lower levels, but it should be at least above the legal limitation. The conclusion that could be drawn is that hard law may demand voluntary approaches, for example, requiring companies to be more transparent and to report on their social or environmental performance but not specifying what that performance should be. If performance standards are found to be low, then it is up to such actors and entities as civil society organizations and movements, the media and public opinion to expose, name and shame or otherwise bring pressure to bear on a company to improve its performance.¹²

2.1.2.1 Domestic legislation

¹² Utting, P., 'Rethinking Business Regulation: From Self-regulation to Social Control', *Technology, Business and Society Programme*, Paper Number 15 (September 2005), available at: [http://www.unrisd.org/unrisd/website/document.nsf/ab82a6805797760f80256b4f005da1ab/f02ac3db0ed406e0c12570a10029bec8/\\$FILE/utting.pdf](http://www.unrisd.org/unrisd/website/document.nsf/ab82a6805797760f80256b4f005da1ab/f02ac3db0ed406e0c12570a10029bec8/$FILE/utting.pdf), last accessed on 5 May 2013.

The legislation in Australia will be taken as a general example to present how national regulation affects the implementation of CSR. Section 299 of the Australian Corporate Act 2001 regulates that the directors' report must not only publish information about financial performance to public investors and other stakeholders, but also disclose the entity's operations that 'are subject to any particular and significant environmental regulation under a law of the Commonwealth or of a State or Territory – give details of the entity's performance in relation to environmental regulation'.¹³ The mandatory requirement of the directors' report in respect of environmental performance forces boards of directors to take positive action to ensure environmental protection in corporate governance.

As regards the article on corporate directors' reporting accountability, boards of directors not only have the duty of reporting information about financial performance and corporate governance to shareholders within legally required aspects, but should also disclose information about how their company achieves financial performance through other factors with respect to CSR, such as employee entitlement, environmental protection and social donation to provide stakeholders with access to knowledge on how companies enhance corporate governance financially and socially. When CSR is included in corporate financial performance, the regulatory requirement of annual financial reporting, as the basic standard, will inspire corporates to use CSR to improve corporate governance.

2.1.2.2 European Union laws

Some EU laws also provide limitations in various fields that affect the scope of CSR; for example, Directive 1999/44/EC calls for 'a guarantee of at least 2 years for new goods (or

¹³ Australia Corporation Act 2001, available at: http://www.austlii.edu.au/au/legis/cth/consol_act/ca2001172/s299.html, last accessed on 19 November 2013.

longer if the Member State wishes) where the seller will undertake without extra charge to reimburse the price paid or to replace and/or repair consumer goods if they do not meet the specifications set out in the guarantee statement or relevant advertising' and the goods must 'comply with the description given by the seller and possess the same qualities and characteristics as other similar goods; be fit for the purpose for which the consumer requires them and which was made known to the seller at the time of purchase; are fit for the purpose for which goods of the same type are used; show the same quality and performance, which are normal in goods of the same type and which consumers can reasonably expect'.¹⁴ Directives 1998/27/EC and 2005/29/EC both regulate the limit on consumer protection as being the minimum legal standards when companies make decisions that affect consumers.¹⁵

All companies in EU member states are bound by this directive as a corporate duty. Furthermore, should they comply, companies will enhance the minimum standard in their CSR policy, ensure better quality of goods and services to consumers, improve the efficiency of corporate governance, and will ensure stakeholder profit. Therefore, the EU laws are the basis of the legal obligation to encourage corporations to show more loyalty towards their consumers in the process of achieving CSR. Under this circumstance, EU laws, as with other legislation, are the minimum standards for companies to comply with and basically inform what their board of directors should do to meet the company's interest.

¹⁴ Directive 1999/44/EC of the European Parliament and the Council (1999) OJ, L171/12, available at: <http://www.wak-tt.com/tt/2yearwarranty1.htm>, last accessed on 18 April 2013.

¹⁵ Gliniski, C., 'Corporate Codes of Conduct: Moral or Legal Obligation', in McBarnet, D. *et al.*, *The New Corporate Accountability*, (ed.), Cambridge University Press (2007), 126–127; see also Directive 1998/27/EC of the European Parliament and the Council (1998) OJ, L166/51; see also Directive 2005/29/EC of the European Parliament and the Council (2005) OJ, L149/22.

2.1.2.3 International agreement

As with EC treaties, when nations sign an international agreement, they are required to comply with it in their domestic legislation. Here, the Kyoto Protocol, which is a form of international agreement that affects the scope of CSR, will be taken as an example. According to the Kyoto Protocol,

it is an international agreement linked to the United Nations Framework Convention on Climate Change. The major feature of the Kyoto Protocol is that it sets binding targets for 37 industrialized countries and the European community for reducing greenhouse gas (GHG) emissions. These amount to an average of five per cent against 1990 levels over the five-year period 2008–2012.¹⁶

All participants should meet the requirements through their national regulations, including legislation, governmental regulations and administrative limitations. In the protocol, climate change and relevant environmental issues are controlled through three market-based mechanisms, (1) emissions trading, (2) clean development mechanism and (3) joint implementation.¹⁷ In corporate governance companies could apply the mechanisms as an ‘alarm’ to take environmental protection into consideration in corporate decision-making and as an instruction on how to implement CSR in this regard.

Human rights have become a vital issue in the fields of economics, politics and society, and have even been applied to CSR. However, when adopting this principle in the context of state and corporation, human rights have different meanings for these two entities. Human

¹⁶ Kyoto Protocol, United Nations Framework Convention on Climate Change, available at: http://unfccc.int/kyoto_protocol/items/2830.php/, last accessed on 19 November 2013.

¹⁷ Ibid.

rights confines are more generalized in the public notion than in corporate conduct:¹⁸ for example, the Universal Declaration of Human Rights is a UN document that formulates the obligation of human rights on states, and it could be referred to as the basis of state human rights law, which is as enforceable as other regulations.¹⁹ However, when human rights are adopted in business, corporations could find threats to these rights, such as harm to another's life or health as stated in the Declaration of Human Rights, and articulate corporate human rights by preventing harm to employees in any way.²⁰ The scope of human rights is varied in individual companies, because the decision-making on stakeholders' interests and human rights is more precise than the Universal Declaration at state level. Therefore, human rights legislation cannot be treated as the universal standards for CSR. Companies will ensure the protection of human rights with respect to overriding moral issues derived from social norms, international agreements, legislation and so on.²¹ In terms of international agreements on human rights, international organizations such as the International Labour Organization (hereinafter 'ILO') and Fair Labour Association (hereinafter 'FLA') also set standards for human rights protection.

Although the state and corporations are both responsible for human rights protection, for the latter, international agreements and laws on human rights only justify the rationale behind and formulate the relevant standards of CSR rather than actually requiring human rights in corporate governance. Additionally, the adoption of international agreements on

¹⁸ *Human rights* is defined differently in states and companies; for example, a state has the welfare obligation to its citizen to solve the problem of poverty, while a corporation may only need to provide a pension fund or social welfare to its employees. Therefore, the scope of human rights in a state or government is broader than in a corporation. See Campbell, T., 'Normative Grounding: A Human Rights Approach', in McBarnet, D. *et al.*, *The New Corporate Accountability*, (ed.), Cambridge University Press (2007), 551–554.

¹⁹ See Campbell, *supra* note 18, 554; see also Glinski, *supra* note 15, 128–133.

²⁰ See Campbell, *supra* note 18, 557.

²¹ *Ibid.*, 555–556.

human rights at national level is regarded as mandatory and a legislative approach, while the use of international agreements on human rights within companies could be voluntarily and individually decided, over and above the minimum legal basis, according to the varied scope of human rights in each company. For instance, when member states of the ILO sign conventions, these conventions would be directly or indirectly applied as laws. However, companies in member states could willingly adopt a series of ILO standards to ensure human rights based on different policies of corporate governance. Therefore, states that comply with a human rights framework within national legislation would generally encourage the implementation of CSR towards human rights at company level.²²

2.1.2.4 Soft law

As implemented by the legislation discussed above, CSR is characterised as ‘hard law’, which is binding and mandatory to perform. However, this law only sets up the minimum legal basis for achieving CSR. In contrast with hard law, ‘soft law’, such as guidelines, codes of conduct and declarations, does not have a legally binding effect, but has potential effects in practice;²³ for example, the fundamental ILO conventions are mandatory to all member states that have ratified these conventions. However, within this framework the ILO also provides a series of extensive standards, guidelines, codes of practice, opinions and the like to instruct and facilitate the implementation of ILO conventions in practice. The soft law resources of the ILO are non-binding on member states, but can be adopted by

²² Owing to the voluntary adoption of CSR, if human rights are adopted legally in a company, it would only be the minimum standard for performing CSR in corporate governance. It will also reduce the positive influence and scope of CSR for companies. See Campbell, *supra* note 18, 556–559.

²³ Brian, B., *European Labour Law*, 3rd Edition, Oxford University Press (2007), 187.

national courts of the member states as a point of reference to make judgments, and can be directly applied by individual companies as precise guidelines to fulfil ILO conventions.²⁴

In addition, soft law provides the point of reference for the hard law that the broad use of non-enforceable resources, namely international voluntary guidelines, industrial codes of conduct and broadly used ethical standards in corporate codes of conduct will lead to the innovation of mandatory legislation. In the EU the soft law of CSR has been vitally developed as the basis of hard law. According to one view, soft law CSR initiatives provide a broad view of legislation in the fields of employment policy, social policy, public health and so on.²⁵ The research also points out that the EC directives on social and environmental issues, that is, the soft law instruments influence the hard laws in practice.²⁶

It is difficult to distinguish ‘which comes first’ between soft law and hard law. The former specifies the use of the latter and in practice fills the gap in legislation that is adopted to facilitate and interpret the adoption of mandatory requirements. Soft law in CSR can be directly applied at national or corporate level in varied respects, so that it is the broader use

²⁴ Vinkovic, M., The Role of Soft Law Methods (CSR) in Labour Law, 8–10, available at: http://mta-pte.ajk.pte.hu/downloads/mario_vinkovic.pdf, last accessed on 12 December 2013; see also, Olsen, B. E. and Sorensen, K. E., ‘Strengthening the Enforcement of CSR through Mediation and Conflict Resolution by National Contact Point: Finding a New Balance Between Hard Law and Soft Law’, Nordic & European Company Law Working Paper Series, Nos 10–38, 26, available at: http://papers.ssrn.com/sol3/papers.cfm?abstract_id=2269555, last accessed on 29 November 2013.

²⁵ Croquet, N. *et al.*, Corporate Social Responsibility Soft Law Development in the European Union, University of Oxford (30 July 2009), 2, available at: <http://www.reports-and-materials.org/CSR-soft-law-in-EU-Oxford-Pro-Bono-Publico-for-Ruggie-30-Jul-2009.pdf>, last accessed on 29 November 2013. This brief was prepared to inform the mandate of Professor John Ruggie, the Special Representative of the UN Secretary-General on business and human rights about the development between soft law and traditional legislative instruments in the European Community in relation to CSR.

²⁶ *Ibid.*, 8–9.

of hard law that provides the specific legal basis used to clarify and simplify the adoption of legislation in social and environmental issues in practice.

2.1.3 Implementation and CSR methods

CSR goes beyond the scope of hard law and is performed voluntarily. It carries the explicit moral authority to improve social, environmental and human rights aspects in corporate operations; it refers to a broad and detailed range of aspects. However, due to creative compliance, it cannot be completely controlled only by regulatory limitation. Creative compliance is a technical business practice used to coordinate the adoption of law, by using the law in creative ways without breaking it. This is a technical circumvention to resist legal control without breach of law, such as tax avoidance, creative environmental regulation, and employee and consumer rights violations.²⁷ Any adverse legal regulation can be avoided through the creative technique. Therefore, law, as solid limitation, is not sufficient to safeguard the social, environmental and human rights protection from companies' behaviour.²⁸ CSR will widely and deeply provide norms and standards to instruct the achievement of social responsibility through various approaches from companies, social organizations, NGOs, the market and so on.

Self-regulation is an effective CSR method, and can be divided into published and internal regulation. The former comes in the form of 'codes of conduct, guidelines or standards, requirements of securities markets, standardisation of business conduct and improvement of performance; while the latter is to standardize the internal behaviours in individual

²⁷ See McBarnet, *supra* note 3, 48–50.

²⁸ See Campbell, *supra* note 18, 556.

companies through management handbooks or other managerial regulation'.²⁹ Contractual control, in turn, is used to push the performance of CSR of the contractual parties to regulate all the social, environmental and ethical standards and requirement in contracts. Under contract and tort law, contractual parties are forced to fulfil the contractual obligations that are voluntarily settled in contracts among parties. Although the specific obligations are voluntarily established in contracts, the performance of contractual clauses is mandatory to contractual parties, so that the achievement of CSR is ensured under the enforceable contractual relations. Breach of CSR requirements in a contract would result in default and tort as regulated. Moreover, information disclosure and monitoring put pressure on companies to enable the public to get information about companies' achievement of CSR, to screen their performance, and to verify the authenticity and reliability of information disclosure.

2.1.3.1 Indirect legal effect

As already stated, CSR is a voluntary matter and cannot be enforced through any legislation or governmental regulation. However, there are regulations that provide that CSR policies be adopted in different fields. Voluntary achievement is the essence of CSR. However, to some extent, it is necessary to impose external and solid pressure, such as governmental regulation, which 'has thus quietly bolstered and, indeed, created a whole new level of market pressure, and indirectly fostered voluntary CSR'.³⁰ It means that governmental regulation limits and regulates market behaviour in ethics, and this market pressure will be effective to encourage business' CSR policy and achievement. For example, the European Accounts Modernisation Directive 2003/51/EC requires that

²⁹ Self-regulation is so-called meta regulation that reflects different purposes and effects of the various fields of law, and is applied under self-regulatory instruments in the forms of published codes of conduct and internal regulation within business. See Glinski, *supra* note 15, 121–122.

³⁰ See McBarnet, *supra* note 3, 33.

companies provide a business review in their statutory annual report of principal risks and uncertainties, not only financially, but also non-financially relating to the environment and employee issues.³¹ Although it is not direct regulation on adopting CSR in companies' corporate operation, the transparency of a non-financial report has indirectly required business to incorporate CSR matters in corporate governance. Only when companies implement CSR in corporate governance will they provide an authentic report about the environment and employee aspects.

In addition, the strength of legislation will indirectly affect the corporate notion of CSR and the extent of its adoption. McBarnet described the situation in the US as 'indirect fostering of CSR-related policies, particularly in more narrowly focused corporate governance – though also in relation to such issues as the environment and corruption – can be seen in the United States too, though there largely through enforcement strategies'.³² Actually, enforcement is not directly imposed because of, for instance, the environment or corruption, it is due to the relevant strict legislation. Companies realized the importance of fulfilling their responsibility in these two fields; again, legislation would be the minimum standard, and the board of directors would incorporate the environment and corruption in their CSR policy above the legal standard.

2.1.3.2 Codes of conduct

A code of conduct is also known as 'guidelines' or 'standards' that are published to set up a uniform standard that all traders or producers at the same level or industry should obey.³³ It is not statute law and does not come about through rigorous legislative procedures. The

³¹ European Accounts Modernisation Directive 2003/51/EC of the European Parliament and the Council (2003) OJ, L178/16.

³² See McBarnet, *supra* note 3, 35.

³³ See Glinski, *supra* note 15, 122–123.

existence of codes of conduct is not directed by government or against any legal background. The format is varied, from corporate initiatives to global standards, and is led by different kinds of organizations or individuals.

In the US many trade unions and NGOs commenced the International Right to Know Campaign that requires companies listed on US stock exchanges to disclose information about the operations of their overseas affiliates and major contractors.³⁴ The Tax Justice Network reported the trends in global taxation in 2003, such as tax evasion and avoidance through transfer pricing and off-shore tax havens, which is a reflection of conduct in taxation and an indirect instruction to improve this behaviour.³⁵ Governmental regulation also has an indirect effect by encouraging or stressing specific behaviour in business through market pressure, so that there are relevant requirements for codes of conduct such as in the stock market. Furthermore, several international institutions also call for, and provide advice on, codes of conduct: the European Parliament requires a code of conduct for European transnational corporations (hereinafter ‘TNCs’) operating in developing countries, which presents a solution to improving CSR.³⁶ What is interesting is that activists for the protection of the earth, Earth International, proposed that the World Summit on Sustainable Development (hereinafter ‘WSSD’) establish a convention to enforce minimum environmental and social standards, and to encourage effective reporting

³⁴ Employees working for some MNCs in developing countries are treated unfairly and illegally, that is, their human rights are violated: they are over-worked and/or receive unfair payment. The report on the operations in their overseas affiliates and contractors will prevent this different treatment.

³⁵ The reference about the objective and developmet in the Tax Justice Network can also be found at: http://www.taxjustice.net/cms/front_content.php?idcatart=2&lang=1, last accessed on 18 January 2013.

³⁶ On 3 April 1998, the President of the Parliament announced that the Committee on Development and Cooperation had been authorized to draw up a report on EU standards on European enterprises operating in developing countries, see EU Standards on European Enterprises Operating in Developing Countries: Towards a European Code of Conduct, available at: <http://www.europarl.europa.eu/sides/getDoc.do?type=REPORT&mode=XML&reference=A4-1998-508&language=EN>, last accessed on 18 January 2013.

and provision of mechanisms for the implementation by TNCs to avoid negative impacts.³⁷ This means that the proposal and requirement from the social group may even be effective and adopted as codes of conduct.

From the examples given above, it is clear that companies adopt codes of conduct broadly and voluntarily. They also offer guidelines and instructions to company on how to achieve CSR. They can be viewed as the experience and a comprehensive summary of stakeholders' voice and requirements in specific countries, industries and business aspects. Various codes of conduct would be directly applied in a corporate charter or modified in terms of a particular requirement in companies, so that they boost the achievement of CSR. In this regard, typical and important examples will be applied to explain how codes of conduct promote CSR:

2.1.3.2.1 International initiatives

The UN Global Compact commenced in July 2000 as a completely voluntary initiative. It tries to encourage business to realize the importance of keeping positive relationships with government, civil society, labour and other stakeholders, and to ensure the activities of the market, commerce, technology and finance to benefit social economics and sustainability with respect to human rights, labour, the environment and anti-corruption.³⁸ The

³⁷ The World Summit on Sustainable Development took place in Johannesburg, South Africa, from 26 August to 4 September 2002 to discuss sustainable development. It was convened by the UN. The summit was attended by a group of entrepreneurs and leaders of NGOs. See Overview of WSSD on the official website, available at: <http://www.un.org/jsummit/>, last accessed on 18 January 2013.

³⁸ The UN Global Compact is a principle-based framework to stimulate global companies to adopt sustainable and socially responsible action in corporate governance, and to report on their CSR implementation. The voluntary initiative has been applied in a large number of companies as the guideline on how to exercise CSR and on information disclosure. See Overview of UN Global Compact, available at: <http://www.unglobalcompact.org/AboutTheGC/index.html>, last accessed on 19 January 2014.

Chairperson of the Foundation for the Global Compact, Sir Mark Moody-Stuart, commented on the principles and said that ‘while the Global Compact is a purely voluntary initiative, it is important to protect the investment that seriously committed companies and other stakeholders have made’.³⁹

By 2006, the number of participations had been about 3,000, including over 2,500 companies in 90 countries. The annual report of the UN Global Compact 2011 revealed that more than 2,500 businesses and non-businesses had participated in the compact in that single year. The principles instruct the leadership on how to promote CSR through sustainability, disclosure and public policy, and further how to achieve the commitment of employees, subsidiaries and supply chains.⁴⁰ The function of the compact is summarized as ‘adopting an established and globally recognized policy framework for the development, implementation, and disclosure of environmental, social, and governance policies and practices; sharing best and emerging practices to advance practical solutions and strategies to common challenges; advancing sustainability solutions in partnership with a range of stakeholders, including UN agencies, governments, civil society, labour, and other non-business interest’.⁴¹

The UN Global Compact Annual Review 2011 demonstrates how companies developed CSR policies and strategies through the internal mechanism of corporate governance. Without the limitation of nations, when companies voluntarily participate in the UN Global Compact, the principles, such as a kind of code of conduct about CSR, have to be adopted

³⁹ See Standing, *supra* note 7.

⁴⁰ See Overview of UN Global Compact, *supra* note 38.

⁴¹ Ibid.

into corporate strategy making and corporate governance.⁴² In the meantime, the achievement of the UN Global Compact in registered companies should be reported through information disclosure, and its authenticity and reliability will be verified by the organization.

Another global initiative on codes of conduct is that of the Human Rights Commission in 2005 which requested John Ruggie, the former UN Secretary, to draft a report on the issue of human rights in connection with TNCs and other business enterprises, in order to clarify the standards of CSR and corporate accountability with respect to human rights.⁴³ The report pointed out that to safeguard human rights, the monitoring of supply chains was vital for premium brands in the footwear and apparel industries, because major plants were run by small manufacturers of developing countries where low payment and long working hours always occurred.

The FLA was appointed to play the role of monitoring that ‘all FLA member companies agree to adopt a programme of workplace standards implementation, monitoring and remediation in order to bring some 4,000 manufacturing sites into compliance with FLA standards, which go beyond the International Labour Organization’s core standards’.⁴⁴ Therefore, companies will implement CSR through the instruction contained in the Human Rights Commission report as the code of conduct for the protection of human rights in business.

⁴² UN Global Compact Annual Review 2011, 4-6, available at: http://www.unglobalcompact.org/docs/news_events/8.1/2011_Global_Compact_Implementation_Survey.pdf, last accessed on 19 January 2014.

⁴³ Human Rights Commission 2006 (replaced with the Human Rights Council), ILO: Strategies and Practices for Labour Inspection. Committee on Employment and Social Policy to the Governing Body, Geneva, GB.297/ESP/3 (2006).

⁴⁴ See Standing, *supra* note 7.

2.1.3.2.2 State non-legislative standards

In some countries, governmental bodies or NGOs establish the instructive and constructive standards for CSR to deal with relevant issues. Companies can voluntarily comply with these standards and adopt them in their internal corporate governance. With the broad use of non-regulative standards, some initiatives would gradually be developed as regulation that is enforced on all companies in corporate governance. Therefore, effective standards from governments or NGOs can be adopted voluntarily as strategy in corporate decision-making to achieve CSR in corporate governance.

For example, Standard Australia is a set of voluntary standards of CSR on how to establish, implement and maintain issues related to employees, the environment, and health and safety.⁴⁵ It contains 12 industry sectors, including manufacturing and processing; energy, water and waste service, consumer products services; and safety. In every sector the limitation of CSR is divided into explicit and detailed items. For example, the health and community services sector regulates the standard on the disposal of clinical and related waste that sets out the requirements for the identification, segregation, handling, storage, transport, treatment and ultimate safe disposal of this waste, which may be hazardous, in an environmentally responsible manner.⁴⁶ Waste arising from medical, nursing, dental, veterinary, laboratory, pharmaceutical, podiatry, tattooing, body piercing and mortuary practices, among others, are dealt with in this standard. Additionally, according to consumer products services and safety, the standard requires that the quality of children's toy where ISO 8124-4:2010 was adopted in its manufacture should specify requirements

⁴⁵ Bottomley, S. and Forsyth, A., 'The New Corporate Law: Employee's Interests', in McBarnet, D. *et al.*, *The New Corporate Accountability*, (ed.), Cambridge University Press (2007), 314.

⁴⁶ Standards Australia, available at:

<http://www.standards.org.au/StandardsDevelopment/Sectors/Pages/default.aspx>, last accessed on 19 April 2012.

and test methods, and that the activities for which the toys are used are domestic family use and intended for children under the age of 14 years to play on or in.⁴⁷ The standards provide guidelines on the broad and complete range which refers to most business operations in most industries. As the codes of conduct are wide-ranging, it is easy and clear for different companies to adopt the most relevant standards in their corporate governance to fulfil CSR.

2.1.3.2.3 OECD Principles of Corporate Governance

The OECD Principles of Corporate Governance (hereinafter ‘the OECD Principles’) were originally created due to the requirement from the OECD Council Meeting at Ministerial level to develop, ‘in conjunction with national governments, other relevant international organizations and the private sector’, a set of corporate governance standards and guidelines.⁴⁸

Since the OECD Principles were agreed to in 1999, they have been the guideline for corporate governance initiatives in both OECD and non-OECD countries alike. The OECD Principles provide the standards in respect of shareholders’ right and role, the responsibility of directors and so on. They also provide the standard for the corporate governance framework to recognise the rights of stakeholders established by law or through mutual agreements, and encourage active co-operation between corporations and stakeholders in creating wealth, jobs, and the sustainability of financially sound enterprises and to ensure ‘stakeholders, including individual employees and their representative bodies, should be able to freely communicate their concerns about illegal or unethical practices to

⁴⁷ Ibid.

⁴⁸ See Communication of the OECD Council Meeting at Ministerial Level on 27–28 April 1998, available at: <http://www.g8.utoronto.ca/oecd/oecd98.htm>, last accessed on 19 April 2014.

the board and their rights should not be compromised for doing this’.⁴⁹ The principles of disclosure and transparency also require information disclosure regarding meeting employees and other stakeholders’ interests in corporate governance.

The OECD Principles are a code of conduct complied with by thousands of businesses to guide the direction of corporate governance and indirectly instruct how to ensure stakeholders’ interests. Companies could adopt them into relevant CSR policy and practice as a code of conduct in the process of corporate governance.

2.1.3.2.4 Securities market requirement

In order to ensure ethical conduct in corporate governance, corporate codes of ethics are largely applied in public companies as internal, voluntary initiatives to adhere to high ethical standards.⁵⁰ Newberg defined *corporate codes of ethics* as the guidelines to corporate governance ‘do’s’ and ‘don’ts’ in five simple terms: ‘follow the law, be honest, be loyal to the company, keep the company’s secret, and treat corporate stakeholders and competitors with fairness and respect’.⁵¹ In the US many large public companies had adopted corporate codes of ethics in corporate governance for decades. However, after a few corporate bribery scandals such as Enron came to light, investors’ interests in securities markets were critically harmed, so that it became necessary to require transparency from public companies in these markets. Under investors’ pressure and as a result of market requirements, US securities law enforces the basic standards of

⁴⁹ OECD Principles of Corporate Governance, Principle IV, available at: <http://www.oecd.org/corporate/corporateaffairs/corporategovernanceprinciples/31557724.pdf>, last accessed on 19 April 2014.

⁵⁰ Newberg, J. A., Corporate Codes of Ethics, Mandatory Disclosure, and the Market for Ethical Conduct, 29 *Vermont Law Review* (2004–2005), 258. (253–296)

⁵¹ *Ibid.*, 271.

information disclosure that ‘a public company must disclose, on a timely basis, everything that a reasonable investor would consider relevant to an investment decision; no material misstatements or omissions are permitted’.⁵² Owing to the requirement of information disclosure, corporate financial and ethical performance is both presented in public and monitored by third parties.

Section 406 of the Sarbanes–Oxley Act of 2002 is a further development of the US securities law with respect to ethical conduct that adopts the standards of corporate codes of ethics in many companies and requires boards of directors, especially senior financial officers, to introduce codes of ethical conduct in corporate governance.⁵³ The section states that public companies should raise concerns about the ethical conduct of corporations and senior financial managers, and publish the ethical standards and performance for the benefit of public investors. It is not mandatory for issuers to disclose the achievement of ethical standards, but they are forced to disclose whether they have adopted ethical conduct in corporate governance and, if not, why not.⁵⁴

Under market pressure and as a result of the legal requirement, the New York Stock Exchange (hereinafter ‘NYSE’) Commission and NASDAQ have also provided similar principles about ethical conduct since 2004. For example, the NYSE Commission provides

⁵² Ibid., 271–273.

⁵³ The Sarbanes–Oxley Act of 2002 in the US is also known as the ‘Public Company Accounting Reform and Investor Protection Act’ in the Senate and the ‘Corporate and Auditing Accountability and Responsibility Act’ in the House. The Sarbanes–Oxley Act is a huge development in US Securities Law after some accounting scandals that required public companies to disclose reliable information and reduce investors’ risk in securities markets. The Sarbanes–Oxley Act of 2002, Section 406; see also Newberg, *supra* note 50, 272–273.

⁵⁴ Section 406 of the Sarbanes–Oxley Act of 2002 imposes more specific standards of information disclosure on ethical conducts to public companies and is regarded as the Ethical Code of Conduct for public issuers to voluntarily adopt ethical codes in corporate governance. See The Sarbanes–Oxley Act of 2002, Section 406, *supra* note 53.

a requirement in section 303A. 10 of the *Listed Company Manual* that enforces boards of directors in listed companies to set up policies to prohibit the conflict of interests between employers and employees, and to provide a mechanism for employees or officers to communicate the conflict with listed company.⁵⁵ NASDAQ Rule IM 4350 (7) states that ethical behaviour is required and expected of every corporate director, officer and employee whether or not a formal code of conduct exists. The requirement of a publicly available code of conduct applicable to all directors, officers and employees of an issuer is intended to demonstrate to investors that the board and management of NASDAQ issuers have carefully considered the requirement of ethical dealing, and have put in place a system to ensure that they become aware of, and take prompt action against, any questionable behaviour.⁵⁶

The NASDAQ rules are generally not enforceable and not all companies have to comply with these regulations. In terms of this rule, it is voluntary for companies if they are not listed on the NASDAQ to do so; they also do not need to obey the rules of foreign companies about the compliance with the law and codes of ethics. However, once companies have been listed or will be listed on NASDAQ, they have to concern themselves with the ethical behaviours that are required in their public code of conduct.

⁵⁵ NYSE Listed Company Manual, Section 303A. 10 The Code of Business Conduct and Ethics, available at:

http://nysemanual.nyse.com/LCMTools/PlatformViewer.asp?selectednode=chp_1_4_3&manual=%2Fflcm%2Fsections%2Fflcm-sections%2F, last accessed on 24 May 2014. NYSE Listed Company Manual is a set of regulations applicable to all corporations who wish to sell securities by listing themselves on the New York Stock Exchange Commission. The manual covers regulations on how a corporation's board should be composed, its internal audit and remuneration committees function, the voting rights of stockholders, standards for disclosure when issuing shares, and so forth.

⁵⁶ Rule IM 4350-6, The NASDAQ Stock Market, Inc. Marketplace Rules, 15 April 2004.

In terms of the example of the US securities market, the legal requirement of ethical conduct stemmed from corporate codes of ethics driven by public investors' needs. Although the legislation is aimed at ensuring ethical conduct in corporate governance and protecting investors' interests in transactions, it does not enforce listed companies to have ethical codes. Therefore, the legal requirements of the securities market are defined more as a guideline for listed companies to set up ethical codes voluntarily and implement ethical conduct under or beyond law. On the legal basis of the securities markets, both listed and non-listed companies can establish higher ethical standards and achieve CSR in corporate governance, so that the positive performance will benefit public investors and SRI much more.

2.1.3.3 Contractual control

Contractual relationships are protected under contract law and tort law. When a contract is set up, contractual parties have to comply with the clauses and fulfil their duties in the contract, otherwise there will be a breach of contract. Contractual behaviour itself is voluntary and parties can freely put requirements into a contract under bilateral agreement, and the contract is enforceable by the contractual parties. In a supply chain, contractors have increasingly focused much more attention on SRI, so that the supplier's achievement of CSR will be the significant issue in contracts where contractors require suppliers to fulfil CSR as a contractual obligation. For example, Cambridge Silicon Radio Limited's terms of supply regulate that

the sale of CSR's products ('Products') and provision of Services (as defined below) by CSR to the person or legal entity purchasing the Products and Services from CSR ('Purchaser') are subject to these Terms of Supply ('Terms'), and

which shall also apply to all quotations and offers made by and purchase orders accepted by Cambridge Silicon Radio Limited.⁵⁷

Therefore, all business conducted with, or sale or purchase from Cambridge Silicon has to comply with the terms. Clause 7 requires from purchasers that products are not designed for use in safety-critical devices or systems such as those relating to:

(i) life support; (ii) nuclear power; and/or (iii) civil aviation applications, or other applications where injury or loss of life could be reasonably foreseeable as a result of the failure of a product. The purchaser, who agrees not to use products (or supply products for use) in such devices or systems, shall indemnify on demand and hold harmless CSR from and against all losses, demands, claims, damages, costs, expenses (including without limitation consequential losses and loss of profit, reasonable legal costs and expenses and VAT thereon) and liabilities suffered or incurred by CSR as a result of the purchaser's breach of this clause 7.⁵⁸

This clause regulates suppliers' CSR obligations in contract through sanction of products without CSR support.

The contractor owns the right to know what the supplier's CSR status is if there is any unsatisfactory situation related to human rights, the environment or sustainability. In this case the supplier will break the contract and the purchaser will stop doing business with it. The non-legal sanction is the most pervasive, direct and effective approach to suppliers' non-compliance with CSR, which is not a legal procedure, but the remedy in the case of

⁵⁷ Cambridge Silicon Radio Limited's Terms of Supply, available at: <http://www.csr.com/salesterms>, last accessed on 23 August 2012.

⁵⁸ Ibid.

breach of contract.⁵⁹ If a supplier tries to maintain a long-term contract with a purchaser who put CSR into his or her investment, the CSR requirement must be complied with as the contractual clause regulates.

2.1.3.4 Information disclosure

In corporate governance, information disclosure is regarded as an efficient instrument to reduce agency cost, protect shareholders in a principal–agency problem and enhance share value among investors. However, the further goal of corporate governance is to meet all stakeholders' needs to promote companies' interests as a whole. Stakeholders' issues are not only limited to the financial value of companies, but spread to social and environmental matters, related to employees, consumers, the community and so on. As mentioned in Chapter 1, market participants prefer investing, whether financial or human resources, in companies with high performance of social responsibility, so that the integration of corporate social and environmental reporting into traditional reporting is strongly required, and enhances companies' reputation and competitive advantage.⁶⁰ Therefore, a large number of companies produce various reports in the form of CSR reports or sustainability which brought about significant development with respect to CSR performance and reporting.⁶¹ Even in the capital market, CSR reporting, focusing on pollution, health and safety, human rights, child labour, and other social and environmental matters, is necessary

⁵⁹ McBarnet, D. and Kurkchian, M., 'Corporate Social Responsibility Through Contractual Control? Global Supply Chains and 'Other-regulation'', in McBarnet, D. *et al.* (eds), *The New Corporate Accountability*, Cambridge University Press (2007), 75–79.

⁶⁰ Lungu, C. I. *et al.*, Corporate Social and Environmental Reporting: Another Dimension for Accounting Information, Working Paper Series, 2–3, available at: http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1447247, last accessed on 29 November 2013.

⁶¹ Cooper, S. M. and Owen, D. L., 'Corporate Social Reporting and Stakeholder Accountability: The Missing Link', 32 *Accounting, Organizations and Society* (2007), 655–660.

for investors to evaluate risk and uncertainty, and to make socially responsible investments.⁶²

Under market pressure and investors' requirements, mandatory information disclosure is associated with a national and international legal system that is aimed at satisfying information users' needs.⁶³ 'Informational regulation' is defined as rules enforcing mandatory disclosure of information on corporate operations or performance on third parties, including employees, consumers, shareholders or the community.⁶⁴ Mandatory information disclosure stemmed from the requirement of financial reports to the capital market in the interests of investors and shareholders, in order to induce investor confidence and encourage participation in market.⁶⁵ However, the need for information from market participants had become more diverse, so that regulatory reporting has been developed to

⁶² Baumunk, J., Law and Policy of Corporate Sustainability Disclosure, Position Paper, May 2010, 2–6, available at: http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1620538, last accessed on 29 November 2013; see also FRC, Exposure Draft: Guidance on the Strategic Report (August 2013), 6–18, available at: <http://www.frc.org.uk/Our-Work/Publications/Accounting-and-Reporting-Policy/Exposure-Draft-Guidance-on-the-Strategic-Report-File.pdf>, last accessed on 29 November 2013. The guidance states: 'Information in the annual report will also be of interest to users other than investors. For example, creditors, customers, suppliers, employees and members of society more widely may wish to use information contained within it.' See also Villiers, C., 'Corporate Reporting and Company Law', *Cambridge Studies in Corporate Law*, Volume 5, Cambridge University Press (2006), 230-233. In Villiers' view, *sustainability reporting* refers to social and environmental reporting that aim at demonstrating companies' commitment in social and environmental matters and making them accountable to their actions.

⁶³ Guttentag, M. D., 'Accuracy Enhancement, Agency Costs, and Disclosure Regulation', *Review of Law and Economics*, 2007, Volume 3, Issue 2, 629–630; see also Adina and Ion, *supra* note 11, 1407–1409.

⁶⁴ Case, D. W., 'The Law and Economics of Environmental Information as Regulation', 31 *Environmental Law Reporter* (2001), 10775. 'Informational regulation' is also known as disclosure regulation that provides transparency and fairness required for market integrity, because all information should be reflected to investors for their decision-making of investment. See also Villiers, *supra* note 62, 180-181.

⁶⁵ The mandatory information disclosure regime prevents frauds and protects investors by giving them sufficient and credible information. It effectively avoids the agency problem that managers might mispresent companies' performance to keep higher stock price, and ensures the credibility of revealed information. See Villiers, *supra* note 62, 37-39 and 180-181.

disclose social and environmental issues about health and safety, product safety, human rights and social engagement, to employees, suppliers, consumers, shareholders and society.⁶⁶

Following the regulations on general reporting of CSR, mandatory CSR reporting was extended to specific disclosure in different areas; for example, EU Accounts Modernization Directives define the environmental key performance indicators of business as a tool for measurement; the Emergency Planning and Community Right-To-Know Act in the US published the Toxics Release Inventory (hereinafter ‘TRI’) to disseminate the TRI data to the public; and the Labour Management Disclosure and Reporting Act requires information about companies’ practices and financial spending on labour unions to promote democratic practices.⁶⁷ The EU has proposed a directive on mandatory ESG reporting regulation that requires corporate disclosure to contain ‘non-financial key performance indicators relevant to the particular business, including information relating to environmental and employee matters’.⁶⁸ At the level of the EU regulations, European Parliament and European Commission adopted the Directive on Disclosure of Non-financial and Diversity Information by Certain Large Companies and Groups on April 5, 2014; and two resolutions of Corporate Social Responsibility: Accountable, Transparent and Responsible Business Behaviour and Sustainable Growth and Corporate Social Responsibility: Promoting Society’s Interests and a Route to Sustainable and Inclusive

⁶⁶ See Case, *supra* note 64, 10774–10776.

⁶⁷ The updated EU Accounts Modernization Directive is 2003/51/EC. It amended Directives 78/660/EC, 83/348/EC/, 86/635/EC, and 91/674/EC. See Directive 2003/51/EC of the European Parliament and of the Council (2003) OJ, L178/16. The regulatory framework of information disclosure, including mandatory and self-regulatory provision, stemmed from European Directives in which varied reporting requirement is regulated, see Villiers, *supra* note 62, 38-39.

⁶⁸ *Ibid*, 237.

Recovery on February 6, 2013.⁶⁹ The further development and update of EU Directives of CSR emphasized the importance of non-financial reporting and provided the international instruction of social and environmental information disclosure, including the transparent reports with regards to environmental matters, social and employee matters, respect for human rights, anti-corrupt issues, and so on.

Mandatory information disclosure sets the minimum precision level of reporting, but it would be difficult to set a uniform and detailed requirement for information disclosure, because firms have different parameters and the regulatory intervention of a reportable mechanism is a relatively disclosure-based model that enforces the action of information disclosure in companies, but does not provide the accurate requirement of corporate performance in publishing information.⁷⁰ Owing to the reporting diversity across countries

⁶⁹ See Commission Staff Working Document: Impact Assessment Accompanying the Document Proposal for a Directive of the European Parliament and of the Council amending Council Directives 78/660/EEC and 83/349/EEC as regards Disclosure of Non-financial and Diversity Information by Certain Large Companies and Groups COM (2013) 207 Final, available at: <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52013SC0127&from=EN>, last accessed on October 27, 2014; see also The Report on Corporate Social Responsibility: Accountable, Transparent and Responsible Business Behaviour and Sustainable Growth (2012/2098(INI)), available at: <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+REPORT+A7-2013-0017+0+DOC+XML+V0//EN>, last accessed on October 27, 2014; see also The Report on Corporate Social Responsibility: Promoting Society's Interests and a Route to Sustainable and Inclusive Recovery (2012/2097(INI)), available at: <http://www.europarl.europa.eu/sides/getDoc.do?type=REPORT&reference=A7-2013-0023&language=EN>, last accessed on October 27, 2014.

⁷⁰ Admati, A. R. and Pfleiderer, P., Forcing Firms to Talk: Financial Disclosure Regulation and Externalities, Working Paper Series in Stanford University, 2-5, available at: http://papers.ssrn.com/sol3/papers.cfm?abstract_id=103968, last accessed on February 2, 2014. 'Mandatory disclosure-based model' means that regulations only require companies to publish information to public users in various forms of reports, but the regulations would not restrict the manner and content of information disclosure in individual company. See Weil, D., The Benefits and Costs of Transparency: A Model of Disclosure Based Regulation, Working Paper Series in Harvard University, 2 and 29-30, available at: http://papers.ssrn.com/sol3/papers.cfm?abstract_id=316145, last accessed on 2 February 2014.

and companies, many companies cannot remain only at the level of mandatory information disclosure, so that voluntary information disclosure has become an effective method to publish much more information to the public with substantial descriptions of corporate operations and performance.⁷¹

Voluntary disclosure in each company is directly affected by the cost of disclosure caused by the mental and physical work involved in preparing, analysing and editing reports to the public.⁷² Therefore, research shows that ‘some executives balance the benefit of a lower cost of capital with the costs of providing and preparing information and the potential effects of disclosure on their competitive status. Thus, companies can be expected to provide voluntary disclosures when the benefits exceed the direct and indirect costs of doing so’.⁷³ The best prerequisite of voluntary information disclosure is: should the marginal benefit be equal to the marginal cost in the process of information disclosure? The cost of information disclosure is dependent on the size of a company. Larger companies, especially listed companies, often invest largely in voluntary information disclosure to attract investors and maintain shareholders, in order to enhance their corporate reputation and obtain further capital investment.⁷⁴

Additionally, voluntary information disclosure might cause competitive harm through the disclosure of confidential information. The proprietary information could give competitors

⁷¹ See Lowenstein, *supra* note 11, 1341.

⁷² Healy, P. M. and Palepu, K. G., ‘Information Asymmetry, Corporate Disclosure, and the Capital Markets: A Review of the Empirical Disclosure Literature’, 31 *Journal of Accounting and Economics* (2009), 418–420.

⁷³ Meek, G. K. *et al.*, ‘Factors Influencing Voluntary Annual Report Disclosures by US, UK and Continental European Multinational Corporations’, *Journal of International Business Studies* (1995), Volume 26, Issue 3, 556–567.

⁷⁴ Ghose, A., Information Disclosure and Regulatory Compliance: Economic Issues and Research Directions, Working Paper Series in New York University, 11–12, available at: http://papers.ssrn.com/sol3/papers.cfm?abstract_id=921770, last accessed on 19 September 2013.

access to evaluate ‘trade secrets’. Confidential information, to some extent, has been a valid excuse for boards of directors to avoid voluntary information disclosure because it is difficult to judge the standard of whether the hidden information is confidential and might bring competitive harm to their company.⁷⁵ In practice boards of directors implement voluntary information disclosure of information that does not cause sensitive competitive implications resulting in over-disclosure to firms’ competitors.⁷⁶

Mandatory and voluntary information disclosure and mandatory information disclosure are interdependent, and, as the ‘hard benchmark’, set the minimum and basic framework, while voluntary information, as the ‘soft resource’, fills the framework in terms of varied concerns and focus on reported issues.⁷⁷ On the basis of equal mandatory disclosure rules, voluntary information disclosure would augment the disclosed issues as the remedy for imperfect mandatory regulations. In countries that lack the mandatory requirement of information disclosure, voluntary information disclosure will enhance corporate transparency through credible and comprehensive reports.⁷⁸

Compared with disclosure-based mandatory information disclosure that only requires communication from companies with investors, voluntary information disclosure is

⁷⁵ See Lowenstein, *supra* note 11, 1356–1357.

⁷⁶ Boot, A. W. A. and Thankor, A. V., ‘The Many Faces of Information Disclosure’, *The Review of Financial Studies* (2001), Volume 14, Issue 4, 1022–1023.

⁷⁷ Balakrishnam, K. *et al.*, Mandatory Financial Reporting and Voluntary Disclosure: Evidence from Mandatory IFRS Adoption, Working Paper Series, available at: http://papers.ssrn.com/sol3/papers.cfm?abstract_id=2172014, 7–8 and 31, last accessed on 1 April 2014.

⁷⁸ Ho, S. S. M, and Wong, K. S., ‘A Study of the Relationship between Corporate Governance Structures and the Extent of Voluntary Disclosure’, 10 *Journal of International Accounting, Auditing & Taxation* (2001), 139–140; see also Yu, J., The Interaction of Voluntary and Mandatory Disclosure: Evidence from the SEC’s Elimination of the IFRS-U.S. GAAP Reconciliation, 1–5, 9–10 and 28, available at: http://www3.nd.edu/~carecob/Workshops/10-11%20Recruiting/Julia%20Yu%20Road%20Paper_Feb%201.pdf, last accessed on 19 November 2013.

performance-based, and the use, scope and quality of information would be voluntarily decided on by managers.⁷⁹ Voluntary disclosure leans towards information on how the company achieved its performance or an index of particular actions. The precise statement of voluntary information disclosure provides information to users on the direct and clear path of corporate operations and performance, and enables them to make accurate decisions on the basis of detailed information.

2.1.3.5 Monitoring and auditing

Owing to the legally required disclosure in companies, there should be a group to monitor whether reports are authentic and how companies achieve CSR in corporate governance. Internal screening should be undertaken by a supervisory board which falls under the board of directors, but is independent of the executive directors. External screening is obviously done by public investors, the media and professional agency, such as auditing firms. Supervisory directors will monitor whether boards of directors bring CSR policies into decision-making and corporate governance, and how they meet stakeholders' interests, such as that of employees, consumers, communities and so on. This will act as an internal deterrent to directors' behaviour and promote the achievement of CSR. The credibility and accuracy of CSR disclosure are broadly monitored by stakeholders, and trade unions and civil society would identify problems with employment in the workplace; consumers would find defects in product quality; and the media would report any misbehaviour of corporate performance to the public.⁸⁰ In addition, screening by public media would be

⁷⁹ See Weil, *supra* note 70, 9–10.

⁸⁰ See Weil, *supra* note 70, 8–11; see also 'Communication from the Commission to the European Parliament, the Council, 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, 7–8, available at: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2011:0681:FIN:EN:PDF>, last accessed on 19 November 2013.

done through reporting or news. Negative reporting about companies' non-fulfilment of CSR will damage their corporate reputation, and indirectly affect their credit rating and competition in the market.

External auditing will be a threat to companies, if their underperformance is reported, and spreads directly and quickly in public.⁸¹ Professional auditing firms will audit companies and publish relevant audit reports – financial and non-financial, including their performance in terms of CSR. Companies' information disclosure is largely audited or verified in public through external peer monitoring, regulator monitoring, community monitoring and market monitoring, so that it stimulates companies' motive to implement CSR completely in order to promote their interests as a whole. Third-party auditing and verification of CSR reporting are required to provide assurance about the credibility of disclosure, including negative information of incomplete or false action of CSR matters. Professionals would precisely scrutinize every action according to reporting documents, aiming at ensuring whether company authentically achieved CSR as stated. The professional and strict external assurance would instruct companies on reliable disclosure and alarm companies about the negative effect of fake information. Companies must therefore offer credible CSR information to the public, and ensure real and proper performance in CSR. Investors with a notion for SRI will choose companies with better CSR performance. 'Investors' refers to the broad range from huge institutional investors to individual consumers.

2.2 Implementation of CSR in the UK

⁸¹ Campbell, K. and Vick, D., 'Disclosure Law and the Market for Corporate Social Responsibility', in McBarnet, D. *et al.* (eds), *The New Corporate Accountability*, Cambridge University Press (2007), 243.

The UK is a pioneering country that implements CSR effectively and is regarded as an experienced example in the field. Corporations, communities and government are all taking this issue more and more seriously. During the past decades, various NGOs, such as the Green Party and the Royal Society for Nature Conservation, were established to deal with relevant matters.⁸² This advocates taking social, environmental and ethical issues into selection, retention and realization of corporate operation in the long term; in other words, the achievement of CSR is how to integrate stakeholder's interests into corporate governance that will not only enhance corporate financial performance, but social profits too.

The next section of this thesis will demonstrate how stakeholders are involved in corporate governance through stakeholder engagement and how stakeholder integration can be ensured through the activities of boards of director. In addition, SRI and government are both the drivers to encourage companies to undertake CSR in their companies.

2.2.1 Stakeholder engagement

Particular CSR activities are due to two reasons: (1) external passive pressure from stakeholders and (2) improvement of internal profitability. As Campbell argued, without strong social pressure, managers will enhance CSR actions to increase corporate profit or ignore it.⁸³ Therefore, the implantation of CSR is largely stimulated by stakeholder pressure that will affect companies' corporate reputation and public performance. According to Freeman, except for shareholders, there are many other interest groups 'who

⁸² Campbell, D. *et al.*, 'Voluntary Social Reporting in Three FTSE Sectors: A Comment on Perception and Legitimacy', *Accounting, Auditing and Accountability Journal* (2003), Volume 14, Issue 4, 563.

⁸³ Campbell, J. L., 'Why Would Corporations Behave in Socially Responsible Ways? An Institutional Theory of Corporate Social Responsibility', *Academy of Management Review* (2007), Volume 32, Issue 2, 946–950.

can affect or be affected by the firm's behaviour', that is, influence corporate operations such as employees, customers, suppliers, government and the public.⁸⁴ Gray et al. maintain that organizations should be accountable towards all stakeholders.⁸⁵ In the UK, CSR is implemented, to some extent, through stakeholder engagement, which will be illustrated in three parts, (1) standardized initiatives, (2) information disclosure and (3) the process of stakeholder engagement:

2.2.1.1 Standardized initiatives

In the UK a large number of national and international standards or initiatives have been adopted to regulate and instruct stakeholder engagement, such as SA8000, ISO9001 and ISO14000.⁸⁶ The application of AA1000 Stakeholder Engagement Standard (hereinafter 'AA1000'), which is the new social accounting and auditing practice, strengthened by the Institute of Social and Ethical Accountability, and the Global Reporting Initiative's Sustainability Reporting Guidelines (hereinafter 'GRI') will be explained in the following section:

2.2.1.1.1 AA1000 Stakeholder Engagement Standard

AA1000 is a generally applicable framework for the design, implementation, assessment and communication of quality stakeholder engagement that provides standards about

⁸⁴ Freeman, R. E., *Strategic Management: A Stakeholder Approach*, Cambridge University Press (2010) (first published under the Pitman Publishing imprint in 1984), 25-27 and 33-38.

⁸⁵ Gray, R. et al., *Accounting and Accountability: Changes and Challenges in Corporate Social and Environmental Reporting*, Prentice-Hall (1996), 56-58 and 61-62.

⁸⁶ SA8000, the auditable certification standard that encourages organizations to develop, maintain and apply socially acceptable practices in the workplace, mainly in the field of CSR of employment, SA8000 Standard, available at: http://www.sa-intl.org/_data/n_0001/resources/live/2008StdEnglishFinal.pdf, last accessed on 18 January 2013.

establishing commitment to stakeholder engagement; integrating stakeholder engagement with governance, strategy and operations; and determining the purpose, scope and stakeholders for engagement and the processes that will deliver quality and inclusive engagement practice, and valued outcomes.⁸⁷ AA1000 emphasises credible communication in stakeholder engagement, and is applicable to both internal and external engagement, for public, private and civil society organisations of all sizes; to managers and others responsible for making decisions; and to participants in stakeholder engagement. It directs how to adhere to the accountability principles of inclusivity, materiality and responsiveness, and refers to the explicit detail about how to carry on stakeholder engagement in the process of planning, preparation, implementation, review and improvement.⁸⁸

AA1000 tries to require the effective stakeholder dialogue mechanism to give stakeholders power and achieve inclusivity, which means ‘the participation of stakeholders in developing and achieving an accountable and strategic response to sustainability’.⁸⁹ However, it is difficult to achieve inclusivity due to the lack of explicit instruction on how organizations should completely involve all stakeholders in decision-making; proceed with stakeholder dialogue; and appoint auditors to monitor the social and ethical reporting on

⁸⁷ In the AA1000 Framework Standard published in 1999, AccountAbility first introduced the principle of inclusivity. By 2005, this early guidance had evolved into the AA1000 Stakeholder Engagement Standard and was published as the first addition. The second addition builds on the revisions of the AA1000 AccountAbility Principles Standard (2008) and on advances in engagement practice over the past six years. The final edition was developed in 2011.

⁸⁸ AA1000 Stakeholder Engagement Standard 2011 (the final exposure draft), available at: <http://www.accountability.org/images/content/3/6/362/AA1000SES%202010%20PRINT.PDF>, last accessed on 12 November 2012.

⁸⁹ Ibid.

stakeholder engagement and implement it in corporate governance.⁹⁰ Therefore, the general standard of AA1000 should be modified and coordinated in detail and specifically in every individual company.

2.2.1.1.2 Global reporting guidelines

GRI-based reporting is the practice of measuring, disclosing, and being accountable to internal and external stakeholders for organizational performance towards the goal of sustainable development, and is broadly considered synonymous with other initiatives used to describe reporting on economic, environmental and social impacts (e.g., triple bottom line and corporate responsibility reporting).⁹¹ It should provide a balanced and reasonable representation of the sustainability performance of a reporting organization, including both positive and negative contributions. It is adopted in the context of organizations' commitment, strategy and management. The GRI guidelines are aimed at assuring and assessing sustainability performance with respect to laws, norms, codes, performance standards and voluntary initiatives, through the external verification and GRI level-check application which will be introduced in the next chapter of this thesis.⁹²

⁹⁰ Adams, C. A., 'A Critique of Reporting on Ethical, Social and Environmental Issues: The Case of ICI', *Internet Proceedings of Third APRIA Conference* (2001), available at:

<http://www.commerce.adelaide.edu.au/apira/papers/default.htm>, last accessed on 12 December 2013.

⁹¹ GRI is a global non-profit organization that develops the reporting index of sustainable development for business. This guideline affects more than 4,000 companies from 60 countries who publish sustainability information. The GRI guideline is developed in generations and its latest version is G4 published in May 2013. See Overview of GRI, available at: <https://www.globalreporting.org/Pages/default.aspx>, last accessed on 1 May 2014.

⁹² GRI provides databases and indexes for companies to self-check the level of application of GRI in information disclosure, and for external assurance the basis to audit company's performance in terms of reporting resource. See GRI Report Service of External Assurance and Level-check, available at: <https://www.globalreporting.org/reporting/report-services/external-assurance/Pages/default.aspx>, last accessed on 1 May 2014.

In stakeholder engagement it is important to embed the principles of GRI reporting guidelines in terms of materiality, stakeholder inclusivity, sustainability context and completeness in the report. GRI guidelines offer the structure for GRI-based reporting. It must include the CEO's statement, profile of the reporting organisation, executive summary, key indicators, vision and strategy, policies, organizational and management systems, and performance.⁹³ GRI refers to the triple bottom lines in stakeholder engagement through specific elements, but does not provide enough guidance regarding the mechanisms in particular engagement, such as on how to select major stakeholders, identify CSR context and consult with stakeholders.

2.2.1.1.3 Function of standardized initiatives

The examples of AA1000 and GRI reporting guidelines show that standardized initiatives are not like legislation that compulsorily regulates company's behaviour. Instead, they address social and environmental issues explicitly and instructively. In the UK the adoption of the standard helps corporate top management make better choices about more suitable approaches in their own companies. From a macro view, the standards provide catalogues to define what organizations should do.⁹⁴ From a micro view, the standards could be used by the respective organizations in certain corporate contexts. However, detailed instruction are lacking in the standardized initiatives, because most of them offer general guidance to all organizations. The shortcoming will be exposed in every individual company through corporate decision-making and operation.

⁹³ A large number of featured reports in numerous companies are published on the GRI official website. Based on GRI Guidelines, the reports are disclosed in various formats, namely the CSR Report, Sustainability Report, Annual Report and so on. Examples of featured reports are available at: <https://www.globalreporting.org/reporting/report-services/featured-reports/Pages/default.aspx>, last accessed on 13 April, 2012.

⁹⁴ Gilber, D. U. and Rasche, A., 'Opportunities and Problems of Standardized Ethics Initiatives: A Stakeholder Theory Perspective', 82 *Journal of Business Ethics* (2008), 756–760.

2.2.1.2 Information disclosure

At national level, UK mandatory information disclosure is contained in various regulations, including the Companies Act, UK securities law and other administrative requirements, such as the Department of Business, Innovation and Skills (hereinafter ‘BIS’) publishing statutory requirements in the form of the draft regulation on operating and financial review to enforce listed companies to provide information on policies to employees, customers and the wider community.⁹⁵ CSR information disclosure is included in corporate financial reporting or annual accounts under regulatory requirement. The UK Companies Act 2006 has revised the business review of directors’ reports to the strategic report, requiring reporting on the human rights of employees, environmental matters, and social and community issues.⁹⁶ The UK Financial Reporting Council published the Guidance on the Strategic Report according to the revised Companies Act 2006 to encourage the annual information report to be ‘more relevant to shareholders’ and meet the need of shareholders for substantial information. Under credible information disclosure, shareholders would be protected through accurate evaluation of uncertainty and future development in decision-making.⁹⁷ Moreover, the Securities and Exchange Commission (hereinafter

⁹⁵ BIS, Draft Regulations on the Operating and Financial Review and Directors Report: A Consultative Document, 5 May 2004, London: BIS. Department for Business, Innovation and Skills is a ministerial department of UK Government that was replaced with Department of Trade and Industry. It was established on 5 June 2009 by the merger of the Department for Innovation, Universities and Skills and Department for Business, Enterprise and Regulatory Reform.

⁹⁶ The Companies Act 2006 (Strategic Report and Directors’ Report) Regulation 2013, Section 414C (7) and Part 3 Amendments to the Large and Medium-sized Companies and Groups (Accounts and Reports) Regulations 2008, ‘Part (7) Disclosure concerning greenhouse emissions’.

⁹⁷ Financial Reporting Council, Exposure Draft: Guidance on the Strategic Report, August 2013, 6–18, available at: <http://www.frc.org.uk/Our-Work/Publications/Accounting-and-Reporting-Policy/Exposure-Draft-Guidance-on-the-Strategic-Report-File.pdf>, last accessed on 13 September 2013. The Companies Act 2006 (Strategic Report and Directors’ Report) Regulation 2013 came into force on 1 October 2013.

‘SEC’) mandates that CSR reporting presents sustainable matters: ‘disclosure of material risks and opportunities created by climate change and related government action will inform investors and aid them in their decision making’.⁹⁸

In the UK many companies adopt information disclosure to achieve stakeholder engagement in CSR. It is not only because stakeholders require transparency of corporate operation, but also because companies would make stakeholders understand corporate behaviours. Information disclosure is an effective way to communicate with stakeholders to define the business targets and policies, and evaluate how to achieve these objectives through stakeholder’s feedback. It was reported that in the UK, 80% of FTSE100 companies do disclose in the form of social reporting or providing social information in their annual review.⁹⁹ Findings in FTSE100 UK companies reveal that only 16 companies made no voluntary disclosures on social and environmental issues. All banks and stores provide information about their community involvement in their annual report. Especially companies in the oil, gas and nuclear industries, which are more likely to cause environmental pollution and crisis of sustainability, take social information disclosure seriously and tell the public what they have done positively in their community, and distract public attention away from their ‘sinning’ behaviour.¹⁰⁰

The model and requirement to evaluate corporate information disclosure vary among different companies, and depend on the business essence and harm or benefit that the companies can bring to society. Campbell et al. set up research that divided UK companies

⁹⁸ See Baumunk, supra note 62, 2–3.

⁹⁹ Idowu, S. O. and Towler, B. A., ‘A Comparative Study of the Contents of Corporate Social Responsibility Report of UK Companies’, *Management of Environmental Quality: An International Journal*(2004), Volume 15, Issue 4, 423.

¹⁰⁰ Colle, S. D. and Gonella, C., ‘Corporate Social Responsibility: The Need for an Integrated Management Framework’, *International Journal of Business Performance Management* (2003), Volume 5, No. 2/3, 204–205.

into three groups. The first group consisted of those companies whose business and behaviours were unethical and harmful, such as tobacco and gambling; the second group comprised companies involved in business that might be regarded as 'sinful' or, when abused, cause health deterioration, such as brewers; and the third group involved companies with few ethical 'sins' and mostly benefits, such as pharmacies and supermarkets.¹⁰¹ With the decrease in harm, corporate results and performance, stakeholders' concerns about CSR and public performance would be enhanced. This means that when companies run relatively harmful businesses, they have to perform CSR more positively and disclose relevant information more explicitly, to prevent the destruction of public reputation.

The Business Impact Task Force illustrates three general criteria to evaluate corporate information disclosure:

- (i) The cost or benefit of a company's goods and services, how it treats its own employees and the environment, its record in respecting human rights, its investment in local communities – and even its record in prompt payment of bills, can all be significant factors affecting its reputation.
- (ii) A company's approach to managing supplier and customer relationships, workforce diversity and work/life balance as well as its efficient management of environmental issues are central to competitiveness.
- (iii) The wide range of risks to which a business is exposed – whether financial, regulatory, environmental or consumers' attitudes – demand a complex process of managing relationships and establishing values.¹⁰²

¹⁰¹ See Campbell *et al.*, *supra* note 82, 565–566.

¹⁰² See Idowu and Towler, *supra* 99, 426.

Except for the general requirement of information disclosure, there are also various standards in different industries: for example, in the UK financial market, the Financial Services Authority regulates the Code of Treating Customers Fairly. It requires companies to 'improve the information provided to consumers, to increase the standards of risk management and transparency for consumers',¹⁰³ and to treat customers fairly to avoid the misleading or mis-selling information that causes investor's mis-investment.

Regarding information disclosure, stakeholders' involvement is to respond relevantly. Like consumers, they will use their 'purchase votes' on CSR when they are satisfied with companies' performance of CSR and their information disclosure. They prefer to be 'green consumers', and keep consumers' loyalty to specific businesses and products. By contrast, the negative achievement of CSR and information disclosure will lead to consumer punishment, including boycotts.¹⁰⁴ Hence, CSR disclosure can positively attract and recruit more talented employees, increase consumer loyalty, get more supportive communities and avoid the potential reputational risk that might be caused by environmental incidents and product quality accidents.¹⁰⁵ This is defined as stakeholder inclusive social auditing which assesses corporate performance on the ethical concerns of stakeholders according to economic, environmental and social aspects in sustainable development.¹⁰⁶

In the UK third-party auditing and verification are mostly implemented by professional auditing firms to provide verified and reliable statements about the quality and authenticity

¹⁰³ Treating Customers Fairly: Progress and Next Steps, Financial Service Authority, available at: http://www.fsa.gov.uk/pubs/other/tcf_27072004.pdf, last accessed on 7 July 2012

¹⁰⁴ Smith, N. C., 'Consumers as Drivers of Corporate Social Responsibility', in Crane, A. *et al.* (eds), *The Oxford Handbook of Corporate Social Responsibility*, Oxford University Press (2008), 283–295.

¹⁰⁵ See Idowu and Towler, *supra* note 99, 423.

¹⁰⁶ Morimoto, R. *et al.*, 'Corporate Social Responsibility Audit: From Theory to Practice', *Journal of Business Ethics* (2005), Volume 62, Issue 4, 319–321.

of companies' information disclosure. Some professional institutes would monitor companies' CSR achievement without permission from the companies concerned, such as the environmental institution of emission measurement. In addition, some NGOs also play important roles in third-party verification by monitoring companies' CSR performance and disclosure in their respective fields, such as Friends of the Earth, Green Peace and the Commission for Racial Equality.

2.2.1.3 The process of stakeholder engagement

With the increase of CSR ranking and surveillance, stakeholders are involved in a broader range of areas. Stakeholder engagement (also stakeholder dialogue) has become more and more sophisticated and refers to different stages. In order to make stakeholder engagement effective, companies should divide the process into telling, listening and communicating that companies could inform stakeholders what they have done, get responses from stakeholders and make stakeholders indirectly participate in corporate governance and CSR.¹⁰⁷ This is a progressive and advanced process, called *stakeholder information*, *stakeholder response* and *stakeholder involvement*.

2.2.1.3.1 Stakeholder information

Information disclosure is the process of stakeholder information that companies ensure to convey authentic and appropriate information to their publics. Efficient information tells people how well companies act in CSR, and about their good intentions and positive decisions and actions about sustainability.¹⁰⁸ Morsing suggests that companies should

¹⁰⁷ Morsing, M. and Schultz, M., 'Corporate Social Responsibility Communication: Stakeholder Information, Response and Involvement Strategies', *Business Ethics: A European Review* (2006), Volume 15, Issue 4, 325.

¹⁰⁸ Ibid.

provide integrated CSR information to the public about how they show CSR as a shared concern, such as how they link CSR to their core business and implement CSR through corporate support.¹⁰⁹

Stakeholder information is a direct and transparent approach for companies to present their achievement of CSR and enhance their public reputation. Especially businesses that are so-called highly harmful can reduce the public notion of their 'sinful' products and services and positively alter social attitudes. For example, the British American Tobacco reported that it was 'the world's second largest quoted tobacco group by global market share, with brands sold in more than 180 markets. For a business whose products pose real risks to health, it is even more important that we operate in a responsible way.'¹¹⁰ Therefore, the company tried to establish a robust dialogue approach through information disclosure to gain stakeholders trust.¹¹¹

2.2.1.3.2 Stakeholder response

After informing, stakeholder's response is the subsequent direct or indirect process. Stakeholders would reply to information indirectly such as through customer loyalty, employees' popularity and support from the community. Companies can also directly get stakeholders' direct feedback through opinion polls or market surveys. This is compared to 'the evaluative mode of measuring whether a particular communication initiative has

¹⁰⁹ Morsing, M., 'Strategic CSR Communication: Telling Others How Good You Are', in Jonker, J. and Witte, M. D., *Management Models for Corporate Social Responsibility*, (ed.), Springer Berlin (2006), available at: <http://www.springerlink.com/content/q812223277248214/>, last accessed on 7 July 2014.

¹¹⁰ Lawson, V., Stakeholder Engagement at British American Tobacco, CSR 360 Global Partner Network, available at: <http://www.csr360gpn.org/magazine/feature/stakeholder-engagement-at-british-american-tobacco>, last accessed on 7 July 2012.

¹¹¹ Ibid.

improved stakeholders understanding of the company'.¹¹² However, the direct approach involves questioning stakeholders rather than communicating with them, because companies always ask stakeholders questions within a predominantly instructive framework and most of the answers are what they want to hear. Moreover, stakeholders' response is only limited to 'satisfied' or 'dissatisfied' with corporate performance in CSR and information disclosure; it will not have further implications for corporate decision-making and operation.

2.2.1.3.3 Stakeholder involvement

At this stage, stakeholders will interact with corporate activity, which is the real model of stakeholder dialogue. Companies not only influence stakeholders, but also try to be influenced by them. Through inter-influenced communication, companies can get access to information on with what stakeholders are happy or not, expectations, needs and their advice on corporate governance in CSR.¹¹³ It is in mutually beneficial actions that stakeholders express their concerns and requirements, while companies can integrate the information into their decision-making and develop CSR initiatives.

The principal methods of stakeholder involvement include interviews, focus groups, workshops, seminars and public meetings. This series of activities will make stakeholder feel more like insiders of the companies and will make companies feel closer to stakeholders. It brings valuable information to companies and exerts a positive corporate image in public and companies will be accepted broadly in the marketplace and society.

¹¹² See Morsing and Schultz, *supra* note 107, 327.

¹¹³ Belal, A. R., 'Stakeholder Accountability or Stakeholder Management: A Review of UK Firm's Social and Ethical Accounting, Auditing and Reporting (SEAAR) Practice', *Corporate Social Responsibility and Environment Management* (2009), Volume 9, Issue 1, 15.

2.2.2 Implementation of CSR and board of directors

To some extent, good practice in, and motivation for, CSR are stimulated by boards of directors so that they can integrate stakeholders' interest into decision-making and the top management is monitored effectively in the corporate mechanism. In the UK model, although boards of directors are divided into executive directors and non-executive directors, their duties are the same. Unlike Germany, where stakeholders will participate in the activities of boards of directors, such as employees' co-operated determination, in UK companies it is difficult to control whether a board of directors has included stakeholder's profit in corporate governance and, at the same time, the achievement of CSR cannot be scrutinized by stakeholders internally.¹¹⁴ Under these circumstances, stakeholder protection and achievement of CSR will be ensured through stakeholder-integrated decision-making by the board of directors and internal audit by non-executive directors or audit committees. The effective corporate governance by the board of directors also complies with the separation of ownership and control in a company.

2.2.2.1 Attitude of board of directors in decision-making

In the UK a market deficit exists in the lack of competition, information asymmetry and so on. Some scholars argue that if the information flows freely and competition is strong, markets would provide mechanisms for profit-seeking businesses to behave on the basis of serving the public interest. However, when such prerequisites are absent, it would drive companies to undertake harmful action in order to achieve their profit, but without malice.¹¹⁵ Consequently, breach of CSR is derived from market failure. For example,

¹¹⁴ Ibid.

¹¹⁵ Cornes, R. and Sandler, T., *The Theory of Externalities, Public Goods and Club Goods*, Second Edition, Cambridge University Press (1996), 40-41 and 125-128; see also Hunt, E. K. and D'Arge, R. C., 'On

some UK banks sell payment protection insurance to customers who use the loan service offered by the banks. Owing to the lack of information from providers, customers cannot make effective and correct choices. Mackenzie's survey shows that customers buy these financial products at a higher price; as much as 40% of the cost of the loan and restrictive conditions are imposed on the insurance policy to limit payouts from the banks.¹¹⁶

This mis-selling problem occurred widely in the UK financial market, although companies adopted a CSR policy in corporate governance. However, when companies pursue financial profit as their aim, the balance between CSR and financial profits will be upset in corporate obstructive actions. Even corporate staff would be confused when choosing between the achievement of CSR and the financial objective. That is why the UK Financial Services Authority requires that financial businesses treat customers fairly to guide the ethical concerns in the marketplace. Without external pressure, when companies predominantly own short-term orientation to obtain their financial interests, implementation of CSR will be ignored in the process of corporate governance.¹¹⁷ Therefore, in order to achieve CSR and ensure stakeholders' interest, boards of directors should insist that their attitude towards CSR change from a short-term motive to long-term and integrated stakeholder concerns in their decision-making and operation.

2.2.2.2 Stakeholder identification

Lemmings and Other Acquisitive Animals: Propositions on Consumption', *Journal of Economic Issues* (1973), Volume 7, Issue 2, 337–345.

¹¹⁶ Mackenzie, C., 'Boards, Incentives and Corporate Social Responsibility: The Case for a Change of Emphasis', *Corporate Governance: An International Review* (September 2007), Volume 15, Issue 5, 936–939.

¹¹⁷ Aguilera, R. V. *et al.*, *Corporate Governance and Social Responsibility: A Comparative Analysis of the UK and the US*, available at: <http://www.business.illinois.edu/aguilera/pdf/CGIR%202006.pdf>, last accessed on 17 August 2012.

As analysed, UK companies adopted various initiatives and standards to assure stakeholders' anticipation. However, these standards can only generally demonstrate the requirements for company practices. This does not mean that one size fits all. They lack explicit illustration of how to fulfil CSR and stakeholders' requirements through the activities of boards of directors. In order to ensure stakeholders' engagement in corporate governance and achievement of CSR, it is most important to clarify what stakeholders need. This will be adopted in every individual company specifically and will fit each corporate situation appropriately. Clarifying stakeholder identification as explicitly as possible will bring specific embeddedness into particular corporate governance in CSR, so that boards of directors can make decisions accurately and properly. In general, the systematic and comprehensive approach is to identify the context in which firms and their stakeholders operate; the significantly particular events that might happen, such as any environmental incidents and reputational accidents; the nature and needs of stakeholders themselves; and, after the identification, to provide potential and effective management response to the three aspects.¹¹⁸ O'Riordan and Fairbrass clarified the four-stage process in detail: (i) the context addresses the external environment in which firms and their stakeholders stayed; (ii) the particular event, such as a serious health issue in a poverty region, specifies stakeholder's favourable and unfavourable context and triggers CSR issues; (iii) the nature of stakeholders presents their various interests and expectations; and (iv) boards of directors' responses in terms of the influential factors.¹¹⁹ For effective stakeholder identification, Bondy et al. provided six phases of a recyclable process to identify, implement, test and modify: (i) research company's existing CSR meanings, activities and

¹¹⁸ O'Riordan, L. and Fairbrass, J., 'Corporate Social Responsibility (CSR): Models and Theories in Stakeholder Dialogue', *Journal of Business Ethics* (2008), Volume 83, Issue 4, 751.

¹¹⁹ O'Riordan, L. and Fairbrass, J., Managing CSR Stakeholder Engagement: A New Conceptual Framework, *Working Paper Series* (May 2012), available at: http://www.brad.ac.uk/acad/management/external/pdf/workingpapers/2012/Booklet_12-04.pdf, last accessed on 19 August 2012.

competitors' actions; (ii) develop a strategy of CSR commitments; (iii) create a supporting corporate mechanism related to the commitment they made; (iv) fully implement strategy in CSR corporate governance; (v) review the progress and result; and (vi) improve the accuracy and efficiency of stakeholder identification.¹²⁰

Stakeholder identification can be explained as what and how organizations actually take into account stakeholder interests. The theoretical approach to knowing what stakeholders' expectations and requirements are in stakeholder identification is stakeholder salience, which is strongly recommended in UK corporate governance. The classes of stakeholders are different, so that their requirements and interests are varied. Boards of directors can make decisions and classify stakeholders' needs in accordance with the standard of stakeholder salience, namely power, legitimacy and urgency.¹²¹ These standards respectively mean that stakeholders have the authority to bring about the outcomes they desire, stakeholders legitimately possess the rights to claim their interest and stakeholders call for immediate attention. On the basis of the three elements, stakeholders will be hierarchically divided into three types: (i) when stakeholders are involved in three elements at the same time, they will be defined as 'high-salience stakeholder', so-called definitive stakeholders; (ii) while when stakeholders only hold one element, they will be treated as low-salience stakeholders; and (iii) the level of salience is medium when stakeholders own any of two elements.¹²² The adoption of the sophisticated stakeholder salience into boards of directors' decision-making is a logical framework to illustrate that what the boards

¹²⁰ Bondy, K. *et al.*, 'An Institution of Corporate Social Responsibility (CSR) in Multi-National Corporations (MNCs): Form and Implications', *Journal of Business Ethics* (24 January 2012), available at: <http://www.springerlink.com/content/t31047531qr27346/>, last accessed on 19 August 2012.

¹²¹ Mitchell, R. K. *et al.*, 'Toward a Theory of Stakeholder Identification and Salience: Defining the Principle of Who and What Really Counts', *Academy of Management Review* (1997), Volume 22, Issue 4, 870–874.

¹²² *Ibid.*

should consider in the first place should be according to the extent of the different stakeholders and their needs.

Although the model of salience is the basis of stakeholder identification, it is varied in certain situations and companies. Different boards of directors will see salience and CSR in different ways when stakeholders bring dynamic effects to companies;¹²³ for example, boards of directors treat issues that directly affect the interests of their company as legitimate. However legitimate interests might change, depending on temporary importance, timely social feedback and other aspects. This means that when employees' behaviour influences the interests of the company, their rights might be identified as legitimacy or even urgency. It might, instead, be that consumers have an influence when product safety becomes a critical issue. Owing to the varied issues in terms of the interests of company, boards of directors will keep changing the way in which they interpret salience. Companies and institutions adopt an approach called 'salience scales' that determines the salience of stakeholders through ranking of shareholders, employees, consumers, creditors and other stakeholders. The regular ranking of salience will directly provide information on how to identify how important the various stakeholders are at different times.¹²⁴

2.2.2.3 Auditing by non-executive board of directors

In the context of companies, the interests of shareholders and stakeholders always work together, and neither can profit without the other. Executive boards of directors play a role in achieving the profit of shareholders and stakeholders, so that the monitoring of boards of

¹²³ Jones, M. *et al.*, 'Company's Directors' Views Regarding Stakeholders', Melbourne University Legal Studies Research Paper, No. 270, available at: <http://ssrn.com/abstract=1023259>, last accessed on 11 September 2012.

¹²⁴ Ibid.

directors' decision-making and performance will be audited by non-executive directors. The Combined Code of Corporate Governance recommends that companies should establish an audit committee that is largely comprised of independent non-executive directors.¹²⁵ In the monitoring mechanism, CSR audits should be implemented in the following aspects: good stakeholder management, good corporate leadership, greater priority for CSR at board level, the integration of CSR into corporate policy, regulation at national and international level, and the involvement of government, business, NGOs and civil society.¹²⁶

In UK companies there is a strongly recommended approach, called 'tick-box' or 'scorecard' for audit directors to measure whether the decision-making and performance of boards of directors has involved CSR. Using the tick items or scorecard, non-executives can evaluate and rank the relevant issues directly, which is the most obvious feedback on corporate governance.¹²⁷ In Alliance Boots, the group set up scorecard evaluation with respect to community, environment, workplace and marketplace.¹²⁸ It is an essential process to get feedback, not only for scrutiny, but also support for the board of directors to improve future policy and actions in each individual sector. Alliance Boots said, 'the Group's framework of priorities covers four key areas: our community; our environment; our marketplace; and our workplace. This framework is called the Group's scorecard. These four areas are relevant to all our business activities and reflect our core values.'¹²⁹

¹²⁵ See Mackenzie, *supra* note 116, 939.

¹²⁶ Morimoto, R. and Hope, C., 'Corporate Social Responsibility Audit: From Theory to Practice', *Research Papers in Management Studies*, University of Cambridge (2004), 11.

¹²⁷ Ibid.

¹²⁸ Alliance Boots: 2009/10 Corporate Social Responsibility Report, available at: <http://www.allianceboots.com/CorporateSocialResponsibilityReport2009-10/our-approach/our-csr-framework.html>, last accessed on 26 April 2012.

¹²⁹ Ibid.

2.2.3 SRI in the UK

The UK is one of the most advanced and fastest-developed countries in the achievement of SRI and has many institutional investors involved in investment in companies with high social performance, especially in financial markets.¹³⁰ There is a trend of increased concern about ethics in UK society, stronger awareness of risk and risk management, and the growth in media exposure concerning CSR.¹³¹ Instead of forcing companies to adopt and undertake CSR policies, public disclosure is broadly recommended and companies should provide CSR self-reporting with a social responsibility statement in their corporate annual report.¹³²

2.2.3.1 Debate on SRI

Although SRI is popular in the UK market, there is still a debate about whether SRI would enhance corporate profits. Campbell and Vick argued that SRI was a high-cost investment that did not accordingly increase returns.¹³³ The comparison was set up to observe the connection between the extent to which CSR and return on investment were respectively achieved within ten years among the largest 100 UK companies that voluntarily published annual reports on social and environmental issues.¹³⁴ Volumes were created to compare SRI and stock market returns, and the tests were repeated using monthly returns as criterion. It was not obvious from the analysis what the direct ‘reward’ to companies was of achieving CSR. Therefore, some scholars argued that there was no relationship between share returns and social disclosures or social performance. However, in the test, if the

¹³⁰ See Aguiler *et al.*, *supra* note 117, 151–152.

¹³¹ *Ibid*

¹³² See Campbell and Vick, *supra* note 81, 243.

¹³³ *Ibid.*, 271.

¹³⁴ *Ibid.*

statistics were compared yearly over a period of ten years, it was found that companies producing higher social and environmental disclosure got better share returns on stock markets.¹³⁵

Other research that produced similar results is the study conducted on the mean monthly return and volatility comparison between FTSE4GOOD UK Index versus FTSE All-Share Index and FTSE 4GOOD UK 50 Index versus FTSE 100 Index. The tested periods were divided into two sub-periods from 1 July 1996 to 31 December 1999 and 1 January 2000 to 1 June 2003. As regards the two comparisons between FTSE4GOOD companies and general FTSE companies, the mean monthly return of FTSE4GOOD UK was about double lower than the FTSE All-Share, while the return of FTSE4GOOD 50 companies was about three times higher than FTSE4GOOD UK companies. The last-mentioned data showed that among the companies that had achieved CSR, the stock market return was relevantly higher in the top 50 companies in the FTSE4 GOOD Index.¹³⁶

The two studies confirmed that CSR definitely affects corporate financial performance and that SRI will enhance companies' competitive advantage in the marketplace. In the context of SRI, not all investors only focus on financial return, or else the social and environmental concerns in business would be just educative.¹³⁷ Although SRI increased costs, it reduced the risk that would reflect on the stock price. Effective CSR information disclosure will prevent investor upset. In practice, investors, especially individual investors, might only consider the financial interests of stock rather than CSR in a bull market. However, when the market becomes bearish, investors would re-consider the element of CSR when they

¹³⁵ Murray, A. *et al.*, 'Do Financial Markets Care About Social and Environmental Disclosure? : Further Evidence and Exploration from the UK', *Accounting, Auditing and Accountability Journal* (2006), Volume 19, Issue 2, 245–246.

¹³⁶ See Campbell and Vick, *supra* note 81, 271.

¹³⁷ See Murray *et al.*, *supra* note 132, 249.

make decisions and might refuse to purchase stocks of companies who are not corporately socially responsible.

2.2.3.2 Implementation of SRI in the UK

In the UK, SRI is largely undertaken by institutional investors, such as pension funds, insurance companies and financing investment banks. The UK Hampel Committee proposed that public companies follow the London Stock Exchange's Listing Rules to disclose in their annual report how they have applied principles of good governance (including CSR principles), whether they have complied with the provision of the Combined Code of Best Practice and provide reasons when they fail to do that.¹³⁸ UK Pension Funds are required to disclose how they take social, ethical and environmental considerations into account when they make investments.¹³⁹

A large number of UK insurance companies themselves treat CSR issues as a main concern, such as signing a statement in 1992 to fulfil their environmental commitment. Meanwhile, insurers also expect companies to disclose how they have solved social, environmental and ethical risks. The Association of British Insurers (hereinafter 'ABI'), according to Mary Francis, its General Director, provides guidelines to 'represent an important opportunity for investors and companies to work together both to protect shareholder value and improve understanding of CSR'.¹⁴⁰

Furthermore, the Operating and Financial Review (hereinafter 'OFR') statement was introduced in the UK which demands that companies disclose performance and future

¹³⁸ See Campbell and Vick, *supra* note 81, 252.

¹³⁹ Ibid.

¹⁴⁰ Thomson, M., British Insurers Demand Corporate Social Responsibility, available at: <http://www.socialfunds.com/news/print.cgi?sfArticleId=697>, last accessed on 7 April 2013.

prospects. It is the basis on which to judge the performance of boards of directors and whether companies integrate stakeholders into corporate governance.¹⁴¹ The disclosure checklist of the OFR is applied to assess whether the board of directors had considered other investors, potential investors, creditors, customers, suppliers, employees and society more widely in financial and non-financial information disclosure.

SRI companies should take CSR and stakeholders seriously when they make decisions and implement operations. As the main investors in most companies, institutional investors take CSR performance into account, so that if companies want to attract investment from them, they have to improve their CSR and broadly meet stakeholders' needs. This would also effectively control risk and make investors confident when they invest in companies with good CSR practices.

2.2.3.3 SRI screening

The investment screening of SRI has been applied by ethical funds and mutual funds. The methods used in screening are different, but generally classified into negative screening and positive screenings. In the section that follows screening is analysed in terms of the model of corporate governance screening and stakeholder screening.

2.2.3.3.1 Corporate governance screening

Corporate governance mainly addresses the conflicts of interests between top management (agent) and shareholder (principal). In the process of corporate governance, managers may make insufficient efforts to increase shareholder value, build corporate empires and strengthen private benefits of control. Owing to the separation of ownership and control in

¹⁴¹ See Campbell and Vick, *supra* note 81, 257.

companies, corporate governance screening is aimed at ensuring that financial suppliers can get a fair return on their investment; it can, therefore, also be defined as ‘internal screening’.¹⁴² Shareholders can be involved in the screening procedure through dialogue and voting at annual general meetings which integrates their value into SRI issues in corporate governance.

2.2.3.3.2 Stakeholder relation screening

Stakeholder screening, known as *external screening* is more CSR-directed screening where stakeholders scrutinize whether companies improve their relationships with their employees, customers, suppliers and communities, and how they participate in social issues. It is evaluated by the increase in social welfare through good corporate governance, sound environmental standards and care of stakeholder relations.¹⁴³ Stakeholder screening will more directly and forcefully respond to companies’ CSR that is reflected by customers’ popularity or boycotting, employees’ loyalty or leaving, communities’ support or resistance, public media reporting, and so on. Therefore, stakeholder relation screening is crucial to business, which is compelled to perform CSR if it attempts to get positive feedback.

2.2.4 Government: Driver of CSR

CSR is undoubtedly a voluntary concept without any enforcement from legislation and governmental intervention, but is closely related to government. It is argued that ‘governments structure the behaviour of private actors to serve public ends through both

¹⁴² Renneboog, L. *et al.*, ‘Socially Responsible Investment: Methodology, Risk Exposure and Performance’, *European Corporate Governance Institute*, available at: http://ssrn.com/abstract_id=985267, last accessed on 7 April 2013.

¹⁴³ Ibid.

regulations and incentives. Moreover public policy is influenced by the articulation and aggregation of business (and other societal) interests and their respective lobbying activities.’¹⁴⁴ Therefore, to some extent, CSR policies and initiatives reflect governmental focus and problems.

2.2.4.1 Governmental deficit

In the UK, the emergence of CSR is partly due to the governmental deficit and inability: ‘the UK government was overloaded and losing legitimacy as a result of an inability to resolve such issues as industrial relations, prices and incomes policies, inflation, unemployment, economic growth, productivity, investment and public debt.’¹⁴⁵ Therefore, British business contributed to social governance through self-regulation (especially in the financial system), individual relations with government departments, participation of industry associations and through the participation of the Confederation of British Industry (hereinafter ‘CBI’) in industry and economic policies.¹⁴⁶ The CBI reported in 1981 that

companies fear that if they make no attempt to find solutions to community problems, the government may increasingly take on the responsibility itself. This might prove costly to employers both in terms of new obligations and greater intervention in the labour market. Many companies prefer to be one step ahead of

¹⁴⁴ Moon, J. and Vogel, D., ‘Corporate Social Responsibility, Government and Civil Society’, in Crane, A. *et al.*, *The Oxford Handbook of Corporate Social Responsibility*, (ed.), Oxford University Press (2008), 305.

¹⁴⁵ Moon J., Government as a Driver of Corporate Social Responsibility, available at: http://www.google.co.uk/url?sa=t&rct=j&q=&esrc=s&frm=1&source=web&cd=1&ved=0CCgQFjAA&url=http%3A%2F%2Fciteseerx.ist.psu.edu%2Fviewdoc%2Fdownload%3Fdoi%3D10.1.1.198.8346%26rep%3Drep1%26type%3Dpdf&ei=hTM1UJDTHabB0gWZwIGgBg&usg=AFQjCNE8PGCfszkeQzjMgaJUKdZ7dPjWdg&sig2=Y_XvoaCQ8zP-63cXYKz-7w, last accessed on 28 December 2013.

¹⁴⁶ Ibid.

government legislation or intervention, to anticipate social pressures themselves and hence be able to develop their own policies in response to them, so that CSR was regarded as the partnership with government to solve social problems.¹⁴⁷

In former UK Prime Minister Tony Blair's Conservative government, the crisis of massive unemployment, urban decay and social unrest threatened social stability. Nonetheless, the government was not able to solve the social problems alone. Instead, government tried to link with business in partnership so that companies could provide social infrastructure to workers and their families, including potential jobs, housing, retail outlets, education, medical treatment, baths, pubs and other recreational facilities.¹⁴⁸ Corporate behaviour in the social crisis rescued the government from embarrassment, reduced the cost of governmental action in the solution of social problems, and filled the gap caused by governmental deficit and inability. A number of advantages from corporate social involvement led to the government strongly encouraging CSR to improve government effort and spread government policies.

2.2.4.2 Governmental instruction in CSR

Governmental involvement is an instructive action to CSR that would directly reflect social shortcoming and expectations. In order to encourage the achievement of CSR, the UK government positioned the Minister of CSR in the Department of Trade and Industry to provide CSR strategy as follows:

¹⁴⁷ CBI, *Company Responses to Unemployment: A Report by the Social Affairs Directorate*, CSB (1981). CBI is the UK's premier business lobbying organization, providing a voice for employers at a national and international level, available at: <http://www.cbi.org.uk/about-the-cbi/>, last accessed on 24 May 2014.

¹⁴⁸ See Moon, *supra* note 145.

promote business activities that bring simultaneous economic, social and environmental benefits; work in partnership with the private sector, community bodies, unions, consumers and other stakeholders; encourage innovative approaches and continuing development and application of best practice; ensure decent minimum levels of performance in areas such as health and safety, the environment and equal opportunities; encourage increased awareness, open constructive dialogue and trust; and create a policy framework which encourages and enables responsible behaviour by business.¹⁴⁹

Meanwhile, the CSR Minister also co-operates with the Departments for the Environment, Food and Rural Affairs for the further implementation and stimulation of CSR. In terms of the advantages gained from CSR, the UK government would like to promote initiatives through governmental funding, tax incentives and so on. Companies that are corporately socially responsible would not only bring benefits to society, but also receive priority attention from governmental incentives.

Moreover, one of the initiatives for most companies who invest in CSR is self-regulation adopted in corporate constitutes or codes of conduct. However, when companies' CSR behaviour is supported and self-regulation is accepted by government, it will amount to 'regulated self-regulation'. Although self-regulation is still voluntary, government itself will provide important incentives to encourage and push the integration of companies and societal interests.¹⁵⁰

¹⁴⁹ Albareda, L. *et al.*, 'The Government's Role in Promoting Corporate Responsibility: A Comparative Analysis of Italy and UK from the Relational State Perspective', *Corporate Governance* (2006), Volume 6, Issue 4, 393–396.

¹⁵⁰ Knill, C. and Lehmkuhl, D., 'Private Actors and the State: Internationalization and Changing Patterns of Governance', *Governance: An International Journal of Policy, Administration, and Institutions* (January 2001), Volume 15, Issue 1, 50–51.

2.2.4.3 Governmental CSR initiatives

The UK government has created a series of initiatives to directly or indirectly affect the achievement of CSR through rewarding or limitation. The persuasive incentives will enhance corporate performance to their stakeholders or prevent harmful results to society. The government uses its imprimatur to exhort and encourage business to perform CSR that government will permit. It rewards companies with CSR with specific honours which is the badge of CSR commitment.¹⁵¹ For example, permission to use the label 'fair trade' is a governmental priority for companies that achieve CSR and bring benefits to society.¹⁵² It is the stimulating incentive for companies that practise CSR to get a positive 'mark' from government and to enhance competitive advantages. To achieve this, companies will incorporate CSR into corporate governance.

In addition, the UK government has introduced ecological taxes to reduce pollution and waste, such as the landfill levy and road fuel price escalators. In April 2001 the government proposed the Climate Change Levy on business energy use. This levy meant that when companies voluntarily entered into energy efficiency agreements and really achieved good practice in ecological development, their relevant tax would be reduced as reward.¹⁵³ Tax incentives do not directly encourage CSR or force business to act or not to act. However, it is the soft regulatory and effective approach to persuade CSR and limit negative corporate behaviour towards the community.

¹⁵¹ See Moon and Vogel, *supra* note 144, 312–314.

¹⁵² *Ibid.*, 312.

¹⁵³ Juniper, T. and Tyack, S., Friends of the Earth, Capital Punishment: UK Insurance Companies and the Global Environment; A report prepared by FM Research for Friends of the Earth, available at: http://www.foe.co.uk/resource/reports/capital_punishment.pdf, last accessed on 12 May 2013.

2.3 CSR in China

When the UK made efforts to develop CSR in corporate governance in order to improve companies' performance to stakeholders and to ensure the sustainable development in the middle of the twentieth century, the notion of CSR was strange to the Chinese government, business and community. Its complicated history and situation made China grow slowly, and the imbalanced economic development after 1978 led to some social and environmental crises, such as violation of human rights, loss of natural resource and the like, so that until the 1990s, sustainability was only gradually taken seriously and CSR was introduced in China.

In the beginning, China lacked a basis for, and experience in, implementing CSR, because misunderstanding and obstacles impeded the development of CSR in China. China is an emerging market and the need for CSR is urgent to enhance its reputation and competitiveness in the global market. As a result, CSR is largely developed and researched at various levels, namely legislation, governmental instruction, NGO guidelines and companies' internal achievement. In the section that follows the historical context of Chinese CSR, the barriers that exist in the process of CSR exercise and strategies developed to achieve CSR in different aspects will be explained.

2.3.1 Historical context and emergence

2.3.1.1 Historical context

CSR is not the patent of the developed West. China might be one of the earliest countries to refer to business ethics, with its very long history of business that made ancient Chinese

business popular among its neighbouring countries and made them prosperous.¹⁵⁴ The applicable business ethics integrated all elements of contemporary Chinese culture and enabled Chinese businesses to conduct itself ethically, both at home and abroad.¹⁵⁵ The notion of business ethics among businesspeople was deeply affected by the Confucian philosophy of Ren (morality), Yi (righteousness), and Li (propriety), and then developed by Dong Zhongshu, as Zhi (intelligence) and Xin (credit). Three of the five principles are mainly relevant to business ethics, Ren means that when there is difficulty or interest, people should not only consider their own interests, but also others; when other people face a dilemma, it is necessary to provide as much help as possible; and when people communicate or co-operate with others, they should be honest, trustworthy and do so in good faith without cheating.¹⁵⁶ Confucianism respected collective values over individual values, which influenced the whole of ancient Chinese imperial rules, commercial activities and people's behaviour. It established the value framework that entails authoritarianism, paternalism and hierarchism, which perfectly provided moral legitimacy and enduring stability to the imperial power, society and family. Confucianism informed, guided and prescribed the rights and wrongs of thoughts and deeds for common folks, as well as the rich and powerful. It also prescribed a vertical structure of human relationships and top-down system of social interactions that were based on seniority and authority. Institutions and practices were informed and regulated by its vision and values. Business was no exception to this influence.¹⁵⁷

¹⁵⁴ Ip, P. K., 'The Challenge of Developing a Business Ethics in China', *Journal of Business Ethics* (2009), Supplement 88, 211.

¹⁵⁵ Ibid.

¹⁵⁶ This is directly interpreted from Confucian philosophy: Ren, Yi, Li. See Zhao, Y., *Research on Confucianism and Cultural Effect*, [孔子文学思想研究, kongziwenxuesixiangyanjiu], Peking University (2010), 2–23; see also Duan, L., Analysis of Confucian Morality and Contemporary Effect, [论孔子伦理道德思想内涵及当代意义, lunkongzilunlidaodesixiangnei hanjidangdaiyiyi], available at: http://wenku.baidu.com/link?url=460SaBj0UDA6rDFxFy57MVBggd6DqjiSjS2u2hx2EN4wqAKdZyAjUEh7-SZPhI1gscQ4CO6U7k94wcq_J_pvkdUTKu4iyNMgzQla3uP32ua, last accessed on 23 May 2014.

¹⁵⁷ See Ip, *supra* note 154, 214.

Confucianism affected businesspeople and made them realize their social significance and willingness to contribute to society and achieve diligence, honesty and charity in their business operations. In the sixteenth and eighteenth centuries many successful businesspeople from Shanxi Province and Anhui Province donated large amounts of wealth to the state. When there was war or a bad harvest and common people suffered from starvation, the wealthy became involved in charitable works and even took over certain social functions that were exercised by local government.¹⁵⁸ In the Qing Dynasty it was ideal for wealthy households to dispense relief and aid to the poor even in peacetime.¹⁵⁹ Therefore, Confucianism reflected the traditional ideas of rich communities and the state, which is similar to the concept of stakeholder benefits and voluntary CSR principles in modern times. Confucian philosophy referred to elements such as familial collectivism, authoritarianism, paternalism, hierarchy, *guanxi* dependence, preference for social harmony and so on, which do have an effect on modern Chinese governmental policy, namely its hierarchical governance. The Chinese government relies heavily on family-dominated and controlled economic development.

After 1949, the new China turned into a period of planned and collective economy, and all enterprises were state-owned and centrally controlled by government. The capital in enterprise was unitary, and operations were executed by governmental policies and orders. State-owned enterprises (hereinafter ‘SOEs’) were the work unit (*qiye ban shehui*) that not only provided production, but also bore the important burden to offer ‘cradle-to-grave’ welfare to their employees and their families, including the operation of educational institutions (e.g., kindergartens and elementary schools), healthcare institutions, old age

¹⁵⁸ Lin, L., ‘Corporate Social Responsibility in China: Window Dressing or Structural Change?’, *Berkeley Journal of International Law* (2010), Volume 28, Issue 1, 85–86.

¹⁵⁹ Ruskola, T., ‘Conceptualizing Corporation and Kinship: Comparative Law and Development Theory in a Chinese Perspective’, 52 *Stanford Law Review* (2000), 1599.

pensions, and many other facilities, such as restaurants, dormitories, barber shops and even bath facilities.¹⁶⁰ Under these circumstances, companies were only accountable to their employees, but not their other constituents, such as creditors, consumers and local communities. Moreover, companies did not treat all duties to employees as CSR, but they had to achieve certain missions enforced by the state. This specific style in Chinese enterprises dragged down financial performance, made employees dependent on employers and there was lack of competition.

In 1978 there was a huge change in the Chinese economy, from a planned economy to a market economy. The chief architect of the economic reform, Deng Xiaoping, illustrated his famous view as follows: ‘To get rich is glorious’, ‘Let a few get rich first’, and ‘Never mind whether the cat is black or white, so long as it catches mice’.¹⁶¹ These slogans encouraged people to pursue wealth and profit, and to do whatever they wanted to get rich. Consequently, companies largely became involved in exploiting naked self-interests and greed. Norms and ethical values were ignored or became non-existent. For the capital benefit, a large group of companies operated unethically on a massive scale to harm social and national interests. The overemphasis on material pursuits, degradation of business ethics and disorderly competition led to a weak legal system and civic accountability, imperfect market regulation, and even the trading of ‘power for money’ by government officials and corruption. Meanwhile, the rapid increase of benefits caused huge costs to environmental and social interests, due to the overuse of environmental resources, tax fraud, fraudulent inter-business dealings and plundering of state assets.¹⁶²

¹⁶⁰ Zhang, H. and Li, S., ‘Theory and Practice of Corporate Social Responsibility in China’, 5 *Journal of Beijing Normal University* (2009), Social Science Edition, 97–98.

¹⁶¹ See Ip, *supra* note 154, 211.

¹⁶² Tan, J., ‘Institutional Structure and Firm Social Performance in Transitional Economies: Evidence of Multinational Corporations in China’, *Journal of Business Ethics* (2009), Volume 86, 174.

2.3.1.2 Emergence of CSR in China

With the increase in capital, government gradually realized the negative effects of confusing and unethical operations, and attempted to solve the problems of the environmental crisis, loss of social resources and the chaotic market system, and turned its attention slightly to CSR. Additionally, the fast development in China had attracted a large amount of investment abroad. It was reported that '[f]rom the early 1980s to 1999, contracted FDI inflow to China has grown from roughly US\$1.5 billion a year to over US\$40 billion a year. And 90% of companies in Europe, the US, and Japan had set a 'China first' strategy'.¹⁶³ On the one hand, the multinational corporations (hereinafter 'MNCs') preferred the Chinese investment environment with lower ethical criteria and high capital returns. On the other hand, MNCs were seeking reliable partners with socially and environmentally responsible conduct to meet basic international labour and environmental standards. Many companies felt the pressure from MNCs and sensed that they might lose competition and advantage over companies who were achieving CSR in other developing countries. Owing to the crisis in China and overseas needs, CSR emerged and was accepted by publics more and more broadly.¹⁶⁴

CSR was first demonstrated in China through Shell China's CSR report in 1999, then Chinese Company Law 2005 (hereinafter Company Law) referred to the relevant issues from 2001 onwards.¹⁶⁵ Meanwhile, the Chinese Securities Regulatory Commission (hereinafter 'CSRC') published the Guide Opinion on Establishing an Independent

¹⁶³ Ibid.

¹⁶⁴ Ibid.

¹⁶⁵ Lee, S. Y., Fortune China CSR Ranking 2011 Report, Fortune China, March 15, 2001, available at: http://www.fortunechina.com/rankings/c/2011-03/15/content_51879.htm, last accessed on 29 August 2012; Chinese Company Law 2005 [中国公司法, zhongguogongsifa], Article 5, available at: http://wzj.saic.gov.cn/zcfg/fl/200610/t20061026_51872.html, last accessed on 13 March 2014.

Director System by Listed Companies, the requirement of employing independent directors to implement auditing and supervise the issues of wages, nomination and major affiliated transactions.¹⁶⁶ It was the beginning of CSR allegedly protecting stakeholders in internal corporate governance.

In China the concept of CSR complied with Carroll's four dimensions of CSR, namely (i) economic responsibilities, (ii) legal responsibilities, (iii) ethical responsibilities and (iv) philanthropic responsibilities.¹⁶⁷ Chinese scholars divided CSR into two parts: (i) absolute CSR and (ii) voluntary CSR. Absolute CSR is the basic bottom line and minimum requirement in corporate operations and governance, including child labour, forced labour, working time, discrimination, environmental protection and so on; while voluntary CSR is not enforceable and relevant to companies' understanding and culture of CSR, such as philanthropy.¹⁶⁸ The China CSR Survey Evaluation System and Criteria conducted by Peking University illustrates the key indicators of CSR as: shareholder interest, social and

¹⁶⁶ Overview of Corporate Governance of State-owned Listed Companies in China, DRC/ERI-OECD 2005 Policy Dialogue on Corporate Governance in China, 19 May 2005, available at: <http://www.oecd.org/corporate/corporateaffairs/corporategovernanceofstate-ownedenterprises/34974067.pdf>, last accessed on 18 September 2013. CSRC is authorized by China State Council, in accordance with relevant laws and regulations, the China Securities Regulatory Commission, a ministry-level unit directly under the State Council, regulates China's securities and futures markets with the aim to ensure their orderly and legitimate operation.

¹⁶⁷ Carroll's domains of CSR refer to 'economic responsibility, legal responsibility, ethical responsibility and philanthropic responsibility that respectively mean the profitable foundation of others, rules of the game, doing right and avoiding harm, and to be a good citizen'. See Carrol, A. B., *The Pyramid of Corporate Social Responsibility: Toward the Moral Management of Organizational Stakeholders*, 4–7, available at: <http://www-rohan.sdsu.edu/faculty/dunnweb/rprnts.pyramidofcsr.pdf>, last accessed on 16 September 2013.

¹⁶⁸ Du, Z., 'Corporate Social Responsibility and its Implementation' [企业社会责任与其实施, qiyeshehuizerenyuqishishi], 4 *Journal of Renmin University of China* (2005), 43–45.

economic interests, employee benefits, legal responsibility, operation in good faith, charitable responsibility, and environmental protection.¹⁶⁹

2.3.1.3 Misunderstanding of CSR in China

At the primary stage, Carroll's theory of legal responsibility in the four dimensions caused a misunderstanding of CSR in China, namely that various laws and regulations are deemed to protect stakeholder's interests, and to ensure the achievement of CSR. Essentially, CSR sits outside the law, goes beyond economic interest and legal enforcement, and should be voluntarily implemented by companies. In Carroll's view, legal responsibility was included in CSR. However, this meant that on the basis of the compliance with laws, companies should bring many more benefits to stakeholders through a broader approach. Law is merely the minimum standard to instruct companies on what they should or should not do;¹⁷⁰ for example, although a company spreads its income from fraudulent business to its employees and poor people, the fraudulent behaviour itself is illegal, so that it cannot be treated as achieving CSR. In China it has remained at that stage where absolute CSR has to be achieved, and non-compliance has to be pushed by legislation and government in the process of performing CSR.

Additionally, top management in many Chinese companies regard CSR as window dressing and that its purpose is to improve corporate image, but not to achieve social development. The Chinese Enterprise Survey found that managers' willingness to take on CSR activities was more business-oriented than morally led, and the determination of CSR

¹⁶⁹ Xu, S and Yang, R., 'Indigenous Characteristics of Chinese Corporate Social Responsibility Conceptual Paradigm', 93 *Journal of Business Ethics* (2010), 323–324.

¹⁷⁰ See Carroll, *supra* note 167, 6.

orientation is corporate economic features and economic incentives.¹⁷¹ As discussed above, CSR would bring long-term benefits to companies. Except for charities, there is no economic firm that absolutely runs beyond profit; economic return is the main driver for managers to achieve CSR in practice.

2.3.2 Barriers to CSR in China

Although China has the third-largest economy in the world, the development of CSR has not caught up with the standards in developed Western countries. The lagging and underdevelopment were caused by barriers in the field of economics, politics and society. This section will illustrate the economic, political and social barriers that, to some extent, explain why CSR in China has to be basically enforced by legislation.

2.3.2.1 Economic barriers

After the Reform in 1978, China has been using the market economy model. However, it is actually a control-based economy. In SOEs ownership and shares are tightly concentrated in the state, and boards of directors are assigned by government. In the Chinese Stock Market some of the listed companies are state-owned. Although the number of private listed companies is increasing, the state is still the major shareholder in the stock market. Communist Party leaders interfere in state-owned companies' economic decisions at firm level.¹⁷² As Chinese Company Law requires, not only the board of directors, but also

¹⁷¹ Chinese Enterprise Survey [中国企业调查, zhongguoqiye diaocha], available at: http://d.wanfangdata.com.cn/Periodical_rlzy200305007.aspx, last accessed on 13 March 2014.

¹⁷² Zu, L. and Song, L., Determinants of Managerial Values on Corporate Social Responsibility: Evidence from China, April 2008, available at: http://www.csr-weltweit.de/uploads/tx_jpdwnloads/Determinants_managerial_Values_CSR_dp3449.pdf, last accessed on 12 March 2014.

members of the supervisory board are appointed by the SASAC. Even important affairs have to be determined by this governmental institution which is led by the political party.¹⁷³ When the members of the supervisory board are acting on behalf of the party, their consideration might turn to political and administrative aspects. State interference and control make the Chinese economy less efficient, and economically targeted decisions complicate economic policy-making and its outcomes. It has also brought about dilemmas in the implementation of CSR.¹⁷⁴

2.3.2.1.1 Ineffective corporate governance and corporate social responsibility in state-owned enterprises

China tried to establish a corporate governance based on the Anglo-American model in listed companies, which is to disperse system ownership among shareholders and achieve profit maximization in shareholder primacy through considering companies' interests as a whole. However, in listed companies' appointments in the positions of chief executive, most senior managers and boards of directors are subject to governmental control and intervention. There are few independent directors on boards of directors; instead, the supervisory board is small and comprises party organizations or delegated organizations from the State Administration of State Property (hereinafter 'SASP') which delegates the state's interests.

In many listed companies the state is the largest shareholder or one of the largest shareholders, which enables it to administrate companies' operations and decisions. An

¹⁷³ See Chinese Company Law 2005, Articles 66 and 67, *supra* note 165. SASAC is a special commission of China, directly under the State Council. It was founded in 2003 through the consolidation of various other industry-specific ministries.

¹⁷⁴ Tam, O. K., 'Ethical Issues in the Evolution of Corporate Governance in China', 37 *Journal of Business Ethics* (2002), 304–305.

OECD Overview concluded that SOEs in China relied ‘heavily upon parent company and affiliated transaction exists; the phenomenon of the “one dominating state-owned stock monopolizes” is very common, which results in the lack of restriction on big stockholders. In this way, the big stockholders can easily manipulate listed companies or invade medium-sized and small stockholder’s interest by utilizing their priority position.’¹⁷⁵ Moreover, the independence of boards of directors is inefficient, and directors’ nomination, employment and wages are decided by the major shareholder – the state – and some CEOs are even former or current government bureaucrats, so that the decision-making of corporate governance in boards reflects the state’s notion, not the company itself and cannot be wholly brought into governance.¹⁷⁶

The Corporate Governance Assessment Report of the 100 Top Chinese Listed Companies 2012 (hereinafter ‘the Report’) notes that control-based SOEs have obstacles of poor corporate governance in the following respects¹⁷⁷:

First, the highly concentrated shareholding in the hands of governments causes the exclusion of other shareholders. More than 80% of controlling shareholders are central government or local government, so that when they keep enough equity interest, they have an incentive to achieve other policy goals, such as to stabilize social employment, through the listed company vehicle.¹⁷⁸ Therefore, the decision of whether or not to implement

¹⁷⁵ See Overview of Corporate Governance of State-owned Listed Companies in China, *supra* note 166.

¹⁷⁶ Liu, Q., ‘Corporate Governance in China: Current Practices, Economic Effects, and Institutional Determinants’, *CESinfo Economic Studies* (2006), Volume 52, Issue 2, 428-435; see also Overview of Governance of State-owned Listed Companies in China, *supra* note 166.

¹⁷⁷ This analysis comes from the Corporate Governance Assessment Report of the Top 100 Listed Companies [中国上市公司 100 强公司企业治理评价报告, zhongguoshangshigongsiyibaiqianggongsiqiyezhilipingjiabaogao], available at: <http://www.protiviti.com/zh-CN/Documents/CN-Headline/CN-2012-Corporate-Governance-Survey-Report.pdf>, last accessed on 19 April 2013.

¹⁷⁸ See Liu, *supra* note 176, 432–434.

corporate governance is not made by the board of directors, but the state which is unable to make specific and effective decisions in every individual company.

Second, the score in the matter of auditing in SOEs is lower than private listed companies. Additionally, the performance in the social and environmental report is also weak among all listed companies. This is due to the main control by the state that nominates boards of directors whose payment is not relevant to a corporate return and reward system, such as employee shares as reward, but paid by the state directly in high amounts. Without pressure from corporate financial performance, boards of directors would lose their motivation to enhance the efficiency of corporate governance through the achievement of CSR to their publics. Some of the members of the supervisory board are designated by government, so that the auditing in SOEs cannot be implemented efficiently and some of the information disclosed to public stakeholders is even hidden and/or false.¹⁷⁹

Third, compared with major shareholders, social public shareholders are in a weak position in the Chinese security market. It is forbidden to trade state-owned shares, the so-called non-circulating shares that are owned by controlling shareholders, who have priority in decision-making. Conversely, social individual shareholders have no voting right and weak power to assert their interests, so that the relevant protection is largely limited, and from the beginning of the twenty-first century, the loss of social public shareholders was becoming more and more critical.¹⁸⁰

2.3.2.1.2 Imperfect competitive system in the marketplace

¹⁷⁹ See the Corporate Governance Assessment Report of the Top 100 Listed Companies, *supra* note 177.

¹⁸⁰ See Overview of Corporate Governance of State-owned Listed Companies in China, *supra* note 166.

In the Chinese market, SOEs have dominated the main position, especially in key fields, such as energy, steel and aviation, so that they can control the industries and get lower prices from the resource allocation in state-owned industries. Meanwhile, SOEs press the state to make up for their losses through financial subsidies and bear the heavy burden of pensions to retired employees.¹⁸¹ The invisible priority to SOEs causes unbalanced and unfair competition among them and private companies. Therefore, it is more difficult for them to derive capital benefits from the SOEs. However, in terms of Chinese competition law, there is only a prohibition on unfair competition among all companies, such as price mechanism, but no enforcement regarding the invisibly unfair competition between SOEs and private companies. In innovation and development, SOEs receive powerful support and priority from the state, which makes them retain the monopoly position in many industries. The government even backs the provision of various preferential policies to SOEs for their international competition and ensures the safety of capital investment in SOEs. Therefore, they are more competitive and attractive to international commercial partners than private companies in the global market.

In order to survive, private companies take profit-making more seriously. Although CSR would bring long-term interests, it needs a time-span. In the imperfect but sharply competitive system, it is impossible for most of private companies to wait out a very long term. In the Report, the performance of the internal control system in private companies is stronger than in SOEs, because they have to improve their financial performance through effective corporate governance. Nevertheless, the achievement of stakeholder interests and environmental protection is weaker than in SOEs, because their integrated objective is to maximize financial returns. In order to compete with powerful competitors, private companies might ignore the achievement of CSR in their operations

¹⁸¹ Lin, J. Y. *et al.*, 'Fair Competition and China's State-owned Enterprises Reform', *MOST: Economic Policy in Transitional Economies* (1998), Volume 9, Issue 1, 67.

Furthermore, some small- and medium-sized enterprises (hereinafter ‘SMEs’) are in the manufacturing business or construction industry where the work of contractors or sub-contractors is low technology. They employ a large number of migrant workers at very low salaries. SMEs do not treat CSR as being important, because most of their contractual relationships are short term; they do not need to improve their reputation and do not wish to incur the high costs involved in CSR. In the south of China there are thousands of SMEs, and some of them are sweatshops. They are in a very weak position in the Chinese market economy, so their sole objective is to make money. SMEs employ migrant workers to create a large amount of interest without caring about their social welfare. Overwork or failure to pay among these companies happens frequently and has become a critical problem.

2.3.2.1.3 Degrading the corporate social responsibility standards of multinational companies in China

China has become the best choice for MNCs to invest in, because of the absence of explicit regulations, ineffective monitoring and loopholes in MNCs business.¹⁸² In order to attract foreign investments, the Chinese government is willing to exempt MNCs from regulations in several areas, such as taxation, environmental protection and labour standards.¹⁸³ According to Su and Littlefield, ‘the Chinese will perceive greater trust and commitment of these Western companies in addition to their tangible help to China’s economy’.¹⁸⁴ Some MNCs are shielded by their good credit and CSR performance in their home countries, and

¹⁸² Lai, Q., Corporate Social Responsibility of SMEs in China: Challenges and Outlooks, available at: <http://www.iwim.uni-bremen.de/publikationen/pdf/c018.pdf>, last accessed on 19 August 2012.

¹⁸³ Ibid

¹⁸⁴ Su, C. and Littlefield, J. E., ‘Entering Guanxi: A Business Ethical Dilemma in Mainland in China’, 33 *Journal of Business Ethics* (2001), 206.

so get the trust of the Chinese government, partners and consumers, despite the lower standard of CSR in China. As a result, MNCs and foreign investors invest in many sweatshops in China.

MNCs adopt the local way to establish relationships with local government, such as gift-giving and kickbacks. The bribery and corruption of governmental officials cause serious social and political crises in China, and the cost of gifts or kickbacks is borne by Chinese shareholders.¹⁸⁵ In addition, there is a lack of uniform standards to evaluate or monitor the performance of CSR in MNCs. The monitoring is always through the model of surveys or interviews with employees who are told how to answer positively to the questions. In order to get job opportunities, workers have to respond in the way they are taught.¹⁸⁶

The poor operation and protection of stakeholders in MNCs directly postponed the development of CSR in China. The positive performance of CSR in MNCs in the home countries could be used as examples. However, owing to the loose governance and monitoring among MNCs, the bad behaviour negatively affects Chinese companies' notion of CSR, destroys Chinese stakeholders' interests and confuses the order in the Chinese market.

2.3.2.2 Political barriers

China's political model is the People's Democratic Dictatorship in which the working class governs the state's political power through the CCP and people in the working class are able to control the country. However, the controlling power is concentrated in the hands of

¹⁸⁵ See Tam, *supra* note 174, 180.

¹⁸⁶ *Ibid.*, 182.

a small group of people, called *representatives*, who are actually the leaders in the different hierarchies in the CCP.¹⁸⁷ All forms of Chinese government are dispensed from the party, so that all its missions, decisions and governance are closely related to the party's principles and objectives. In Chinese people's view, this phenomenon is treated as 'the same group of officials is in two departments'. It means that most governmental top officials are guided and appointed by the party, so that they work on their governmental duties on the basis of the party's instruction and decision.

Company Law does not enforce the establishment of the Party Committee in SOEs. However, in terms of the Communist Party Constitution, it must set up the committee to lead party members within companies. Even in private companies there is still party organization. The Party Committee will directly affect the board of directors' decision-making, due to the state-appointed personnel management and the mechanism of 'consolidated and mixed government and party'. Company Law requires the nomination of boards of directors, and supervisory boards are decided on by the State-owned Assets Supervision and Administration Institution, so that the corporate governance in SOEs is intervened by the party. This makes corporate operation and monitoring inefficient and inauthentic. Trade unions are not permitted to establish independent trade unions without the CCP and government. A trade union in each hierarchy is led and controlled by a higher level. Although SOEs' members are elected by employees, the leaders are still designated by the party and government. When employees' interests and rights cannot be protected by

¹⁸⁷ Constitution of the Communist Party of China [中国共产党党章, zhongguogongchandangdangzhang], Chapter 2, available at: <http://www.china.com.cn/chinese/zhuanli/234232.htm>, last accessed on 21 March 2014.

boards of directors, to some extent, trade unions would not provide fair and sufficient remedy to these employees.¹⁸⁸

NGOs are one of the effective organizations that could stimulate and monitor the implementation of CSR. In China NGOs have increased rapidly over the past years. However, their formation is still limited by governmental authority and their agenda should be in accordance with the political environment; for example, government prefers NGOs in environmental protection rather than in human rights or labour protection, which are sensitive issues in China.¹⁸⁹ Therefore, NGOs in China are the window dressing to drive the performance of CSR.

Furthermore, economic development is not only the economic objective, but also the political aim in China, so that state and local economic increases are the solid standard to evaluate the local development. In most provinces, cities and even towns, local officials' career achievement is closely and directly linked to the gross domestic product (hereinafter 'GDP'). In order to enhance political performance, local governmental officials are concerned with economic improvement and encourage companies to make profits as much as possible, but ignore the development of CSR in companies.

2.3.2.3 Social barriers

The achievement of CSR is relevant to corporate history and culture. When companies have a long history, they will have a stronger social identity and notion of corporate citizenship. In Western countries, some famous companies have a very long history and

¹⁸⁸ Shi, T., 'Trade Union in China: History, Current Situation and Relevant Issues' [中国工会的历史、现状及有关问题探讨, zhongguogonghuidelishixianzhuangjiyouguanwentitanta], *Global Law Review* (2002), Volume 24, Issue 2, 31–37.

¹⁸⁹ See Lin, *supra* note 158, 95–96.

culture, accompanied by a good reputation that is achieved through implementing CSR towards all stakeholders. In China most companies are in a period of transition and of accumulating capital. They do not have the concept of corporate citizenship and the obligation to benefit the community. Without social encouragement, companies would focus on physical income, instead of CSR towards their stakeholders.

This deficit is also caused by stakeholders themselves who have a weak notion of and willingness to support CSR and advocate their interests, except for capital. The lack of social awareness in CSR exists widely among Chinese consumers. In developed countries consumers are ‘perceived to have a positive or less negative impact on the physical environment and/or the use of purchasing power to express social concerns’.¹⁹⁰ Consumers could reject or boycott the goods from sellers who underperform when it comes to CSR. It is responsible consumption that emphasizes consumer’s importance to protect social interest, human rights and the environment. Their acceptance or rejection of any goods or services conveys consumers’ opinion and requirement of CSR.¹⁹¹ A survey conducted by the Chinese Academy of Social Science showed that consumers in developed cities, such as Shanghai and Hong Kong, with higher education degrees, support products involving good performance of CSR.¹⁹² Most consumers pay more attention to the lower or higher physical price of goods than to how and where they have been produced.¹⁹³ Although Chinese consumers have been aware of the importance of CSR, they focus very much on post-event behaviours. For example, in 2012, one of the most famous dairy companies, MengNiu, was found to have used expired ingredients in its dairy food. After the revelation,

¹⁹⁰ Ramasamy, B. and Yeung, M., ‘Chinese Consumer’s Perception of Corporate Social Responsibility (CSR)’, 88 *Journal of Business Ethics* (2009), 121.

¹⁹¹ Zhao, S., ‘The Survey and Analysis of Consumer’s Conception of Corporate Social Responsibility’ [调查与分析消费者对企业社会责任的概念, diaochayufenxixiaofeizhedeuiqiyeshehuizerendegainian], *Modern Business* (2011), 285.

¹⁹² See Ramasamy and Yeung, *supra* note 190, 127.

¹⁹³ See Lai, *supra* note 182.

consumers boycotted the products produced by MengNiu within a couple of months. However, before the incident, few people paid attention to whether the production processes strictly complied with food safety and health standards. Pre-event is the long-term approach for stakeholders to screen companies' performance in CSR.¹⁹⁴ Owing to the public screening, companies will actively and voluntarily implement CSR in corporate governance to enhance reputation and competition. The post-event model merely makes companies passively adopt any remedy to compensate for the loss caused by their fault, so that CSR is no longer voluntary, but seems like crisis management.

2.3.3 Implementing CSR in China

According to CSR, the level of public awareness is weak in China, which is due to the barriers illustrated in the paragraphs above. The concentrated economic development caused the Chinese government and people to neglect the legal development and implementation at an early stage. Therefore, this directly led to the underperformance of law and regulations not only in organizations, but also among individuals. SOEs are protected by governmental policies; SMEs are finding any possible way to avoid the limitation and enforcement in legislation and regulation; and some individual stakeholders, such as consumers and employees, do not even know what rights and protection they can get from law, and how to apply the law to protect themselves.

As Carroll alleged, legal responsibility is one of the factors in CSR, and it is necessary to let people and companies know what their legal responsibilities are. This is the main reason why legislation and regulation are adopted as an approach to stimulate CSR in China. Meanwhile, China is a country with highly concentrated power and governance in

¹⁹⁴ Wang, M. *et al.*, 'Corporate Social Responsibility, Investor Behaviors, and Stock Market Returns: Evidence from a Natural Experiment in China', 101 *Journal of Business Ethics* (2011), 136.

government and the model of implementing CSR is not totally voluntary, but state-led. The government provides many instructions and guidelines to direct the implementation of CSR in companies. Nevertheless, under international influence, numerous voluntary initiatives have been broadly applied in corporate governance to achieve CSR, such as governmental opinion, industrial guidelines and codes of conduct.

2.3.3.1 Legislation and governmental regulation

Company Law is the new and main basis for corporate governance in China. It explicitly regulates the responsibility to protect social interests and perform CSR. For example, Article 1 stipulates that '[t]his Law is enacted for the purposes of regulating the organization and operation of companies, protecting the legitimate rights and interests of companies, shareholders and creditors, maintaining the socialist economic order, and promoting the development of the socialist market economy', and Article 5 regulates that '[i]n conducting business operations, a company shall comply with the laws and administrative regulations, social morality, and business morality. It shall act in good faith, accept the supervision of the government and general public, and bear social responsibilities'.¹⁹⁵ Chapter 6 of the Company Law strictly regulates the monitoring and supervision of boards of directors to prevent dereliction of their duty and loss to stakeholders.¹⁹⁶

The Securities Law of China is another important piece of legislation to regulate listed companies' corporate governance and instruct them to perform CSR. Article 5 states that 'when issuing and dealing securities, all concerned must abide by laws and administrative rules and regulations. Cheating, insider trading and manipulation of stock markets are

¹⁹⁵ See Chinese Company Law 2005, Articles 1 and 5, *supra* note 165.

¹⁹⁶ *Ibid.*, Chapter 6.

prohibited'.¹⁹⁷ This is to ensure social individual investors' interests in stock markets and also to optimize the operations in the Chinese stock markets. Many other pieces of industrial legislation also provide company standards on how to protect stakeholders, including Chinese Labour Contract Law, Chinese Product Safety Law and the Law of Social Welfare. Therefore, under legal protection, the rights of employees, consumers, the community and the environment can be ensured at a basic level.

The Supreme Court in China also plays an important role in CSR: it always publishes notices or guides to limit companies' operation; for example, the Notice on Related Issues of False Information in Securities Market clearly provides the punishment of improper action of false information disclosure.¹⁹⁸ The strengthened system of legal punishment reduces the harm in the trading process and protects social shareholders' investment.

Governmental departments also issued varied regulations to limit companies in different fields; for instance, the Ministry of Finance published the Code of Accounting which is a mandatory governmental regulation that corporate finance officials and accountants must obey. It is the system used to instruct corporate accounting to provide accounting reports with respect to companies' asset, income, cost and profit, and payment to their board of directors and top management. Through an effective accounting system, internal

¹⁹⁷ Securities Law of China 2005 [中国证券法, zhongguozhengquanfa], Article 5, available at: <http://www.kd325.com/ShowArticle.shtml?ID=20105101615512753.htm>, last accessed on 22 March 2014.

¹⁹⁸ In 2003 the Supreme People's Court of China issued a judicial interpretation about false information disclosure in the securities market, entitled 'Some Provision of the Supreme People's Court on Trying Cases of Civil Compensation Arising from False Statement in Securities Market'. See Dai, L., 'The Judicial Application of the Causation Test on the False Statement Doctrine in Securities Litigation in China', *Pacific Rim Law & Policy Journal* (2006), Volume 15, Issue 3, 735–736.

stakeholders are able to get access to how the capital is distributed and whether there is misuse of stakeholders' interest of gaining private profit.¹⁹⁹

2.3.3.2 Codes of conduct and guidelines

In China CSR has been developed in three stages: (i) point to point, (ii) industry to point and (iii) industry to industry. In the early stage, only individual companies that have a notion of CSR require each partner or other party to achieve CSR through contracts. This only takes place among contracting companies and is the so-called stage of point to point. The notion of CSR was then broadened to include industry. However, at this stage, industry would only expect the requirement of CSR of an individual or a group of companies. Nowadays, CSR in China has evolved as industry to industry, and there are uniform and basic standards of CSR in companies in certain industries. This has become the foundation of co-operation and the development of harmony among different fields.²⁰⁰ In this case, although legislation and enforceable regulation in government had become the basic driver to direct Chinese companies to achieve CSR, codes of conduct and guidelines are essential, and should be adopted in the various industries that are adopting voluntary methods at the global level. CSRC extracted the standards of the OECD Principles of Corporate Governance and adopted them into the Guideline for Corporate Governance of Listed Companies. It offers the principles of corporate governance in listed companies and emphasizes the protection of investor and professional ethics. It is said that 'the Code sets forth, among other things, the basic principles for corporate governance of listed companies in our country, the means for the protection of investor's interests and rights, the

¹⁹⁹ Code of Accounting in Ministry of Finance, available at:

<http://www.casc.gov.cn/wjk/200608/P020060810538543620145.pdf>, last accessed on 22 March 2014.

²⁰⁰ The development of CSR is summarized from the speech of Dr Xiaohui Liang, Transition of CSR from City to Rural Place, at the Conference of Credibility, held in Beijing, China, November 2012.

basic behavior rules and moral standards for directors, supervisors, managers and other senior management members of listed companies’.²⁰¹

In addition, the SASAC released the Guide Opinion on the Social Responsibility Implementation for the State-owned Enterprises Controlled by the Central Government in 2008. It explained the importance of CSR for SOEs, the fundamental principles to implement CSR and the content of major measures to spread CSR in SOEs controlled by central government.²⁰²

Moreover, a series of guidelines about information disclosure emerged in the first decade of the twenty-first century. Since 2007, the State Environmental Protection Administration (hereinafter ‘SEPA’) has created various models for corporate environmental reporting, among which, that environmental agencies and companies that pollute heavily must disclose true environmental information to the public. However, the guideline is limited and should be expanded to all companies, not only those that are heavy polluters.²⁰³ The Shanghai and Shenzhen Stock Exchanges published the Guide on Environmental Information Disclosure for Companies Listed on the Shanghai Stock Exchange and the Guide on Listed Companies’ Social Responsibility.²⁰⁴ Both stress the implementation of

²⁰¹ Code of Corporate Governance of Listed Companies in China, available at:

http://www.ecgi.org/codes/documents/code_en.pdf, last accessed on 18 November 2012.

²⁰² See Lin *et al.*, supra note 181, 73–74; see also The Guide Opinion on the Social Responsibility Implementation for the State-owned Enterprises Controlled by the Central Government, available at: <http://www.sasac.gov.cn/n2963340/n2964712/4891623.html>, last accessed on 26 March 2013.

²⁰³ See Lin *et al.*, supra note 181, 73–74.

²⁰⁴ See Guide on Listed Companies Environmental Information Disclosure (Opinion) [上市公司环境信息披露指南 (意见征求意见稿, shangshigongssihuanjingxixipiluzhinan (yijianzhengqiugao))], available at: <http://wfs.mep.gov.cn/gywrfz/hbhc/zcfg/201009/W020100914403449464600.pdf>, last accessed on 22 March 2014; see also Guide on Listed Companies’ Social Responsibility in Shenzhen Stock Exchange [深圳证券交易所上市公司社会责任指引, shenzhenzhengquanjiaoyisuoshangshigongsishehuizerenzhiyin], available at: <http://www.szse.cn/main/disclosure/bsgg/200609259299.shtml>, last accessed on 22 March 2014.

CSR in corporate governance and information disclosure to the public in the two exchanges.²⁰⁵ Additionally, there are also codes of conduct or guidelines that regulate CSR within industries, such as the Guideline on CSR in Chinese Industrial Companies and Industrial Association, which is the general guideline to companies in industry, in the fields of fair trade, environmental sustainability, safety production, consumer protection and so on.²⁰⁶

2.3.3.3 SRI in China

The Chinese government has recently begun to use financial measures to improve corporate social performance and SRI in China. After the Bank of China had issued the first SRI fund, namely the Sustainable Growth Equity Fund in China, the Chinese government initiated the green credit policy in 2007 to direct Chinese banks to consider corporate environmental performance in credit assessment.²⁰⁷ Then the SEPA carried out the green loan programme to blacklist 30 companies with heavy environmental problems and reported the information to the credit management system of the People's Bank of China, so that some companies would provide green loans to those companies with positive environmental performance.²⁰⁸

²⁰⁵ Ibid.

²⁰⁶ Guideline of CSR in Chinese Industrial Companies and Industrial Association, available at: <http://www.siccsr.org/WebSite/crs/Upload/File/201211/20121119073915312500.PDF>, last accessed on 22 March 2014.

²⁰⁷ See Lin, *supra* note 158, 76–77; see also the news on: 29 Banks Sign Agreement of Green Loan Programme [29 家银行签订绿色信贷协议, 29 jiayinhangqiandinglevsexindaixieyi], 4 November 2013, available at: http://news.xinhuanet.com/fortune/2013-11/04/c_118000494.htm, last accessed on 22 March 2014.

²⁰⁸ The blacklist of different industries is published of official website on SEPA, available at: <http://hjj.mep.gov.cn/zdhy/>, last accessed on 23 November 2013.

Furthermore, with the development of the Green Loan Programme, the Green Evolution was launched in China's banking sector and many banks adopted the checklist to ensure companies' environmental performance and provide loans to companies who scored highly in environmental protection. In this programme, companies strictly bolstered the financial and environmental regulations, and co-operated with international banks and NGOs for further development, so that the Green Programme in banks also requires companies to provide reliable information disclosure on the corporate environmental index.²⁰⁹ SRI in China is at the very early stages, but has taken a huge step forward and made progress in the development of CSR. Socially responsible institutional investors will largely influence the economic performance and stimulate companies to implement CSR.

2.3.3.4 Information disclosure and CSR assessment

Voluntary reporting and internal supervision go beyond the legal requirement of information disclosure, and are effective to present CSR performance to the public, and will directly evaluate the efficiency of corporate governance and CSR. For example, in the Corporate Governance Assessment Report of the Top100 Chinese Listed Companies, information disclosure and operation of self-supervision by the supervisory board are the index to evaluate the performance of corporate governance.²¹⁰ A good corporate governance system will set up the applicable mechanism to disclose true information to ensure access to the information for the public, so that stakeholders will directly evaluate companies' performance in corporate governance and CSR via reliable information. In order to improve their reputation and financial performance, companies in the lower public

²⁰⁹ The Green Evolution: Environmental Policies and Practice in China's Banking Sector, available at: http://www.banktrack.org/download/the_green_evolution_environmental_policies_and_practice_in_the_chinese_banking_sector/green_evolution_2008_foe_final.pdf, last accessed on 27 November 2012.

²¹⁰ See the Corporate Governance Assessment Report of the Top 100 Listed Companies, *supra* note 177.

ranking of CSR must optimize their CSR strategy and information disclosure in corporate governance.

China Social Compliance 9000 for the Textile and Apparel Industry (hereinafter ‘CSC9000T’) is the voluntary standard of information disclosure and the self-assessment system that was created on the basis of SA8000.²¹¹ In China there is a large number of private textile and apparel companies run in the form of sweatshop. Workers do not receive fair payment and are overworked in terrible working conditions. CSC9000T is aimed at preventing harmful action to stakeholders and improve the performance of CSR in the textile and apparel industry, and requires companies to perform responsibility in areas of discrimination, child labour, legal working hours, legal remuneration, trade union and collective bargaining, safety and health, environmental protection, and fair competition.²¹² The system will set up the codes of conduct above the requirement of labour contractual law, and improve the poor conditions and performance of CSR in the industry. For example, the law forces employers to ensure occupational health and safety in production, while CSC9000T provides detailed policies and responsibility in consultation and communication with employees; emergency responses to health and safe crisis; checking and corrective action; and so on. In addition, CSC9000T also mentions the function of trade union and collective bargaining, which does not appear in the labour contractual law. This guideline also provides the standard of information disclosure, such as GRI, that industrial companies will publish information in the form as instructed by CSC9000T and self-check the level of application according to the specific standards.

2.4 Summary

²¹¹ SA8000, see *supra* note 86.

²¹² CSC9000T, available at: <http://www.csrchina.net/page-566.html>, last accessed on 12 March 2014.

Under the new trend of conducting business, CSR is strongly required, but easily avoided in the new forms such as outsourcing and subcontracting, so that stakeholders' CSR benefits might be harmed in the complex business process. With technological development, stakeholders have various means of access to knowledge on and monitoring companies' CSR performance. When people take CSR seriously, consumers and investors would regard CSR achievement as a vital issue in decision-making. As a result of public need and market pressure, CSR is largely stimulated in the new era. The law provides definitions of social, environmental and sustainable issues, and broadens the public notion and scope to CSR. More importantly, when regulation and the public both require companies to disclose information, companies' social performance would be presented to, and monitored by, the public so that it leads to the implementation of CSR in corporate governance and enhances companies' corporate image.

CSR is voluntary and goes beyond legislation. However, the law affects the concept, scope and implementation in many aspects. Soft law is also the main basis of CSR and is not binding, but extends the effect of hard law to CSR in the form of codes of conducts or guidelines. The broad use of such standards would also provide practical resources to the development and innovation of hard law. Under the indirect legal effect, a series of voluntary initiatives are developed as codes of conduct, such as international guidelines and national standards. Contractual parties can voluntarily set up CSR clauses in contracts. However, the contractual duty is enforced under general law. Information disclosure and its monitoring are some of the main approaches to ensuring the achievement of CSR and the credibility of its performance, and have been widely applied in corporate governance worldwide.

As regards the general method and concept of CSR adopted globally, the UK is experienced and has effectively implemented CSR for decades. Stakeholder engagement is

strongly recommended as a strategy to meet their needs and ensure companies' success as a whole by means of standardized voluntary guidelines and information disclosure among numerous companies, especially FTSE-listed companies on the London Stock Exchange Market. The process of stakeholder engagement is fulfilled through providing stakeholder information, getting feedback from them, and involving them in companies' development of CSR. In this process, boards of directors should insist on CSR and its integration into long-term stakeholder benefit and corporate governance. Among the complex stakeholders' needs, individual companies will identify the relative importance of interests and efficiently make decision on the basis of stakeholder salience.

The application of SR in socially focused institutions stimulates companies' exercise of CSR, because companies have to enhance attraction to SRI investors through improving corporate reputation and CSR performance. In the meantime, owing to the governmental deficit in the UK, unemployment, inflation, unfair payment and other problems arose, so that the government strongly encourages companies to fulfil CSR to reduce the governmental burden. The government has created many instructions and non-mandatory initiatives to encourage CSR.

Contrary to the UK, China is a developing country with an emerging market. CSR was only mentioned as late as about 20 years ago. However, the notion of ethical conduct among the public dates back to Confucian theory. After the emergence of the new China, all enterprises in the period of planned and collective economy were centrally controlled under hierarchical governance of the Chinese government. This dilemma caused the Chinese economic development largely to fall behind the international level.

Until 1978, Deng Xiaoping's 'open policy' boosted the national economy and companies were encouraged to gain benefits by any means. The imbalanced and chaotic economic

development led to many negative effects, and a crisis in the domestic and global market. CSR was urgently needed to optimize the domestic market and seek international business partners. At the start of CSR there were varied mistaken notions of, and barriers in, economic, social and political aspects. However, CSR is still being developed in China with respect to its legal basis, voluntary initiatives, Chinese SRI, and relevant CSR assessment and verification.

Chapter 3: United Kingdom Companies' Corporate Social Responsibility in Employment: Case Studies

The employee is one of the most important internal stakeholders in a company and is treated as the human capital, which is as vital as physical capital to the fate and operation of the corporate.¹ Managers are strengthening their approach to inculcating CSR in employees, as already analysed in Chapter 1 of this thesis, in order to enhance team production, avoid shirking among employees and to reduce the governance cost of employment in reaching long-term objectives. Corporate motivations for achieving CSR in the labour dimension includes attracting and maintaining a qualified workforce with potential for development; establishing positive relations with staff; enhancing productivity; simplifying risk management of human resources; facilitating access to credit when creditors take SRI into account when deciding on their investment; increasing credibility; and strengthening the brand and company reputation.²

The UK is a pioneer in the field of CSR and has comprehensive experience in implementing it. UK companies meet their CSR in employment through varied approaches to corporate governance. Under the complete mechanism of information disclosure, the public would get access to information on, and to monitor company's performance in terms of, their CSR. This chapter, therefore, relies on UK companies'

¹ Internal stakeholders are people who are already committed to serving the company as owners, board members or employees. External stakeholders are people who are impacted by companies' work as clients, customers, suppliers and communities.

² ILO, International Instruments and Corporate Social Responsibility: A Booklet to Accompany Training, the Labour Dimension of CSR; From Principles to Practice, available at: http://www.ilo.org/empent/Publications/WCMS_101247/lang--en/index.htm, last accessed on 18 November 2013.

published information to undertake an empirical analysis of the strategies and techniques UK companies have adopted in the exercise of their CSR in employment. The objective is to examine in detail how high-level aspirations for CSR are translated into practice across the range of issues that are relevant for CSR in employment.

3.1 Overview

Through data collection, the OECD concluded that the characteristics of CSR in employment are a reasonable working environment; compliance with laws; no discrimination; respect for human rights (including no child labour and no forced labour); reasonable working hours and flexible working time; provision of training; monitoring; and other relevant issues.³ Furthermore, Section 417 of the UK Companies Act 2006 requires that a business review forms part of the director's report, except in the case of small companies. The director's report should demonstrate how directors fulfilled their duty to promote the success of the company.⁴ The business review is necessary to fairly describe the company's performance and development, and should include an easily understandable analysis of financial indicators, and environmental and employee matters.⁵ Furthermore, the requirement that listed companies report on their business review goes far beyond the main trends and factors affecting the company's performance,

³ OECD Codes of Corporate Conduct: Expanded Review of Their Contents, Working Papers on International Investment. OECD Directorate for Financial, Fiscal and Enterprise Affairs, No. 2001/6, May 2001, available at: <http://www.oecd.org/industry/internationalinvestment/corporateresponsibility/1922656.pdf>, last accessed on 18 March 2013.

⁴ Companies Act 2006 Ch. 46, Sections 172; The Companies Act 2006 (Strategic Report and Directors' Report) Regulation 2013, 414C (4) and (7).

⁵ See the Companies Act 2006 (Strategic Report and Directors' Report) Regulation 2013, 414A and C (6) and Part 3 Amendments to the Large and Medium-sized Companies and Groups (Accounts and Reports) Regulations 2008, *supra* note 4. Medium-sized companies need not comply with subsection (4) if the information relates to non-financial performance.

development and position, and must include environmental matters, the company's employees, and social and community issues.⁶ This kind of information emerged as the format for reporting on CSR and resulted in a CSR report or a sustainability report, which could be a stand-alone document or be included in the company's business review. KPMG defined the need for a CSR Report as the de facto law for business: 'companies are increasingly realizing that CSR reporting is about more than just being a good corporate citizen; it drives innovation and promotes learning, which helps companies grow their business and increase their organization's value'.⁷ In KPMG's *International Corporate Responsibility Report 2011*, it stressed the function of CSR in employment as enhancing employee motivation at work, which was generally taken seriously by top global businesses.⁸ Using the legal minimum standard as a basis, CSR in employment should also be exercised through varied voluntary initiatives, such as national and international guidelines, and codes of conduct. At this point it is necessary to refer to stakeholder engagement (here 'employee engagement'), reporting and monitoring in an effective CSR management system. In the sections that follow the approaches to CSR in employment, most of which were introduced in the previous chapter, are described.

The approach to, and implementation of, CSR in employment is reflected through research conducted into companies' CSR reports, including codes of ethics, and CSR policies that are relevant to CSR in protecting employees. In the fundamental research, CSR reports (or relevant materials) were selected from FTSE 100 companies in 2013,

⁶ Ibid, 414C (7).

⁷ KPMG, 'Corporate Responsibility Report Has Become De facto Law for Business', KPMG Research, available at: <http://www.kpmg.com/Global/en/IssuesAndInsights/ArticlesPublications/corporate-responsibility/Pages/de-facto-business-law.aspx>, last accessed on 4 May 2014.

⁸ KPMG, *International Corporate Responsibility Report Survey 2011*, 18–19, available at: <http://www.kpmg.com/Global/en/IssuesAndInsights/ArticlesPublications/corporate-responsibility/Documents/2011-survey.pdf>, last accessed on 4 May 2014.

excluding the financial sectors and media (32 companies), and from 32 randomly picked companies in the industries of non-finance and non-media (100 companies in total) that published their annual report or CSR report on the website of the *Financial Times* database or corporate website.⁹ Taken together, these 100 companies provide a representative sample of large companies that are subject to the UK CSR reporting regime in Section 417 of the Companies Act 2006. According to the general research, most of the companies' CSR reports are categorized into compliance with laws; ensuring health and safety at work; respect for human rights; employees' training and development; and fair payment and benefits. These categories are generally in accordance with the focused issues in the OECD research into corporate governance in the area of employment.¹⁰ In addition, assessment of the efficiency and reliability of CSR reports also depends on the effective implementation of employee engagement in corporate governance and the achievement of CSR, and applicable reporting mechanism and its monitoring.

3.2 General CSR initiatives in employment

⁹ CSR reports in most financial companies and media are not applicable, and they seldom publish this kind of report, because work in the two sectors is high income, but comparatively low occupational risk and offence. In the industries of finance and media less labour is needed, so that the violation of human rights or labour rights does not happen as frequently as in the industries of construction, transportation, manufacturer and other labour-focused sectors. See also, [ft.com/markets](http://markets.ft.com/markets) data, available at: <http://markets.ft.com/research/Markets/Company-Content?segid=90058>, last accessed on 18 May 2013.

¹⁰ 'Corporate Responsibility Practice in the Area of Employment and Industrial Relations', OECD-ILO Conference on 'Corporate Social Responsibility: Employment and Industrial Relations; Promoting Responsible Business Conduct in a Globalizing Economy', 23–24 June 2008, OECD Conference Centre, Paris, France. The OECD implemented data collection among the FTSE ALL World Developed Index to evaluate the quality of CSR management systems in employment. This paper focuses on the following issues: equal opportunities, trade union membership, job security and training, health and safety, human rights, and supply chain labour standards. Among the selected UK companies researched in this thesis, most reported statements on their CSR with respect to health and safety, human rights, fair payment, employee training and development, and employee engagement.

The following paragraphs will demonstrate how companies achieve CSR in employment based on the factors mentioned above, not only by complying with legislation, but also referring to other voluntary initiatives. This research was obtained from their CSR reports. A summary of the collected data is set out in the Table 1 in Appendix.

3.2.1 Compliance with minimum legal standards

Legislation is not the standard for the achievement of CSR, but the minimum legal basis and overview for companies to implement voluntary actions in different aspects. From the CSR reports studied it is clear that employers have adopted precise national and international legal regulations when exercising CSR towards their employees. There are three examples to demonstrate how legislation amply ensures employees' rights at work, namely in the fields of (i) health and safety, (ii) human rights, and (iii) fair payment.

3.2.1.1 Health and safety

Most companies alleged in their CSR reports that they complied with the regulations of the UK Health and Safety Executive.¹¹ Despite these statements, the reports lacked detailed illustration of which regulation had specifically been complied with, since there are two main pieces of legislation on health and safety in the workplace. The first is the Health and Safety at Work etc. Act 1974, Section 2 of which compels employers to apply the general and reasonable practice of ensuring employees' health, safety and welfare at

¹¹ The Health and Safety Executive is the executive sector of the UK government and is mainly responsible for public health and safety.

work.¹² Section 2(3) requires employers to make everything safe and harmless for anyone at workplace.¹³ The second piece of legislation is the expanded Workplace (Health, Safety and Welfare) Regulation 1992 that specifically sets requirements ranging from ventilation, temperature in indoor workplaces, and working in hot or cold environments, to floors and traffic routes, and transparent doors, gates and windows.¹⁴ Especially with regard to working in hot or cold environments, employers are required to take a higher duty of care of employees by introducing engineering measures to control the thermal effects in a workplace environment, doing medical pre-selection of employees to ensure that they are suited to working in a particular environment, providing training, taking the necessary precautions and so on.¹⁵

Besides the general regulations about health and safety, the UK government also established various pieces of legislation to safeguard employees' health and safety regarding different worksites: for example, a few CSR reports in the construction industry published their compliance with the Work at Height Regulations 2007 (Amendment), which provides instructions on dealing with people 'working at height engaged in caving or climbing by way of sport, recreation, team building or similar activities'.¹⁶ Employers have the duty to ensure that 'all work at height is properly planned and organized; those

¹² Health and Safety at Work etc. Act 1974 Ch.37, Section 2. It is a UK Act of 2011 which defines the fundamental structure and authority for the encouragement, regulation and enforcement of workplace health, safety and welfare in the UK.

¹³ Ibid.

¹⁴ Health and Safety Executive, Workplace Health, Safety and Welfare: A Short Guide for Managers, available at: <http://www.hse.gov.uk/pubns/indg244.htm>, last accessed on 17 September 2013; see Workplace (Health, Safety and Welfare) Regulation 1992/3004.

¹⁵ Further requirements and advice on thermal comfort in the workplace can be checked on the Health and Safety Executive's website at: <http://www.hse.gov.uk/temperature/thermal>, last accessed on 17 September 2013.

¹⁶ The Work at Height Regulations (Amendment) 2007/320 came into force on 6 April 2007 and was derived from Work at Height Regulations 2005/735.

involved in work at height are competent; the risks from work at height are assessed and appropriate work equipment is selected and used; the risks from fragile surfaces are properly controlled; and equipment for work at height is properly inspected and maintained.¹⁷

Additionally, health and safety requirements for employers also depend on the different industrial sectors in which potential crises in issues of health and safety exist, such as the construction, transportation, chemical manufacturers, and textile and apparel manufacturers.¹⁸ The legislation in the construction sector, the Construction (Design and Management) Regulations 2007 (hereinafter 'CDM'), is one of the main industrial legal requirements that appeared in some of the CSR reports, and covers general duties applying to all construction projects, additional duties applicable to notifiable construction projects, that is, those lasting more than 30 days or involving more than 500 person days of construction work; and practical requirements for all construction sites.¹⁹

3.2.1.2 Human rights

Human rights is another important issue in the achievement of CSR in employment that is regulated in the UK and globally through numerous pieces of legislation related to equal

¹⁷ Ibid.

¹⁸ It refers to different statutory requirements of health and safety in different industries, such as polluted air emission, protective clothing or masks, protection on different worksites and so on. Therefore, not only the general legislation in health and safety regulates employers' accountability, but also specific industrial regulations.

¹⁹ The new CDM Regulations 2007/320 (which entered into force on 6 April 2007) revise and bring together the CDM Regulations 1994 and the Construction (Health Safety and Welfare) Regulations 1996 into a single regulatory package. Construction is a disproportionately dangerous industry where improvements in health and safety are urgently needed. CDM regulations raised the complexity and official approach to duty holders about how to prevent accidents and protect employees' health and safety at construction work.

opportunity, discrimination, child labour and so forth. International legal human rights requirements are largely derived from ILO conventions with respect to race, gender, disability, religion, ethnic origin, age and sexual orientation, which are broadly adopted among the majority of the companies researched.²⁰ The main conventions relevant to international labour standards are the Freedom of Association and Protection of the Right to Organize Convention (No. 87) 1948, Right to Organize and Collective Bargaining Convention (No. 98) 1949, Forced Labour Convention (No. 29) 1930, Minimum Age Convention (No. 138) 1939 and Discrimination (Employment and Occupation) Convention (No. 111) 1958.²¹ They offer the international foundation for UK employers regarding compliance with the protection of employees' human rights at work. Furthermore, the UN Universal Declaration of Human Rights is popularly applied in companies as the legal basis for the protection of human rights.²²

UK domestic legislature also issued a series of regulations and governmental policies to enforce human rights on employers. Some data showed that companies complied with the UK Equality Act 2010, which is based on ILO standards, in ensuring employees' human rights related to age, disability, gender reassignment, marriage and civil partnership,

²⁰ See OECD–ILO Conference on Corporate Social Responsibility, *supra* note 10.

²¹ The main ILO Conventions can be found on the ILO website, at: www.ilo.org/ilolex/index.htm, last accessed on 19 January 2013; see also International Instruments and Corporate Social Responsibility, *supra* note 2.

²² The Universal Declaration of Human Rights, is a declaration adopted by the UN General Assembly at Palais de Chaillot, Paris, on 10 December 1948. The declaration arose directly from the experiences in World War II and represents the first global expression of rights to which all human beings are inherently entitled. The Universal Declaration of Human Rights is treated as:
a common standard of achievement for all peoples and all nations, to the end that every individual and every organ of society, keeping this Declaration constantly in mind, shall strive by teaching and education to promote respect for these rights and freedoms and by progressive measures, national and international, to secure their universal and effective recognition and observance, both among the peoples of Member States themselves and among the peoples of territories under their jurisdiction.

pregnancy and maternity, race, religion or belief, and sex and sexual orientation.²³ The Disability Discrimination Act 1995, which provides requirements for the prohibition on discrimination against, and providing convenience and priority for disabled employees, has been adopted by a minority of companies researched.²⁴

3.2.1.3 Employees' fair payment

More than 95% of companies expressed the view in their CSR report that they paid their employees a fair wage and offered them paid holidays, but did not clarify the specific legislation with which they were complying. In terms of the Employment Rights Act 1996, employees have statutory rights to reasonable and fair payment, paid holidays, and child-care during working time.²⁵ Moreover, around ten labour-focused companies, especially in the area of construction, and textile and apparel, showed their performance in terms of flexible working time and parental leave. The UK governmental department for BIS provides details on, and explanations of, how employees should apply flexible working time and parental leave through legal rights.²⁶

In addition, the data collected showed that a few companies alleged that they protected employees' minimum wage rights on the basis of the National Minimum Wage Act 2012

²³ Equality Act 2010 Ch. 15.

²⁴ Disability Discrimination Act 1995 Ch. 13. This is an Act of the Parliament of the UK which has now been repealed and replaced with the Equality Act 2010, except in Northern Ireland where the Act still applies. Formerly, it made it unlawful to discriminate against people in respect of their disabilities in relation to employment, the provision of goods and services, education and transport.

²⁵ Employment Right Act 1996 Ch. 8. It is a UK Act of Parliament passed by the Conservative government to codify the existing law on individual rights in UK labour law. It has been substituted by Employment Rights Act (Increased Order) 2010 that came into force on 1 February 2011.

²⁶ BIS: Giving Everybody the Rights to Flexible Working, available at: <https://www.gov.uk/government/publications/giving-everybody-the-right-to-flexible-working>, last accessed on 1 November 2013.

and mentioned the lowest payment based on the different rate in each year. The national minimum wage rate in 2012 for people at 21 years of age and over, between 18 and 21 years, under 18 years, and apprentices were £6.19, £4.98, £3.98 and £2.65 respectively.²⁷ This is guaranteed to low-income worker's payment during employment and avoids the over-exploitation of labour without proper payment.

3.2.2 Voluntary CSR initiatives in employment

In addition to compliance with minimum legal standards for employees' protection, CSR in employment should be achieved through voluntary initiatives as discussed in Chapter 2, such as national and international guidelines, codes of conduct, and recommendations. The companies researched showed that UK employers adopted domestic and global guidelines, and codes of conduct to stimulate CSR in employment in corporate governance.

3.2.2.1 National initiatives

On the basis of legislation, NGOs set up a large number of guidelines and initiatives to assist them in achieving CSR in employment. The Advisory, Conciliation and Arbitration Service (hereinafter 'ACAS') is one of the main organizations that provides approaches to improve organizations and working life through better employment relations.²⁸ For

²⁷ The Minimum Wage Rate can be found on the BIS website, available at:

<https://www.gov.uk/national-minimum-wage-rates>, last accessed on 1 November 2013. This rate is for apprentices under 19 years of age or those in their first year. If they are 19 years or over and have passed their first year of study, the rate that applies to their age group can be obtained.

²⁸ ACAS is largely funded by the BIS, but is a non-departmental body, governed by an independent council that was founded in 1975. It is aimed at determining the strategic direction, policies and priorities, and ensuring the statutory duties are carried out effectively. Official website available at: <http://www.acas.org.uk/index.aspx?articleid=1342>, last accessed on 23 January 2014.

instance, a few companies mentioned the ACAS booklet dealing with the protection of equality and diversity to ensure human rights in the workplace in their CSR report as the instruction they followed on how to improve their relations with their employees. The booklet advised and guided employers and employees on how to establish harmonious relations at work, and avoid the violation of human rights, such as discrimination and unequal opportunities. ACAS also offered the service of the Equality Direct Helpline for employers and employees to consult and report any violation.²⁹

Moreover, sectoral organizations or committees also implement industrial guidelines in employers' labour practices. In the field of construction, the UK construction industry established the Considerate Construction Scheme (hereinafter 'CCS') to provide a national initiative namely the Code of Considerate Practice to registered companies in order to encourage and instruct companies to exercise CSR towards their employees and other stakeholders beyond the statutory requirements.³⁰ Of the companies in the construction field, 30% showed their registration and control under CCS to highlight the quality and safety of their buildings and employers.

3.2.2.2 International initiatives

²⁹ ACAS, Delivering Equality and Diversity Booklet, available at: [http://www.acas.org.uk/media/pdf/l/e/Acas_Delivering_Equality_and_Diversity_\(Nov_11\)-accessible-version-Apr-2012.pdf](http://www.acas.org.uk/media/pdf/l/e/Acas_Delivering_Equality_and_Diversity_(Nov_11)-accessible-version-Apr-2012.pdf), last accessed on 18 January 2013.

³⁰ CCS is concerned about any area of construction activity that may have a direct or indirect impact on the image of the industry as a whole. Construction sites and companies that register with the scheme are monitored against a Code of Considerate Practice, designed to encourage best practice beyond statutory requirements. Overview of CCS, available at: <http://www.ccscheme.org.uk/index.php/ccs-ltd>, last accessed on 18 January 2013; see also Code of Considerate Practice, available at: <http://www.ccscheme.org.uk/index.php/company-registration/how-to-be-very-considerate/company-code-of-considerate-practice>, last accessed on 18 January 2013.

In the CSR reports, about 70% of companies indicated that they applied international initiatives to improve the performance of CSR in employment. Among them, only four companies used the principle of the OECD Guidelines, while the rest of them frequently adopted the ILO Declaration and the UN Global Compact in their CSR reports.

The Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy is derived from ILO Conventions. However, it differs from the ILO Conventions in that it is not ratified by governments. The declaration is the voluntary initiative used to guide and encourage the positive contribution of multinational enterprises to make economic and social progress, minimize and resolve difficulties and disputes, and establish good relations among enterprises, governments and employers and worker organizations in the labour dimension of CSR.³¹ According to paragraphs 8–12 of the MNE Declaration, it 'invites multinational enterprises, governments, employers' and workers' organizations to respect national laws and regulations; give due consideration to local practices; respect international standards concerning human and labour rights; and honour commitments in conformity with national law and accepted international obligations.'³² In addition, it gives recommendations with respect to employment, training, conditions of work and life, and industrial relations. The declaration entirely guides employment promotion, equality of opportunity and treatment, security of employment, skills training leveraging, employees' wages and benefits, occupational health and safety, and the freedom of employees to associate, and collective bargaining.³³ It is the complete guide for companies to use in the exercise of their CSR in employment

³¹ The text of the MNE Declaration is updated regularly to include references to new instruments adopted by the International Labour Conference and the Governing Body that are of relevance to the issues it covers. The most recent update was in March 2006, available at:

http://www.ilo.org/empent/Publications/WCMS_094386/lang--en/index.htm, last accessed on 12 October 2013; see also International Instruments and Corporate Social Responsibility *supra* note 2, 13.

³² See MNE Declaration, General Policy, *supra* note 31, paragraphs 8-12.

³³ See International Instruments and Corporate Social Responsibility, see *supra* note 2, 13-17.

in corporate governance, and tells employees what rights and priorities should be ensured in employment relations.

The UN Global Compact came about after companies had recognized the need to collaborate and partner with governments, civil society, labour and the UN.³⁴ As pointed out in Chapter 2, the UN Global Compact generates ten universal principles in the fields of human rights, labour, the environment and anti-corruption, and the core of the network is the Global Compact Office and six UN specialized agencies.³⁵ Among the ten principles, the topics on human rights and labour are closely related to achieving CSR in employment relations. Distinguished from other international initiatives in CSR, the UN Global Compact invites companies to join formally, no matter the size or form of the company. The company only needs to send a letter from the CEO of the UN Global Compact (and endorsed by the board of directors) to the UN Secretary-General expressing support for the UN Global Compact and its principles, and set in motion changes to business operations so that the compact and its principles become part of the strategy, culture and day-to-day operations.³⁶ The UN Global Compact does not police or control corporate operation in CSR through any detailed initiatives or guidelines, but requires companies to broadly commit the ten principles in different activities and events

³⁴ Overview of UN Global Compact, available at:

<http://www.unglobalcompact.org/AboutTheGC/index.html>, last accessed on 12 April 2013.

³⁵ The six UN specialized agencies are the (i) United Nations High Commission on Human Rights (hereinafter 'UNHCHR'), (ii) ILO, (iii) United Nations Environment Programme (UNEP), (iv) United Nations Office on Drugs and Crime (UNODC), (v) United Nations Development Programme (UNDP), and (vi) United Nations Industrial Development Organization (UNIDO).

³⁶ Business participation of UN Global Compact, available at:

http://www.unglobalcompact.org/HowToParticipate/Business_Participation/index.html, last accessed on 12 April 2013. Sample letter to participate in the UN Global Compact is also available at:

http://www.unglobalcompact.org/docs/how_to_participate_doc/Business_Commitment_Letter.pdf, last accessed on 12 April 2013.

globally and locally by implementation, disclosure and promotion.³⁷ Additionally, the compact is a collaboration between governments, employer organizations, workers organizations, civil society organizations and academia. It will more effectively and broadly improve and encourage the achievement of CSR, especially in employee protection, within entire and specific aspects.

3.2.3 Employee engagement

Stakeholder engagement is a vital aspect in CSR that is recommended in AA1000, which a few select companies had adopted as a strategy in employee involvement.³⁸ According to CSR in the labour dimension, it is essential to give employees access to engage in CSR in corporate governance so that employers are able to communicate and obtain authentic feedback from employees.

OECD guidelines stress the effective recognition of employees' rights to collective bargaining and workers' representatives or trade unions, which are voluntary organizations that employees are able to consult, negotiate with, and bring grievances and disputes to, through representatives.³⁹ It is a huge project for a corporate board to get information from individual employees, so employers communicate with workers'

³⁷ See Overview of UN Global Compact, see *supra* note 34.

³⁸ AA1000 Stakeholder Engagement Standard 2011 (the final draft), available at: <http://www.accountability.org/images/content/3/6/362/AA1000SES%202010%20PRINT.PDF>, last accessed on 12 November 2012.

³⁹ Collective bargaining is a process of negotiations between employers and a group of employees aimed at reaching agreements that regulate working conditions. The interests of the employees are commonly represented by representatives of a trade union that belong to employees. In the UK Trade Union and Labour Relations Act 1992, *trade union* is defined as 'an organization to deal with the relation between whole or part of workers (or workers' representatives) and employers (employers' association)'. See UK Trade Union and Labour Relations (Consolidation) Act 1992 Ch. 52; see also International Instruments and Corporate Social Responsibility, *supra* note 2, 13; see also MNE Declaration, *supra* note 31.

representatives to solve any matter with employees through such organizations within the company, industry, nationally or internationally.

ACAS provides a code of practice on discipline; grievances, including on how to raise a grievance; a whistle-blowing policy to report wrongdoings at work; and on how employers should proceed with a grievance hearing and resolve disputes.⁴⁰ If an employee is not satisfied with the resolution of his or her grievance, he or she can appeal but should inform the employer of the reasons for the appeal without unreasonable delay and in writing. The employee has the right to be accompanied at the appeal meeting, and the outcome of the appeal should be given to the employee in writing without delay.

More than 70% of companies use the instructions as a basis to introduce numerous policies and voluntary initiatives to achieve employee engagement, in order to efficiently remove the gap and dispute in relationships of employment. In terms of the published information, companies carry out a series of measures to implement employee engagement, such as a whistle-blowing policy, annual face-to-face interview, employee questionnaires or polls. This is the primary and most up-to-date information from employees regarding their advice and opinion on corporate governance and CSR.

3.2.4 Information disclosure and monitoring

Information disclosure is the access stakeholders and the public have to information on how companies achieve CSR in corporate governance, and it includes reporting on CSR in employment. In this area there is a regulatory requirement about voluntary reporting on

⁴⁰ ACAS Code of Practice on Discipline and Grievance, April 2009, available at: http://www.acas.org.uk/media/pdf/k/b/Acas_Code_of_Practice_1_on_disciplinary_and_grievance_procedures-accessible-version-Jul-2012.pdf, last accessed on 14 February 2014.

the workplace and through recommended initiatives. For instance, nearly 25% of companies explicitly provided information in CSR reports about the use of Reporting of Injuries, Diseases and Dangerous Occurrences Regulations (hereinafter 'RIDDOR') which is the law that forces employers and other people who are in control of work premises to report and keep record of work-related deaths, serious injuries, cases of diagnosed industrial disease, and certain dangerous occurrences within the UK.⁴¹ This regulation is to ensure that employers collect the minimum amount of information for further checks on the protection of safety and prevention of occupational diseases. It is a valuable tool to assist in risk assessment and the improvement of solutions to potential risk in the workplace.

Additionally, many companies have adopted the GRI as the fundamental framework to report on CSR in employment through voluntary approaches. GRI is the reporting guideline on economic, environmental and social performance through sustainable reports, CSR reports or annual financial reports with respect to civil society, labour, the environment, human rights and so on.⁴² GRI also verifies the completion of information in reports through the paid-service GRI Application Level Check⁴³, and free-charge

⁴¹ Health and Safety Executive, Reporting Accidents and Incidents at Work: A Brief Guide to the Reporting of Injuries, Diseases and Dangerous Occurrences Regulations (RIDDOR), available at: <http://www.hse.gov.uk/pubns/indg453.pdf>, last accessed on 19 November 2013.

⁴² The GRI guideline is being developed and the latest generation is G4; all information is available at: <https://www.globalreporting.org/Pages/default.aspx>, last accessed on 19 November 2013

⁴³ There are three levels, Levels A, B and C, in the GRI Report Template, which are (i) advanced, (ii) intermediate and (iii) entry level respectively. Level C is intended for entry-level reporting organizations. For this level, there is no need to report on a set of the Profile Disclosures (1.1; 2.1-2.10; 3.1-3.8; 3.10-3.12; 4.1-4.4; 4.14-4.15). It is not necessary to report on the Disclosures on Management Approach (hereinafter 'DMAs'), but the company should report fully on at least ten key performance indicators, either core or additional, including at least one from each Indicator Dimension (i.e., Economic, Environmental and Social), available at: <https://www.globalreporting.org/resourcelibrary/G3.1-Application-Levels.pdf>, last accessed on 8 March 2014; see also GRI Application Levels: All You Need to Know, available at:

service Sustainability Disclosure Database that the GRI provides so that companies can self-examine their CSR performance. Companies merely upload their company GRI with a self-declared level of application, and the GRI application level check and the system will verify whether the report contains the required set and number of disclosures to meet the organization's self-declared application level.⁴⁴ If incomplete information is found in a report, the GRI will inform the company that it needs to improve the relevant statement and enhance the quality or accuracy of the report.⁴⁵

The UN Global Compact also requires all voluntarily registered companies to disclose their implementation of Global Compact principles through their annual reports, sustainability reports, or other published reports. The UN Global Compact will monitor the quality and authenticity of the report, which should reflect the practical actions that employers have taken to carry out the principles of the UN Global Compact in the previous fiscal year, and evaluation of outcomes or expected outcome using applicable indicators.⁴⁶

An effective reporting system is needed to provide records on, and reference to, the monitoring system that is aimed at auditing companies' authentic performance and the effect of CSR in corporate governance as the reporting system exposes any wrongdoing in decision-making and operations. The process is implemented through internal monitoring by stakeholders and external auditing by third-party organizations respectively. The data collected for research purposes indicated that most of the CSR

<https://www.globalreporting.org/information/news-and-press-center/Pages/Application-Levels-all-you-need-to-know.aspx>, last accessed on 8 March 2014.

⁴⁴ See GRI Sustainability Disclosure Database, *supra* note 43.

⁴⁵ See GRI Application Level Check, *supra* note 43.

⁴⁶ See Overview of UN Global Compact, *supra* note 34.

reports were accompanied by an effective monitoring system to ensure the validity and authenticity of companies' exercise of CSR and the CSR report itself.

Most companies published manuals, codes of conduct and reports on a public website or Intranet on how they protect employees' rights and perform CSR in the labour dimension. Employees can directly examine their employer's performance in CSR through routine work which will be an accurate and objective evaluation of whether employers acted according to their code of conduct as stated in their reports. In the research it was found that more than 75% of companies had adopted an independent audit through third-party assurance companies or external verification by professional organizations, so that the quality of the report and relevant performance would be ensured and evaluated objectively.

Besides the use of the UN Global Compact and GRI Index, UK industries also provide a service to monitor companies' performance of CSR in employment with respect to different aspects. For example, CCS's monitor will assess the registered companies' performance against the scheme's Company Code of Considerate Practice, and offer guidance and suggestions on how to perform to a higher level. All companies publishing their registration in CSR reports will be controlled and monitored by the CCS mechanism and if the company's performance satisfies the monitoring standard, it will be awarded the CCS Certificate of Registration.⁴⁷

3.3 Methodology

⁴⁷ The monitoring is limited within the registered companies or worksite in CCS Scheme. Information about CCS monitoring is available at: <http://www.ccscheme.org.uk/index.php/company-registration-com/how-to-be-considerate-company/monitoring-company>, last accessed on 18 September 2013.

The analysis above illustrates the ways in which CSR is practised and different aspects of it in employment that are directly backed up by 90 CSR reports.⁴⁸ This chapter explores how UK companies exercise CSR to employees through demonstrated initiatives and beyond them. Since it is impossible to collect primary data from a huge number of companies through interviews or focus groups, the database in this thesis dependent entirely on companies' information disclosure in their CSR report, sustainability report, annual report and the like. The data obtained from the published reports of the companies studied are divided into five sectors, namely (i) health and safety, (ii) equality, (iii) training and development, (iv) fair payment, and (v) employee engagement. On the basis on information disclosure, effective monitoring will be the vital factor to judge the authenticity and reliability of the CSR reports in each column. The comparison and analysis of 90 CSR reports with respect to how UK companies improve CSR in employment will be approached from two directions (Table 1).

The first approach is the so-called divisional comparison to set up companies as the variable and separately compare them in individual divisions (i.e., health and safety; equality; training and development; welfare and fair payment; employee engagement; and reporting and monitoring). Among the six divisions, first five issues will be individually analysed through examples to present how companies exercised CSR in corporate governance. According to the last division, an analysis of reporting and monitoring is included in every divisional comparison as the main standard to evaluate the quality of companies' information disclosure and CSR performance. For each of the first five aspects, four companies in total were selected as examples, two for good and two for bad, which is reflected only through the selected CSR information disclosure. In this model

⁴⁸ Among the 100 companies selected, there are 10 companies with little information on CSR or information that is not applicable to CSR, (i.e., Burberry, Glencore and Intercontinental Hotel), so that CSR reports of these companies were not available. The total number of researched reports used in this thesis is 90.

there is no objective scoring of companies' information disclosure, so that the examples do not refer to the quality of reports as being or good or bad. It is relatively easy to distinguish extremely good or bad CSR reports from one another, but difficult to rank a number of reports without an objective standard to score the CSR precisely in different aspects; in other words, information disclosure in individual companies will also be judged subjectively by varied users. As in the KPMG analysis, due to the lack of a regulatory sustainability reporting standard, it was observed that consistent and accessible information on CSR was problematic.⁴⁹ Moreover, with respect to the exercise of CSR in employment, it is not as quantified as the performance of CSR in the environment or charity that can be evaluated through quantified standards. For example, the achievement of CSR in the environment can be evaluated directly through a series of numbers, such as the regulatory amount of pollutant emission. However, to some extent, there is no objective standard in the exercise of CSR in employment, namely how many hours of training should be provided to employees, or how many employees had been involved in employee engagement per year. Therefore, it is difficult to score the performance of CSR towards employees objectively through quantified data. In these circumstances the index of positive CSR towards employees depends on companies' reports which provide detailed information on how companies performed in specific factors, and necessarily adopts the independent monitoring of CSR reports to ensure the validity and authenticity that can be screened by the public. Unsatisfactory CSR achievement reporting is due to lack of detailed and understandable information, and effective monitoring mechanism to improve the credibility of the CSR report.

⁴⁹ KPMG Press, Corporate Responsibility Reporting Hits All-time High but Lacks Financial Reporting Rigour, available at: <http://www.kpmg.com/Global/en/IssuesAndInsights/ArticlesPublications/Press-releases/Lists/Expired/corporate-responsibility-reporting.aspx>, last accessed on 19 September 2013.

The second approach is the so-called comprehensive comparison to take the six divisions as variables and place them entirely in the same company. Through the comprehensive comparison among reports on CSR, the analysis provides good and bad examples according to the respective achievements of CSR towards employees as a whole in respect of their interests in the five categories not only on the basis of legal regulation, but also through voluntary initiatives. Good CSR reports containing descriptions in the first five issues also reflected a valid reporting and monitoring system to ensure that the information and data in the report were reliable. In terms of the comprehensive comparison, the standard of required information in the CSR reports was simpler and only depended on the available information provided in each column. If the report fulfilled the requirements of a detailed description in terms of the five dimensions with qualified reporting method and effective audit, it would be defined as a good-quality report; while if the CSR report only provided information on fewer than three aspects in a brief statement, it would be treated as bad-quality reporting. Among the good-quality published reports, the one with the most comprehensive statement and reliable monitoring system was selected as an example of good reporting in this chapter.

3.4 Divisional comparison

In this section the examples of information reported were compared based on divisional comparisons among 90 companies and the information was analysed in terms of each aspect, including health and safety, human rights, training and development, fair payment, and employee engagement, with approaches of information disclosure and monitoring. Positive and negative examples will present how companies sufficiently or inadequately achieved their CSR in employment in every sector, complying with minimum legal standards and advanced voluntary initiatives.

3.4.1 Health and safety

In the division of the 90 CSR reports, the issue of health and safety is reflected in all reports although to a different extent. In this section two examples will demonstrate, in terms of CSR reports, how companies achieve CSR in respect of health and safety in employment, including compliance with laws, the health and safety executive, reporting and auditing. Two negative cases will illustrate the shortcomings when companies implement CSR in health and safety through reported information.

3.4.1.1 Examples of good reporting

i Redrow PLC

Redrow PLC (hereinafter 'Redrow') is one of the UK's top residential and mixed-use property developers, aiming to be the developer of choice for customers, employees, landowners, suppliers, subcontractors and investors. The company believes that it has a good reputation for imaginative design, build quality and customer service, with the qualified skills needed to complete a wide range of developments; from large greenfield sites to complex brownfield regeneration schemes. Its success is based on acquiring and adding value to land for the benefit of investors, customers, employees and suppliers, as well as for the good of local communities. Redrow tries to maintain environments where people want to live or work, and can appreciate and enjoy their surroundings.⁵⁰

⁵⁰ Redrow is aiming at leadership through qualified action. The relevant information and introduction of Redrow PLC can be found on the company's website, available at: <http://www.redrowplc.co.uk/About-Redrow/Company-Activities/>, last accessed on 12 March 2013.

Redrow not only publishes its CSR report annually, but also extended its CSR to specific annual reports in terms of different issues, such as a health and safety annual report, and a diversity annual report. According to the latest Redrow Health and Safety Annual Report 2011, as house builder and construction company, it established the Safety Law in Action to comply with all UK safety laws as the minimum standard of CSR.⁵¹ The regulations in the UK government department of Health, Safety and the Environment were broadly used, namely CDM Regulations 2007, Work at Height Regulations 2007, Manual Handling Operations Regulations 1992 and Workplace Transport Guidance.⁵² It is said that compliance with the relevant health and safety standards highlights the guidance and advice about false behaviour and consequences, such as fines or other penalty. That will give the general and basic notion about how to implement health and safety policies for employees in an architectural company.

Moreover, Redrow applied the Home Builder Federation (hereinafter 'HBF') Health and Safety Charter to achieve the aim of the charter, which is 'safe by design, safe to construct, safe to live in, and safe to maintain' through the Action Plan, which provided detail to support the overall aim of the HBF Charter.⁵³ Using the industrial aim of health

⁵¹ Redrow Health & Safety Annual Report 2011, available at: [http://www.redrowplc.co.uk/images/file/HS%20Report%202010-11\(2\).pdf](http://www.redrowplc.co.uk/images/file/HS%20Report%202010-11(2).pdf), last accessed on 17 February 2013.

⁵² See CDM Regulations 2007, *supra* note 19; see also Work at Height Regulations 2007, *supra* note 16; The Manual Handling Operations Regulations 1992 requires an employer to carry out a risk assessment on all manual handling tasks that pose an injury risk. The employer's duty is to avoid manual handling as far as reasonably practicable if there is a possibility of injury. The Manual Handling Assessment Chart is used to assess the risks posed by lifting, lowering, carrying and team manual handling activities, available at: <http://www.hse.gov.uk/msd/backpain/employers/mhor.htm>, last accessed on 19 January 2013; Workplace Transport Guidance includes a series of instructions about transport at work, including Delivery Safely, Preventing Slips, Trips and Falls from Vehicles and etc., available at: <http://www.hse.gov.uk/pubns/tranindx.htm>, last accessed on 19 January 2013.

⁵³ Home Builders Federation (hereinafter 'HBF') is the voice of the home-building industry in England and Wales, and represents member interests on a national and regional level to create the best possible climate

and safety as a basis, the Action Plan would precisely arrange the activities in routine work to ensure health and safety in the workplace through a voluntary CSR approach.

In Redrow, health and safety executives set up a Health and Safety Team to create a health and safety policy; organize health and safety training; and to manage all health and safety issues. Health and Safety Committees were established at both divisional and group level to highlight health and safety problems, provide solutions and communicate relevant issues to employees.⁵⁴

In the 2011 reporting year, in order to work correctly and provide complete protection, the Health and Safety Team implemented respiratory protective equipment (hereinafter 'RPE') and supplied a face piece which matches each individual worker's face.⁵⁵ The face-fit testing and RPE selection process were carried out by competent people who had been trained by the Health and Safety Laboratory. Redrow had also arranged medical tests on forklift truck operators that were aged over 40 years to ensure that they were fit to drive. In this year 51 operators were medically examined and all were competent to work and declared fit by the external specialists.⁵⁶

In addition, Apprentice Safety Awareness Training is one of the main missions of the Health and Safety Team. The apprentice programme would intensify safety awareness with respect to the moral and legal reasons for health and safety; accident statistics; risk assessment on construction sites; employees' duties under laws and companies' policy;

in which they can deliver the homes needed. The HBF Health and Safety Charter was launched in May 2004 . It should be supported by an action plan in companies, available at:
http://www.hbf.co.uk/policy-activities/news/browse/1/view/health-and-safety-charter/?encryptionKey=&tx_tnews%5BbackPid%5D=2265&cHash=89b8cb43cc, last accessed on 19 January 2013.

⁵⁴ Redrow Health & Safety Annual Report 2011, *supra* note 51.

⁵⁵ *Ibid.*

⁵⁶ *Ibid.*

health and safety hazards; and relevant protection.⁵⁷ Apprentice Safety Awareness Training is an effective approach to letting people who enter the construction industry for the first time know what the health and safety issues and crises in the workplace are, teaching them to avoid harm due to omission and incorrect operation.⁵⁸

Furthermore, the Health and Safety Team hosted Safety Awareness Days involving directors and Health and Safety Alerts to communicate with both top executives and employees about health and safety issues.⁵⁹ This initiative enabled the Director of Health and Safety to spend sufficient time discussing, highlighting and solving vital health and safety topics at work. The staff, in turn, would be advised and warned according to major and potential health and safety issues.

In the system of health and safety reporting, Redrow strictly complied with RIDDOR and adopted the Group accident potential rate (hereinafter 'APR') and the Group accident incidence rate (hereinafter 'AIR') as its key performance indicators (hereinafter 'KPIs').⁶⁰ The reports also compared the rates with previous data and analysed the nature of accidents. Redrow noted in its report that 'unfortunately, our AIR is above the HBF's all builder average for this period, this is the first time this has happened in the five years HBF have been providing sector figures.'⁶¹ The reports were objective, and did not blindly present the company's health and safety achievement. In addition, Redrow disclosed information about the cost of accidents and compared it with previous numbers

⁵⁷ Ibid.

⁵⁸ Ibid.

⁵⁹ Ibid.

⁶⁰ Ibid.

⁶¹ The data can be found in Redrow Health & Safety Annual Report 2011, *supra* note 51. The report does not disclose the KPI of AIR in HBF. However, if the AIR rate is higher than the HBF data, it means that the company's annual AIR index did not reach the HBF average standard.

and the average cost of accidents reported to the British Safety Council, which is another index to reflect the accident rate in companies.

According to the reporting and achievement of CSR in respect of health and safety in employment, Redrow accepted both internal and external auditing by corporate and public executives. Within the company, the Health and Safety Improvement Scheme was used to evaluate the effectiveness of the health and safety management systems that could be audited by all divisions and staff during the whole year. All potential risks, and unhealthy and unsafe behaviour during work could be reported to the Health and Safety Team. Outside the company, all reportable accidents, including the APR and AIR were notified to the Health and Safety Executive under RIDDOR, so that the authenticity of the accident reports would be monitored by the health and safety executive.

ii G4S PLC

G4S PLC (hereinafter 'G4S') is a British multinational security services company headquartered in Crawley that specialises in outsourced business processes and facilities in sectors where security and safety risks are considered a strategic threat, with expertise in the assessment and management of security and safety risks for buildings, infrastructure, materials, valuables and people.⁶² The security services are provided for cash solutions; government solutions and non-governmental solutions, including securing the delivery of government services and premises at home and abroad; protecting critical supply chains and crucial national assets; ensuring the safety of travellers and the

⁶² The introduction of G4S is published on company's official website, available at: <http://www.g4s.com/en/Who%20we%20are/>, last accessed on 4 May 2014.

efficiency of the international transport system; optimising the cash cycle; assuring the customer experience and so on.⁶³

G4S's 2011 CSR Report did not reflect detailed compliance with national laws, but generally stated that the company had completely adopted all health and safety laws nationally and internationally. It alleged that it had fulfilled its corporate duty under health and safety legislations to avoid risk to employees, customers and the public. Legislation regarding the prohibition of alcohol and drugs in the workplace was especially stressed in its health and safety management. In G4S, Occupational Health and Safety Advisory Services (hereinafter 'OHSAS') 18001 was applied in issues of health and safety management and its risk management system; and the Secure Solutions (UK), Integrated Services (for the Met Office site) and Utility Services businesses integrated OHSAS18001 in the company's system of operation.⁶⁴ Using the national guideline as a basis, G4S also set up the equivalent health and safety management systems in its Cash business. OHSAS18001 has become the internal assessment standard for the robustness of the company's health and safety management systems.

As the largest employer on the London Stock Exchange, G4S's health and safety goals are to maintain positive relationships when interacting with the public; reduce slips, trips and falls at work; reduce risks to drivers out on the road; maintain safety in custodial and detention environments; and to mitigate the risks of working in complex environments.⁶⁵

⁶³ Ibid.

⁶⁴ OHSAS is a British standard for occupational health and safety management systems. It exists to help all kinds of organizations put in place demonstrably sound occupational health and safety performance. It is widely seen as the world's most recognized occupational health and safety management systems standard. The website is available at: <http://www.bsigroup.co.uk/en-GB/ohsas-18001-occupational-health-and-safety/>, last accessed on 13 March 2013.

⁶⁵ As the biggest security solution company, health and safety is a vital issue to employees and even to the corporate fate. The missions of G4S in health and safety were concluded from G4S CSR Report 2011,

In 2011 G4S formed the Risk Committee that meets with the board of directors twice a year to discuss and analyse the management of risk, and the quality of corporate governance in health and safety in detail.⁶⁶ Communication between the health and safety executive and the board would give access to the shortcomings in health and safety management, and improve the relevant policy when making decisions.

G4S offers varied secure solutions in different fields, and the company tries to stamp out violence at work with the Violence at Work Policy, stating that it would not tolerate violence in anyone's occupation and non-consensual violence against its employees.⁶⁷ Therefore, G4S implemented Enhanced Physical Intervention (hereinafter 'EPI') training for its Secure Solution employees who were regarded as being most at risk of violence at work. The CSR Report noted that the frequency of violence involving Secure Solution employees reduced from 0.914 to 0.501 between 2009 and 2011.⁶⁸ G4S also made a huge investment in an overall pavement protection system to provide specially fitted body armour that is manufactured in the UK and meets the needs of security professionals by providing protection against knives, spikes, bullets and blunt trauma. The body armour thus prevents serious injury in armed attacks.⁶⁹

G4S adopted the RIDDOR reporting system to publish the injury and risk of health and safety at work. The health and safety report was audited by the British Safety Council and National Security Inspectorate. G4S won the BSC Five Star Award in 2011 after the audit, which provides a detailed and objective evaluation of a company's health and safety

available at: http://www.g4s.com/~media/Files/CSR%20Reports/G4S_CSRR11.ashx, last accessed on 13 March 2013.

⁶⁶ See G4S CSR Report 2011, *supra* note 65.

⁶⁷ *Ibid.*

⁶⁸ *Ibid.*

⁶⁹ *Ibid.*

management system, pointing out the strengths and weakness in its system and offering a systematic approach to continual improvement.⁷⁰ Moreover, the CSR Report stated that the health and safety management system of G4S Secure Solution was awarded gold approval by the NSI as third-party verification.⁷¹ This was in recognition of the efforts taken by the company to ensure regular and accredited training for G4S managers, effective risk assessments and authentic reporting of incidents.

Internal supervision was broadened among employees through the positive action introduced that any visible or potential violence or risk in any form in the workplace could be reported to the health and safety executives by employees, so that the threat of health and safety at work would be easier to discover and avoided in its corporate operations. However, compared with the CSR Report of Redrow, G4S lacks an external audit to objectively evaluate the performance of CSR towards employees in respect of health and safety in the workplace.

3.4.1.2 Examples of bad reporting

Among the 90 CSR reports, there are two examples of CSR reports that did not reflect complete and detailed information on the issue of health and safety, namely Rolls-Royce PLC and Great Portland Estates PLC. The CSR reports of these two companies published a general statement about how they achieved their CSR in respect of health and safety policy in employment, but not the precise implementation of the individual aspects, such as how they complied with legal minimum standards.

i Rolls-Royce PLC

⁷⁰ Ibid.

⁷¹ Ibid.

Rolls-Royce Limited is a world-famous English car- and aero-engine-manufacturing company founded by Charles Steward Rolls and Sir Frederick Henry Royce on 15 March 1906 as the result of a partnership formed in 1904. In 1971 Rolls-Royce was crippled by the costs of developing the advanced jet engine, resulting in the nationalization of the company as Rolls-Royce (1971) Limited. In 1973 the car division was separated from the parent company as Rolls-Royce Motors. Rolls-Royce (1971) Limited continued as a nationalized company until it was privatized in 1987 as Rolls-Royce PLC (hereinafter 'Rolls-Royce').⁷² Rolls-Royce generally discloses information on sustainability in the Rolls-Royce Annual Report. However, the presentation of sustainability does not cover the issue of employees' health and safety at work. The relevant reporting is published on Rolls-Royce's official website in the form of a health, safety and the environment (hereinafter 'HSE') policy.

First, on its website, Rolls-Royce set up the goal of achieving health and safety at work, including creating a safe and healthy working environment with no injury, no work-related ill-health, no environmental incidents; and preventing or minimizing the negative impacts of its products and services.⁷³ In this regard, both employers and employees are expected to implement effective action to ensure healthy and safe working conditions and manufacturing environment; and to avoid any accident or injury in the workplace.

Second, Rolls-Royce stated that the company would set up high standards for HSE in answer to the relevant regulatory requirement for best practices; manage HSE issues and

⁷² An overview of Rolls-Royce is published on the official website, available at: <http://www.rolls-royce.com/about/whatwedo/>, last accessed on 29 May 2014.

⁷³ The Rolls-Royce HSE Policy, available at: http://www.rolls-royce.com/Images/PolicyStatement_UK_tcm92-56979.pdf, last accessed on 29 May 2014.

impacts throughout its corporate operation and drive continual improvement; integrate HSE into business conduct and processes; ensure employees have HSE training and access to health and safety professionals; and get feedback and opinion from stakeholders in order to improve HSE.⁷⁴

According to Rolls-Royce's information disclosure, it introduced the goal of attaining employees' health and safety at work in brief bullet points which lacked precise description of how it achieved this in practice. Compared with the good reporting examples cited above, Rolls-Royce did not present what the company had implemented in terms of employees' health and safety in relation to the standards in its HSE Policy. Moreover, although Rolls-Royce's Annual Report was verified through external audit by KPMG, the independent audit only referred to the reported information in the Annual Report. The HSE Policy and standards were not audited by third-party verification, with the result that the quality and reliability of information disclosure in respect of employees' health and safety could be doubted.

ii Great Portland Estates PLC

Another example of bad reporting is Great Portland Estates PLC (hereinafter 'Great Portland') which is a British property development and investment company, listed on the London Stock Exchange and featured on the FTSE 250 Index. The company is based in London and the great majority of its assets are in London. It mainly owns office buildings, with a smaller amount of retail property.⁷⁵ As in the case of Rolls-Royce instead of a specific CSR report on health and safety issues, Great Portland also generally published

⁷⁴ Ibid.

⁷⁵ The corporate information on Great Portland Estates PLC may be found on the company's website, available at: <http://www.gpe.co.uk/about-us.aspx>, last accessed on 17 March 2013.

related information on its company website. As a big property and investment company which owns many buildings, although it aims to maintain a high standard of health and safety, and reduce the risk and harm not only to its customers, but also its employees, it had not clearly stated its CSR performance relevant to the health and safety of employees.

Great Portland disclosed its health and safety policy on its website. It reads as follows: 'Great Portland acknowledges and accepts its legal responsibilities for securing the health, safety and welfare of all of its employees, of contractors working on premises over which it has control, of visiting members of the public, and all others affected by their activities.'⁷⁶ Furthermore, the 'Board of Directors is committed to ensuring the health and safety of Company employees and all those affected by its activities as far as is reasonably practicable. The Company recognizes that current legislation is the minimum standard to which all objectives should be set and will strive to ensure that relevant Legislation, Approved Codes of Practice and Health and Safety Executive Guidance Notes are met.'⁷⁷

Except for the statement in its health and safety policy, there is no relevant illustration of how company executives complies with the Approved Codes of Practice, legislation and Health and Safety Executive Guidance, and with which laws and codes of practice the company conformed. It did not make the CSR report on health and safety particular to Great Portland, because any company could allege the adoption of legislation or codes of practice.

⁷⁶ Great Poland Estate Health and Safety Policy, available at: http://www.gpe.co.uk/media/215490/health_and_safety_policy_2012.pdf, last accessed on 18 March 2013.

⁷⁷ Ibid.

Moreover, the company did not mention any issue with respect to the reporting of accidents and injury at work, and auditing of corporate operations in health and safety to employees. Reporting is defective if companies' CSR report lacks a reporting mechanism, so that the public is unable to get access to information on the company. As mentioned in previous chapters, information disclosure is one of the main aspects in CSR. Therefore, weak reporting on health and safety in the workplace indicates that CSR in the case of Great Portland is incomplete. In addition, how health and safety operations are monitored externally and internally is not known from Great Portland's description. If the company was not monitored by a third party or stakeholders, the authenticity of corporate action and reportable data would be challenged, because it is impossible to obtain information about how and what the company has exercised to safeguard the health and safety of its employees in the workplace.

3.4.2 Human rights

According to the research conducted into 90 CSR reports, the issue of human rights is demonstrated in more than 98% of reports, although to a different extent. In this section, two examples will be used to demonstrate, in terms of CSR reports, how companies achieve CSR in terms of human rights in employment, including compliance with laws, human rights executives, reporting and auditing. Two cases will illustrate the shortcoming when companies implement CSR in human rights through report information. A large number of ILO Conventions are adopted as the basis for the voluntary implementation of human rights, namely the Right to Organize and Collective Bargaining Convention (No. 98), 1949; Forced Labour Convention (No. 29), 1930; Abolition of Forced Labour Convention (No. 105), 1957; Minimum Age Convention (No. 138), 1973; Worst Forms of Child Labour Convention (No. 182), 1999; Equal Remuneration Convention (No. 100), 1951; and Discrimination (Employment and Occupation) Convention (No. 111), 1958.

3.4.2.1 Examples of good reporting

i Pentland PLC

Pentland PLC (hereinafter 'Pentland') 'was founded in the early 1930s in Liverpool, England. It was then called the Liverpool Shoe Company because it dealt purely in shoes; first as a wholesale shoe business, then expanding into a manufacturing business. Always displaying innovation and creativity, Pentland was one of the first companies to manufacture from Asia, forming a division in Hong Kong in the early 1960s.'⁷⁸ In terms of Pentland's history, the company had invested heavily in the Asian market due to the low-cost labour available, especially in China, India, the Philippines and so on. Among the multinational companies that manufactured in developing countries, the abuse of human rights, to some extent, occurred, namely in respect of overtime work, child labour, poor working conditions and so forth.⁷⁹ Pentland published annual Corporate Responsibility Reviews that show complete protection of employees' human rights, both at home and abroad. The human rights policy could be summarized through CR Review to support and respect the protection of internationally proclaimed human rights; to make sure that employees are not complicit in human rights abuses; to uphold the freedom of association and the effective recognition of the right to collective bargaining; to eliminate all forms of forced and compulsory labour; and to uphold the effective abolition of child labour.

⁷⁸ An introduction to Pentland PLC may be found on the company's website, available at: <http://www.pentland.com/about-us/history.aspx>, last accessed on 26 February 2013.

⁷⁹ Ibid.

In Pentland's CSR Review there was little statement regarding compliance with the legal minimum standard in UK legislation. It only mentions that all legal requirements about employment of migrant workers should be met. However, the CSR reviews recorded the adoption of various international conventions to regulate human rights related to employees.⁸⁰ Based on the UN International Covenant on Economic, Social and Cultural Rights (1966),⁸¹ Pentland realized that it needed to balance employees' rights at work and rights to family life, and took part in a Work-Life Balance Action programme in Asia.⁸² The company applied ILO 87 on Freedom of Association and Protection of the Right to Organize to support employee participating in trade union activities and collective bargaining.⁸³ Moreover, ILO Child Labour Conventions were used by Pentland to protect child labour and forbid the violation of human rights.⁸⁴

With respect to human rights management, the company offered various solutions that were reported in its CSR reviews. Its CSR Review 2009 stated that each office in the

⁸⁰ The actions of safeguarding human rights were reported in Pentland CR Review 2009, available at: http://www.pentland.com/_resources/files/downloads/communications/2009-corporate-responsibility-review.pdf, last accessed 19 June 2013.

⁸¹ International Covenant on Economic, Social and Cultural Rights (hereinafter 'ICESCR'): A multilateral treaty adopted by the UN General Assembly on 16 December 1966, and in force from 3 January 1976. It commits its parties to work towards the granting of economic, social and cultural rights (hereinafter 'ESCR') to individuals, including labour rights and the right to health, the right to education, and the right to an adequate standard of living. Until October 2012, the Covenant had 160 signatories, available at: <http://www2.ohchr.org/english/law/cescr.htm>, last accessed on 17 June 2013.

⁸² See Pentland CR Review 2009, *supra* note 80.

⁸³ ILO 87 on Freedom of Association and Protection of the Right to Organize is an International Labour Organization Convention that is one of 8 ILO fundamental conventions, available at: http://www.ilocarib.org.tt/projects/cariblex/pdfs/ILO_Convention_87.pdf, last accessed on 17 June 2013; see also MNE Declaration, *supra* note 31.

⁸⁴ The two main conventions focusing on child labour are Convention No. 138 on the Minimum Age for Admission to Employment 1973 and Convention No. 182 on the Worst Forms of Child Labour 1999, available at: <http://www.ilo.org/ipec/Action/Time-BoundProgrammes/Legal/Conventions/lang--en/index.htm>, last accessed on 17 June 2013.

Asian area had organized activities to balance labourers' work and life, such as a flexible lunch break, leaving work on time, neck and shoulder massages, healthy fruit baskets and morning yoga classes.⁸⁵ In order to improve employees' communication, they were encouraged to join trade unions and labour organizations. For example, by the end of 2009, Pentland had six labour suppliers in China, so that it co-operated with the suppliers and the All-China Federation of Trade Unions (hereinafter 'ACFTU'), which is the sole legal workers' organization in China, to support workers entering affiliated unions and strengthen the representative structure.⁸⁶ Additionally, Pentland made an effort to eliminate discrimination against migrant workers and homeworkers in developing countries, because the rights of migrant workers and cheap homeworkers were sometimes overlooked. The company ensured that its workers were treated equally, legally and properly; that it paid the return travel fares of its pregnant migrant workers; provided medical and health treatment to workers; offered accident insurance and social security; and so on.⁸⁷ Furthermore, Pentland's human rights management concerned three main areas of child labour: (i) young workers in factories between the minimum working age and 18 years; (ii) verification of age; and (iii) children working with their families as homeworkers. It effectively abolished the abuse of human rights among child labour and gradually abolished the use of child labour.⁸⁸

Corporate action of safeguarding human rights was monitored in Pentland in that the diversity and inclusion monitoring system was improved to enhance the collection of employee diversity data as part of the company's recruitment process.⁸⁹ The monitoring

⁸⁵ See Pentland CR Review 2009, *supra* note 80.

⁸⁶ *Ibid.*

⁸⁷ *Ibid.*

⁸⁸ *Ibid.*

⁸⁹ The diversity monitoring system was reported in CR Review 2011, available at: http://www.pentland.com/_resources/files/downloads/pentland-cr-review-2011-ungc-cop.pdf, last accessed on 19 June 2013.

system would audit the company's achievement of human rights to ensure the diversity and inclusion among many workers. In addition, Pentland is signatory to the UN Global Compact so that, as required, its CR reports were edited on the basis of the ten principles of the UN Global Compact and, simultaneously, the authenticity of its CSR report would be monitored by the organization. Furthermore, Pentland participated in the World Federation of the Sporting Goods Industry (hereinafter 'WFSGI') which, as the industrial association, monitors members' sustainable achievement in corporate governance.⁹⁰

ii Coats PLC

Coats PLC (hereinafter 'Coats') was established in the 1750s, and is the world's leading industrial thread and textile crafts business and the largest supplier of sewing thread, with operations throughout the world.⁹¹ It employs over 20,000 employees in 70 countries across six continents. The company serves in the apparel, footwear and accessories industries. Technical threads and engineered yarns are comparatively less in need of technology, but there is a high demand for labour.⁹² Therefore, Coats invested in, and worked with, many overseas partners, and runs the plants or manufacturers in developing countries where the cost of labour is much lower than in the UK.⁹³ As the company owns a large number of employees, Coats took serious action to ensure the human rights of its workers in the workplace.⁹⁴ The company provided annual CSR reports to demonstrate

⁹⁰ The World Federation of the Sporting Goods Industry is a non-profit organization one of whose functions is to keep its members updated on important law and regulations such as on product safety and standardization or on working conditions. It acts as the voice of the sporting goods industry towards international organizations (e.g., ILO, WTO and UN) and international sports organizations, available at: <http://www.wfsgi.org>, last accessed on 19 June 2013.

⁹¹ The history and introduction of Coats PLC is published on the official corporate website, available at: <http://www.coats.com/index.asp?pageid=18>, last accessed on 4 May 2014.

⁹² Ibid.

⁹³ Ibid.

⁹⁴ Ibid.

its CSR within each financial year. However, the protection of human rights is not presented in the company's CSR report, but in individual human rights statements published on its website.

Coats's human rights statement does not precisely illustrate how the company complied with the legal minimum standard in this field. Nevertheless, it employed workers in many countries, and so was required to adopt the legal regulations in human rights within the legal framework of the respective country in which its labourers worked;⁹⁵ for example, workers have the right to collective presentation. However, the legislation regarding collective or trade union presentation is different in different countries. Therefore, respecting workers' rights to associate or join unions should be based on the local legal requirement. Within the group, the UN Universal Declaration of Human Rights and Convention of the Rights of the Child were applied to corporate governance to ensure workers' human rights and to resist the violation of the human rights of child workers.⁹⁶

In human rights management, Coats's policy is 'to encourage all employees to develop their potential, skills and abilities, and recognizes its future depends on attracting and developing the right calibre of employees. No employee or job applicant will receive less favourable treatment on the grounds of race, colour, religion, language, indigenous status, caste, nationality, ethnic origin, gender, sexual orientation, marital status, union

⁹⁵ Coats PLC Equal Opportunity Statement, available at:

[http://www.coats.com/assets/files/cms/Coats_EqualOpps_web\(1\).pdf](http://www.coats.com/assets/files/cms/Coats_EqualOpps_web(1).pdf), last accessed on 18 December 2012.

⁹⁶ United Nations Convention on the Rights of the Child is a human rights treaty that sets out the civil, political, economic, social, health and cultural rights of children, and defines a *child* as 'any human being under the age of eighteen, unless the age of majority is attained earlier under a state's own domestic legislation'. Nations that ratify this convention are bound to it by international law and will be monitored by the UN Committee on the Rights of the Child, which is composed of members from countries around the world, available at: <http://www.unicef.org.uk/UNICEFs-Work/Our-mission/UN-Convention/>, last accessed on 12 December 2012; see also Coats PLC Equal Opportunity Statement, *supra* note 94.

membership, political affiliation, age or disability.⁹⁷ The safeguarding of human rights is mainly reflected in the elimination of discrimination: Coats alleges that it offers a fair wage, benefits and equal opportunities to all employees in the company's human rights report on its website. The reported data in 2011 noted that national diversity was found in the senior management group (of 105), which has representatives of 25 different nationalities. Women were also playing an increasing role, with 18 currently in the senior management group (up from 12 in 2011, and 9 in 2010), and a 42% presence in its global employee headcount.⁹⁸ Moreover, Coats held various training sessions for international employees which made them aware of the fact that they should be treated with dignity respect, honesty, integrity and fairness. The programme also trained workers how to avoid harassment and discrimination at work.

Coats applied the GRI to ensure the quality of reported information, together with information related to performance indicators and any disclosure items, as well as guidance on specific technical topics in reporting. The disclosures and the performance data reported meet the requirements of the Global Reporting Initiative's application level 'C'.⁹⁹ In addition to the reporting system, Coats also set up and expanded an internal auditing system among employees, especially in China. The CSR Auditor Team in Coats China, the accredited Lead Auditors, developed their own CSR Internal Auditor Training Programme, using Compliance Practitioners Initiative materials, and sharing their experience and knowledge by playing the trainer's role.¹⁰⁰ The internal auditor training programme, aimed at enhancing the efficiency of monitoring CSR achievement as a whole in corporate governance, ensures that the protection of human rights is contained

⁹⁷ See Coats PLC Equal Opportunity Statement, *supra* note 95.

⁹⁸ Coats statement in *Our People*, available at: <http://www.coats.com/index.asp?pageid=131>, last accessed on 18 December 2012.

⁹⁹ See GRI Application Level Check, *supra* note 43.

¹⁰⁰ See Coats statement in *Our People*, *supra* note 98.

in the general goal, so that auditing has become the vital tool used to scrutinize the exercise of CSR in a company and examines the truth about the reported CSR statement.

3.4.2.2 Examples of bad reporting

Two examples of companies were selected for the purposes of this research to explain that their CSR reports did not publish complete and detailed information on the issue of human rights, namely FirstGroup PLC and Kier PLC. The CSR reports in these two companies merely noted the general statement that the companies had roughly and unilaterally achieved the safeguarding of human rights in CSR in employment, without providing precise information on individual aspects, such as how they complied with the legal minimum standards, executed executive solutions to safeguard human rights, and exercised reporting and auditing systems.

i FirstGroup PLC

FirstGroup PLC (hereinafter 'FirstGroup') is the leading transport operator in the UK and North America, is listed on the London Stock Exchange and appears on the FTSE 250 Index.¹⁰¹ With revenues of over £6.5 billion per annum and approximately 124,000 employees, it transports more than 2.5 billion passengers every year.¹⁰² It is a leading bus operator in the UK with a fleet of 8,000 buses, carrying approximately 2.6 million passengers every day, that connects a vast number of communities including 40 of the UK's largest towns and cities. It operates approximately a quarter of the UK's passenger

¹⁰¹ FirstGroup business information is published on the company's website, available at: http://www.firstgroup.com/corporate/our_company/, last accessed on 12 March 2013.

¹⁰² Ibid.

rail network, carrying over 300 million passengers a year, with a balanced portfolio of intercity, commuter and regional franchises, and one open access operator.¹⁰³

As a huge transport operator, the prerequisite for corporate operation is a large number of employees, so that safeguarding people's human rights at work is a vital issue in the group's corporate governance. However, FirstGroup's exercise of CSR in human rights was not presented in detail in its CSR reports. First, for example, in its CSR Report 2012, it did not refer to any national or international legal basis to inform its safeguarding of human rights. Second, in the same report, the company only emphasized the equal opportunities between women and men workers. It said that it 'recognise[d] the under-representation of women in our UK operations and in the boardroom. We aspire for 20% of Board positions to be filled by women by 2015. Through our succession-planning programme, we aim to improve the diversity of representation in our senior management positions. This year, women comprised one third of our graduate intake. We are also working with Women 1st, a skills sector programme which helps young women develop leadership skills.'¹⁰⁴ This paragraph is the main description of the company's CSR performance in terms of human rights in its 2012 CSR report. The issues of discrimination, child labour and freedom of association were not mentioned at all.

In addition, it was reported that training was only offered to develop supervisors of human rights programmes, but no mention was made of the detailed implementation of the supervision of human rights. Reporting on performance in ensuring a human rights and monitoring mechanism were shortcomings, and rated the reports low in credibility.

¹⁰³ Ibid.

¹⁰⁴ FirstGroup CR Report 2012, available at:

<http://www.firstgroup.com/assets/pdfs/cr/2012/cr-2012-corporate-responsibility-report.pdf>, last accessed on 12 March 2013.

ii Kier Group PLC

Kier Group PLC (hereinafter 'Kier') is a construction, services and property group active in building and civil engineering; support services; public and private home-building; land development; and the Private Finance Initiative (hereinafter 'PFI') that comprises a UK-wide network of regional contracting business and major projects expertise in the UK and overseas.¹⁰⁵ The Kier Services division provides a full life-cycle service for buildings in both the public and private sectors, including reactive and planned building maintenance, grounds maintenance and a host of other services.¹⁰⁶ It is listed on the London Stock Exchange and features on the FTSE 250 Index.

Kier did not formally publish any CSR report. All information in this regard can only be found on the company's website. In terms of reportable CSR data, compared with other CSR issues, the company's statement on human rights is the most incomplete. First, as is the case with FirstGroup PLC, it lacks clear reference to minimum legal compliance with legislation on human rights, so that it is difficult to know whether the company fundamentally protects employees' human rights as the law requires. Second, the reporting information on the safeguarding of human rights was too vague to obtain detail on the process. It stated that 'Kier has worked hard during the past year to take its equality and diversity strategy to a new level that exceeds industry standards . . . Our strategy statement will relate to our approach on the following areas: age; disability; flexible working; gender equality; harassment and bullying; racial equality, supplier

¹⁰⁵ The information of Kier PLC is reported on the company's website, available at: <http://www.kier.co.uk/about/default.asp>, last accessed on 29 November 2013.

¹⁰⁶ Ibid.

diversity; religion and belief; sexual orientation.'¹⁰⁷ Through this general information, it is impossible to identify how Kier precisely accomplishes human rights in various aspects within its corporate governance. Third, the website contains no information on the exercise of human rights, which means that the public would not have access to knowledge about the true situation related to corporate action in human rights. In the open market where information disclosure is taken more seriously, the lack of reportable information would make a company unacceptable to, and shunned by, the public.

3.4.3 Training and development

Human resources are closely related to the corporate fate of any company. They can be compared to individual components working together in a machine. Therefore, ensuring the development and training of employees is not only to achieve CSR, but also to sustain the corporate lifecycle. From the research conducted on the 90 CSR reports it is evident that all companies implemented all kinds of training and development to broaden their employees' career. Among the reports, not one referred to compliance with laws on this issue, because little legislation regulates career development in employment, and any training and development is voluntary and depends on companies' individual requirements. Barratt PLC and Orascom Construction PLC published precise information, either through reports or on their website to illustrate how they improved their people.

3.4.3.1 Examples of good reporting

i Barratt PLC

¹⁰⁷ Information on Kier PLC's CSR is published in the section on Corporate Responsibility on the company's website, available at: <http://www.kier.co.uk/responsibility/section.asp?Id=3>, last accessed on 29 November 2013.

Barratt PLC (hereinafter 'Barratt') was founded in 1958 and is one of the largest residential property development companies in the UK.¹⁰⁸ It has been listed on the London Stock Exchange since 1968 and features on the FTSE 250 Index. It employs a large number of employees: in the 12 months to 30 June 2012 only, Barratt directly employed over 4,500 people who undertake a variety of roles and skills in order to produce residential and commercial developments, ranging from basic workers to sales advisers; planners to designers; and construction teams to maintenance group.¹⁰⁹ Therefore, Barratt provided a series of programmes to develop employees on three levels: (i) professional training to workers, (ii) induction and development to apprentice and graduates, and (iii) improvement to senior management.¹¹⁰

First, in the Barratt Sustainability Report 2012 the company alleged a real commitment to 'succession planning' and enabling individuals to achieve their career aspiration, namely that everyone in the group should get access to learning opportunities in order to build their career in the company.¹¹¹ Under these circumstances, Barratt Academy was established to combine professional training (on site and in the classroom) with industry-accepted qualifications that aimed to deliver craft and trade specialists, site managers, and people with specialist technical and commercial knowledge.¹¹² The Customer Service and Sales Training Programme was designed to support sales advisers

¹⁰⁸ The information of Barratt PLC can be found on the company's websites, available at: <http://www.buildingcareerstogether.co.uk/About-us/>; <http://www.barrattdevelopments.co.uk/barratt/en/home/>, last accessed on 2 December 2013.

¹⁰⁹ Ibid.

¹¹⁰ Ibid.

¹¹¹ Barratt PLC Sustainability Report 2012, available at: http://www.barrattdevelopments.co.uk/barratt/uploads/csr/41648_Barratt_SR_WEB_READY.pdf, last accessed on 2 December 2013.

¹¹² Ibid.

in understanding the procedures, policies and regulatory frameworks involved in the process; develop their skills and techniques in proactive selling; and gaining commitment from their clients.¹¹³ The training also allowed the experienced sales advisers to have a direct impact on profitability and prepared them to develop into a coaching role.

Second, Barratt also offered apprentices and graduates various courses for training and development. The Benchmark course was for newcomers to receive the same welcome, the same information and the same opportunity for full and complete induction regardless of their role in the company.¹¹⁴ It is an activity-based induction programme designed to provide all that individuals need during their first few weeks in the Barratt Group. Benchmark has two key elements: the one contains generic activities introducing newcomers to Barratt, while the other focuses on the new role and the specific knowledge and skills needed to do the job.¹¹⁵ In addition, Barratt innovated an independent website to publish training and development opportunities to all people in the company.¹¹⁶ On this website, it introduced the programme to graduates who are prepared to take on challenging leadership roles in the future and to undergraduates who are given the opportunity to work on real projects during vacations.¹¹⁷ It was stated in Sustainability Report 2012 that 'a total of 24 graduates have successfully completed the programme in 2012. They have all been placed into roles within the business, with some being appointed to junior management roles'.¹¹⁸ The training opportunities offered to graduates and undergraduates would attract many more potential applicants in future and enhance the corporate image in recruitment.

¹¹³ Ibid.

¹¹⁴ Ibid.

¹¹⁵ Ibid.

¹¹⁶ Ibid.

¹¹⁷ Ibid.

¹¹⁸ Ibid.

Third, Barratt organized different training courses to improve the performance of its leadership, the so-called Elevations, Breaking New Management Ground and Paving the Leadership Way. Elevations help middle managers step up their skills, knowledge and management capability for the future, including setting the Barratt Standard, interpersonal skills, organizational skills, and managing change, leadership, coaching for success, personal impact making meetings work and behavioural interviewing skills.¹¹⁹ This practical training would enhance middle managers' ability at work and increase the competition in higher leadership. Breaking New Management Ground is aimed at developing the skills of divisional directors and group heads of department who should master skills needed to lead specialist teams. In order to produce leaders at higher levels of performance, the modules cover training in the following: managing and leading, goal setting and problem solving, positive influencing, self-management, building high-performance teams, coaching, and presentations.¹²⁰ The training in the routine skills of leaders would perfect senior managers' performance and make them more valuable in corporate governance. Paving the Leadership Way is a comprehensive career programme that focuses on high performance leadership skills and helps senior managers reach even higher levels of management.¹²¹ It is divided into six parts, including building the frameworks of the future, leading with impact, positively influencing, teamworking strategically, transition and change, and mentoring.¹²² According to statistics contained in its Sustainability Report 2012, all these courses were delivered to over 600 people across the business, which would bring profit to the company, enhance the efficiency of the management team, and develop personal careers in and outside the company.¹²³

¹¹⁹ Ibid.

¹²⁰ Ibid.

¹²¹ Ibid.

¹²² Ibid.

¹²³ Ibid.

Although Barratt had established a comprehensive and recommended framework to record training and development in the company, the reported information is still flawed as information about auditing was not mentioned in the company report or on its public website. Unlike in the case of ensuring health and safety or human rights, there are few specific organizations who externally monitor whether companies develop employees' skills at work. However, due to the wide range of participation among internal employees and external applicants, performance in training and development can be monitored by all participants, especially the graduates and undergraduates in public.

ii. Orascom Construction Industries

Orascom Construction Industries (hereinafter 'OCI') is a leading international fertilizer producer and construction contractor based in Cairo, Egypt, and is active in more than 25 countries, including the UK where it is listed on the London Stock Exchange.¹²⁴ It is one of the region's largest corporations, with projects and investments across Europe, the Middle East, North America and North Africa. In the international group, OCI is a large employer in the region, with more than 86,000 employees located in 20 different countries.¹²⁵ OCI's business success is due to its people and their passion, expertise and dedication, with the result that the company has opened many opportunities to talented and highly motivated graduates and experienced professionals.¹²⁶ OCI implemented specialized programmes to develop its people in their profession and skills. The company disclosed CSR information, including employees' training and development, in its corporate annual reports.

¹²⁴ An introduction to the company may be found on the company's official website, available at: <http://www.orascomci.com/index.php?id=aboutus>, last accessed on 23 February 2013.

¹²⁵ Ibid.

¹²⁶ Ibid.

In its Annual Report 2011 the training budget was reported as amounting to US\$0.5 million and focused on the following four areas: (i) the training of new employees, (ii) improving the performance of experienced employees, (iii) solving operational problems and (iv) developing employees for the future.¹²⁷ It was aimed at developing the capabilities and competencies of employees by providing training modules that met changing business needs and improved work performance. All training programmes were on site and job-related. The company stated that 'during 2011, the Onsi Sawiris Institute for vocational Training partnered with Technische Universität Berlin (TU Berlin) to deliver young new talent into the business at an operational level.'¹²⁸ Through vocational training, OCI would provide people and the whole business with the best possible development opportunities available.

Additionally, the company established the OCI Academy, which was launched in 2009 and is the internal training organ concentrating on specialized development to employees within the company. Data is available to demonstrate how the OCI Academy works in training and developing programmes.¹²⁹

First, the Academy's Talent Programme, which is a vocational programme aimed at engineering graduates with up to two years' experience working in the field, 'celebrated the graduation of 17 professional engineers who rotated for 27 months through different key projects and departments in the Construction Group, based on their individual priorities, management guidance and their supervisors' recommendation'.¹³⁰ The

¹²⁷ Orascom Annual Report 2011, 40, available at:

<http://www.orascomci.com/index.php?id=annualreport2009>, last accessed on 23 February 2013.

¹²⁸ Ibid.

¹²⁹ Ibid, 40–41.

¹³⁰ Ibid.

programme distributed participants to different working environments, people and activities, and helped them to develop a thorough understanding of the business, and improve their knowledge and skills.¹³¹ Participants would also receive advanced theory training and a project management professional diploma. By the end of 2013 another 19 participants had graduated from the Talent Programme, and a fourth class was established.

Second, the summer internship recorded in the annual report offered undergraduate engineering students an opportunity to work in OCI during June to August in order to obtain practical experience to apply the knowledge they had previously learnt in their respective universities. Sixty students were selected to participate in the programme during the summer of 2011.¹³² All students were interviewed and measured against corporate junior level competencies. The selected students were allocated to different projects and departments relevant to their preferred concentration and evaluated by a professional company manager. At the end of their summer internship, students presented their experiences and accomplishments during a final ceremony attended by their universities and OCI representatives.¹³³

Moreover, the group took responsibility for improving employees' career in future, and not only limited this to the development of professionals or skills. OCI created effective solutions that enhanced people's performance and created value for the company. Between 2010 and 2011, the human resources department of OCI, in collaboration with

¹³¹ Ibid.

¹³² Ibid, 41–42.

¹³³ Ibid.

SHL Group Limited,¹³⁴ designed and implemented a wide range of leadership models and competency frameworks for all employees.¹³⁵ The framework was set up to develop the company's selection, succession planning and performance management practices. It was called the 'Management Development Guides' and launched in 2011 and defined as the leading workplace talent assessment solutions consultant.¹³⁶ The programme was accompanied by a detailed post-assessment professional enhancement guide to employees, including career recommendations and training courses, which were offered both in the classroom and online. In this regard it was reported that the company's human resource department had assessed 700 candidates, of which 300 were assessed for recruitment purposes, and 400 were employees being assessed for development and promotion in 2011.¹³⁷

As regards the reported information on CSR in training and development, OCI's annual report did not refer to the auditing system of reporting on this issue. However, the Corporate Audit Committee published the Audit Committee Charter, which is recommended reading, independently on the company's website.¹³⁸ The charter states that the company's management is responsible for compliance with laws, regulations, and with the company's policies and procedures, so that the Audit Committee of the board of directors has the duty to audit the performance of the company's management.¹³⁹ The training and development of employees conformed to the corporate policies and operational procedures. Consequently, the Audit Committee is responsible for monitoring

¹³⁴ SHL Group Limited is a global leader in talent measurement. It offers employment testing tools and employee development assessment services, available at: <http://www.shl.com/uk>, last accessed on 23 February 2013.

¹³⁵ Orascom Annual Report 2011, *supra* note 127, 40–41.

¹³⁶ *Ibid.*

¹³⁷ *Ibid.*, 42.

¹³⁸ *Ibid.*

¹³⁹ *Ibid.*

the performance with respect to developing people at work.¹⁴⁰ Although the quality of reporting cannot be audited, to some extent, an internal audit of the real actions in the company would ensure the authentic achievement of CSR in training and development.

3.4.3.2 Examples of bad reporting

Compared with the two positive examples that reported comprehensively on CSR in training and development, the CSR reports of two companies, namely Berkeley PLC and Go Ahead PLC, would be applied as negative examples of these issues. The reports of these two companies' CSR performance in training and development were unilateral, and only reflected one or two aspects. In addition, there is no information relevant to reporting on, or auditing of, the actions taken or on the report itself.

i Berkeley Group Holdings PLC

Berkeley Group Holdings PLC (hereinafter 'Berkeley') is a British home-building company based in Cobham, Surrey. It was listed on the London Stock Exchange and features on the FTSE 250 Index.¹⁴¹ The Berkeley Group is a leader in the business of urban regeneration, with a target to build over 95% of its development on brownfield land.¹⁴² On the company's website, Berkeley is introduced as one of the market leaders in the current property development industry. It offers plenty of career opportunities and a range of projects, and encourages personal development and training within the company.¹⁴³ Berkeley has an effective CSR reporting system that publishes a

¹⁴⁰ Ibid.

¹⁴¹ Berkeley Group Holdings PLC information is published on the company's official website, available at: <http://www.berkeleygroup.co.uk/about-berkeley/careers>, last accessed on 2 April 2013.

¹⁴² Ibid.

¹⁴³ Ibid.

sustainability report every year. However, training and development occupied little space in the annual report.

In the Sustainability Report 2011, the company mentioned that 'as part of our ongoing effort to create employment opportunities, we partnered with the London Borough of Southwark to run the 'Camberwell Grove Employment and Training Initiative' [hereinafter 'CGETI'] at our South London development [site]',¹⁴⁴ including career advice, the Construction Skills Certification Scheme (hereinafter 'CSCS') training qualification,¹⁴⁵ short training courses, work placements and full-time employment. CGETI provides participants with the chance to apply their knowledge on live construction sites. Besides the unique statement of training and development, there is no other information about the goals of CGETI and on how the training programme worked.¹⁴⁶ Moreover, Berkeley's training and development were limited to the basic improvement of all employees, and were not available to apprentices, for career enhancement, to graduates and newcomers, or for the development of leaders' careers.¹⁴⁷

The company's Sustainability Report 2012 also only referred to activities among employees, such as entertainment or sports. It was reported that Berkeley had set up a foundation to invest in a sports-based 'training-for-work' programme, namely

¹⁴⁴ Berkeley Sustainability Report 2011, available at:

http://www.berkeleygroup.co.uk/media/pdf/4/n/Berkeley_Sustainability_Report_2011.pdf, last accessed on 2 April 2013.

¹⁴⁵ The CSCS Training Scheme was set up in the mid-1990s with the aim of improving site workers' competence to reduce accidents and drive up on-site efficiency. The scheme keeps a database of those working in construction that achieve, or can demonstrate they have already attained an agreed level of occupational competence. Successful applicants are issued with a card giving them a means of identification and proof of their achievements, available at: <http://www.cscs.uk.com>, last accessed on 2 April 2013

¹⁴⁶ Berkeley Sustainability Report 2011, *supra* note 144.

¹⁴⁷ *Ibid.*

'124 people dashing up Tower 42 in the City of London; 17 others bravely running the London Marathon; and 10 different offices taking part in Wardrobe Relief to collect 4,778 kg of second-hand goods'.¹⁴⁸ From the report, it is difficult to define the meaning of these activities, due to the lack of explanation about the relation between sports and training programmes. Moreover, what kinds of employees would participate in the programme was not illustrated, such as all employees, senior managers or apprentices. Furthermore, in this report, all professional training and development was not mentioned, which made it impossible to the report reader to gain and apply relevant information.

Berkeley applied the GRI to report the hours spent on training and development, and the number of people attending the programmes without providing detailed information about these actions.¹⁴⁹ Furthermore, the sustainability reports had not been audited through third-party verification, and no mechanism was in place to monitor the real CSR performance in training and development at work.

ii Go Ahead PLC

Another example of bad reporting is Go Ahead PLC (hereinafter 'Go Ahead'), an international transport group headquartered in Newcastle upon Tyne, which is listed on the London Stock Exchange and features on the FTSE 250 Index.¹⁵⁰ The company operates bus and passenger rail services in the UK, and school buses in the US. A large number of companies are significant contributors to public transport infrastructure in the

¹⁴⁸ Berkeley Sustainability Report 2012, available at: http://www.berkeleygroup.co.uk/media/pdf/t/c/sustainability_summary_report_2012.pdf, last accessed on 2 April 2013.

¹⁴⁹ Berkeley Sustainability Report 2011, *supra* note 144.

¹⁵⁰ Information on Go Ahead PLC may be found on the group's website, available at: <http://www.go-ahead.com/aboutus.aspx>, last accessed on 2 March 2013.

UK. The group is a leading employer that has around 23,000 employees across the country, and over 1 billion passenger journeys are taken on the bus and rail services each year.¹⁵¹ People are thus the most valuable asset of the group. Go Ahead published annual CSR reports on its website to disclose its CSR performance to its employees, including training and development in employment.

The Go Ahead CSR Report 2012 stated that the company had invested about £10.2 million in staff and had provided 80,000 training days.¹⁵² Metrobus opened a new £500,000 training school in Crawley and Go Ahead companies continued to attract young people into the industry through apprenticeship schemes.¹⁵³ At Go South Coast, a Salisbury-based engineering apprentice Clint Kelly had won the Apprentice of the Year award at the Salisbury District Chamber of Commerce and Industry's Business Excellence Awards.¹⁵⁴ This annual CSR report only provided information about the expense and time–cost to training and development, and sketchily mentioned an apprenticeship programme without any detail on implementation.

The Go Ahead CSR Report 2011 stated that:

[w]e play an active role in the work of the Sector Skills Council for the bus and rail industries and our businesses participate in major NVQ training programmes to

¹⁵¹ Ibid.

¹⁵² Go Ahead PLC CSR Report 2012, available at: http://www.go-ahead.com/~media/Files/G/Go-Ahead/storage/pdf/sr2012/GO045_report_121219.pdf, last accessed on 2 March 2013.

¹⁵³ Ibid.

¹⁵⁴ Ibid.

improve employees' skills.¹⁵⁵ Norfolk-based company Konectbus has worked in partnership with Lowestoft College to deliver a customer care course, following the successful Certificate of Professional Competence NVQ level two courses for driving.¹⁵⁶

The 2010 statement categorized the actions taken by Go Ahead to train and develop employees. However, it did not illustrate the purpose of the training and specific participants in these programmes.

Go Ahead reports annually on its CSR to achieve information disclosure. However, the report on training and development seems more like bullet points, and there are no particular descriptions of each action, which might reduce the quality of the CSR reports. In addition, the reports or corporate information did not make any statement about the auditing of CSR reports or action taken in training and development, which would make the part on training and development in these CSR reports of little use in persuading report users.

3.4.4 Fair payment and welfare

Regarding employee payment and welfare,¹⁵⁷ information is not only published through CSR reports, but also financial statements in annual reports, which is one of the most essential parts in these reports. Therefore, in their reports companies directly state how

¹⁵⁵ Go Ahead PLC CSR Report 2011, available at:

<http://www.go-ahead.com/~media/Files/G/Go-Ahead/storage/pdf/cr-2011.pdf>, last accessed on 2 March 2013.

¹⁵⁶ Ibid.

¹⁵⁷ Welfare as applied here, is not only defined as the financial benefits awarded or returned by employers, but also other employee priorities, such as flexible working time, care to children for women employees, family care programmes and so on. The examples can be seen from the CSR Reports.

they implemented the pension scheme or benefit plans for employees, both through CSR reporting and annual report. UK Mail and Severstal' OAO PLC are the two companies selected as positive examples in this regard, as reflected in their reports.

3.4.4.1 Examples of good reporting

i UK Mail PLC

UK Mail PLC (hereinafter 'UK Mail') has been one of the UK companies involved in the collection and distribution of post, since deregulation of the postal service on 1 January 2006.¹⁵⁸ It is the largest independent parcels, mail and logistics services company within the UK, offering innovative delivery solutions both locally and worldwide. With a national network, UK Mail provided more than 55 sites and 2,500 vehicles to offer business customers an integrated service, with a full range of time-sensitive and secure delivery options for parcels, letters and pallets.¹⁵⁹

UK Mail did not publish CSR reports applicable to the public, but concisely stated all its CSR information, including employee payment and welfare, on the company website. UK Mail's corporate policy on employee payment and welfare states that 'as well as offering competitive salaries at all levels and in every area of the business, we also offer a comprehensive benefits package designed to help you make more of your money, safeguard your future and enhance your health and wellbeing'.¹⁶⁰

¹⁵⁸ UK Mail was formerly known as 'Business Post Group'. All information about the current group is published on the company's website, available at: https://www.ukmail.com/about_us/default.aspx, last accessed on 2 March 2013.

¹⁵⁹ Ibid.

¹⁶⁰ It is quoted from the information of company benefits, available at: https://www.ukmail.com/about_us/careers/company_benefits.aspx, last accessed on 2 March 2013.

The company took action to afford employees benefits, which is demonstrated in the following:¹⁶¹ first, it provided a healthcare scheme and healthcare cash plan in terms of which some employees are eligible to enrol in the company's private healthcare scheme, and the cost of cover is met by UK Mail and acts as a taxable benefit. Cover can also be extended to employees' family at additional minor personal cost. All staff members can subscribe to the Paycare Healthcare Cashplan, whereby money is deducted via the company's payroll for a cash benefit to help with medical bills. Subscribers to the scheme enjoy 100% refunds on all treatments up to an agreed annual limit across a diversity of medical bills, including optical, dental, hospital, specialist consultations, professional therapy and health screening.¹⁶² Second, UK Mail offers childcare vouchers. Employees can make significant savings on childcare costs via this scheme which allows them to purchase vouchers tax-free through direct deductions from their salary. The vouchers are widely accepted throughout the UK in a variety of childcare establishments.¹⁶³ Third, the company also paid sick leave to employees who were entitled to be paid a full salary in the event of being off sick, provided they had relevant medical documentation. The number of weeks during which they may be off from work depends on an employees' length of service and starts to accrue from six months onwards.¹⁶⁴ Companies make provision for employees' eye care, holiday entitlement, retail discounts through different approaches.

In addition, UK Mail annual reports record all employee payment schemes offered to its general staff and senior management. UK Mail Annual Report 2012 referred to the health

¹⁶¹ UK Mail Annual Report 2012, 30-32, available at:
https://www.ukmail.com/media/docs/annual_report_2012.pdf, last accessed on 2 March 2013.

¹⁶² Ibid., 30-32.

¹⁶³ Ibid., 30.

¹⁶⁴ Ibid.

and sickness insurance to executive directors that included private health cover, permanent health insurance and death-in-service benefits.¹⁶⁵ This policy is similar to the life assurance offered to general employees. All employees are immediately eligible for death-in-service benefits, which equates to a minimum of one times employees' annual salary.¹⁶⁶ Simultaneously, the group currently applied a Long-Term Incentive Plan and a Share Matching Plan to provide longer-term, share-based incentives for executive directors, in order to motivate and reward the achievement of a combination of challenging corporate financial targets and enhancement of shareholder value.¹⁶⁷ This action was matched with long service awards to employees whereby the company awarded people who showed a long-term commitment with the choice of a gift from an online catalogue featuring hundreds of products, on the achievement of certain set milestones.¹⁶⁸

Moreover, the company provided the Sharesave Scheme to employees, which allows them to purchase company shares at a discounted rate by saving a set amount of money each month over a fixed period.¹⁶⁹ Additionally, the Employee Share Ownership Trust is another payment plan to employees where the company holds shares for transfer to

¹⁶⁵ Ibid

¹⁶⁶ Ibid.

¹⁶⁷ Ibid., 32–33.

¹⁶⁸ Ibid.

¹⁶⁹ The company has offered a SAYE share plan since 1996 to eligible employees, including directors. The plan is an HMRC-approved, all-employee share plan. HMRC does not permit performance conditions to be attached to the exercise of options. Under the plan, participants are granted options to the company's shares. Each participant may save up to £250 per month to purchase shares in the company at a discount of up to a maximum of 20% of the market value at the time of the option grant. The Sharesave Plan was explained in the note on financial statement in UK Mail Annual Report 2012, 60, *supra* note 161.

employees under corporate incentive scheme awards. Shares held by the trust are not voted at shareholder meetings and do not accrue dividends.¹⁷⁰

The information disclosed in UK Mail PLC's Corporate Annual Report was audited by the external auditing agency Pricewaterhouse Coopers LLP. In the audit, it was said that '[t]he financial statements give a true and fair view of the state of the Group's and of the Parent Company's affairs as at 31 March 2012 and of the Group's profit and of the Group's and Parent Company's cash flows for the year then ended; the Group financial statements have been properly prepared in accordance with International Financial Reporting Standards [hereinafter 'IFRSs'] as adopted by the European Union; the Parent Company financial statements have been properly prepared in accordance with IFRSs as adopted by the European Union and as applied in accordance with the provisions of the Companies Act 2006'.¹⁷¹ The external and independent audit of the UK Mail PLC annual reports, which disclosed most of the information and action about employee payment and welfare, was regarded as credible.

ii Severstal' OAO PLC

Severstal' OAO PLC (hereinafter 'Severstal') is a Russian company mainly operating in the steel and mining industry, centred in the northern city of Cherepovets. It is listed on the Moscow Exchange and London Stock Exchange.¹⁷² It employs approximately 70,000 people and has many assets in Russia, the US, the Ukraine, Latvia, Poland, Italy and

¹⁷⁰ In terms of the Companies Act 2006, any transfer of shares should be voted by shareholders and would accrue dividends relevant to the value in the exchange market. However, as the award, the transfer of shares of the company to employees need not be voted on, and the value of shares is fixed.

¹⁷¹ 'Independent Auditor's Report', see UK Mail Annual Report 2012, 36, *supra* note 161.

¹⁷² Severstal' OAO CSR goal to their employees is stated on CSR website, available at: <http://www.severstal.com/eng/csr/issues/people/>, last accessed on 12 March 2013.

Liberia, and has investments in Brazil.¹⁷³ As a potentially competitive company, Severstal' offers a complete welfare system to a vast number of employees. It published relevant information in this regard on the company's CSR website and in its annual report. The goal of Severstal's employee welfare is described as: 'to create conditions for stimulating the creative potential of employees and shape a corporate culture based on professionalism, private initiative and responsibility that focused on corporate and personal success are a key factor to long-term sustainable development'.¹⁷⁴

One of the main programmes of employee welfare is Severstal' Medical Care which was implemented at Cherepovets from 2002 to improve the availability and quality of medical care; strengthen the first line of healthcare; create conditions for efficient medical care at the pre-hospital stage; prevent disease; and provide high-tech, state-of-the-art medical care.¹⁷⁵ Every year Severstal' spends about US\$20 million on the corporate programme Severstal's Health, and these funds allow more than 9,000 employees and their children to receive preventative procedures in health resorts and camps, and around 5,000 employees to recover from health problems.¹⁷⁶

In addition, Severstal' implemented the Housing Programme to ensure and enhance employees' accommodation. The company built flats for its employees, who make a strong contribution to the company's success. During 2005 to 2010, 26 blocks of flats were built to solve the housing problem for 2,345 families.¹⁷⁷ In April 2012 Severstal's

¹⁷³ Ibid.

¹⁷⁴ Ibid.

¹⁷⁵ Severstal' OAO Medical Care Programme was mentioned in the Corporate Annual Report 2011, 118, available at: http://www.severstal.com/files/12164/Severstal_SocialReport_2012_eng.pdf, last accessed on 29 May 2014; see also, information about medical care on the company's CSR website, available at: <http://www.severstal.com/eng/csr/issues/people/>, last accessed on 18 March 2013.

¹⁷⁶ See Corporate Annual Report 2011, *supra* note 175, 118–120.

¹⁷⁷ Ibid.

CEO Alexey Mordashov signed a policy on corporate contribution to improve Severstal' Russian Steel employees' accommodation in accordance with its aim, a 400-flat building would have been ready in the fourth quarter of 2013.¹⁷⁸ The Costs of House Programme was available to check on the corporate financial statements in annual reports.

As is the case in other companies, Severstal' provided pension plans and retiree support to employees: 'Since 2003, a corporate pension programme has been in place at all of our Russian enterprises in partnership with the non-governmental retirement fund StalFond'.¹⁷⁹ In the Severstal' Annual Report 2011, two types of retirement benefits were introduced: (i) defined contribution plans and (ii) defined benefit plans.¹⁸⁰ Other long-term employee benefits, such as various forms of compensation, non-monetary benefits and a long-term incentive programme, were mentioned in its Annual Report 2011. For example, the corporate compensation policy contained basic remuneration and regular bonuses, and employees' compensation comprises regular remuneration and social benefits, including a company pension plan, health insurance and life insurance.¹⁸¹

Severstal's financial statements about employees' welfare and pension plans were internally monitored by a corporate audit committee and external professional auditor, ZAO KPMG. ZAO provided the following audit statement: 'In our opinion, the

¹⁷⁸ Ibid.

¹⁷⁹ Ibid.

¹⁸⁰ Defined contribution plans are post-employment benefit plans under which the group pays fixed contributions into a separate entity and will have no legal or constructive obligation to pay further amounts in respect of those benefits. Defined benefit plans are post-employment benefits plans other than defined contribution plans. The group uses an actuarial valuation method for measurement of the present value of post-employment benefit obligations and related current service cost. Severstal' OAO Annual Report 2011, 118–119, available at:

http://www.severstal.com/eng/ir/results_reports/annual_reports/, last accessed on 18 March 2013.

¹⁸¹ See Severstal' OAO Annual Report 2011, *supra* note 180, 95.

consolidated financial statements present fairly, in all material respects, the financial position of the Group as at 31 December 2011, 2010 and 2009, and its financial performance and its cash flows for the years then ended in accordance with IFRSs.¹⁸² The internal and external auditing mechanism of the corporate cost of employees' payment and welfare proved the authenticity of the company's reported achievement in this regard.

3.4.4.2 Examples of bad reporting

Compared with UK Mail PLC and Severstal' OAO, there are two examples of companies that showed bad exercise in CSR in employees' payment and welfare. In addition, the authenticity of information published by one company was challenged by the public, because its poor performance was hidden in the company's information disclosure, but revealed by public news agency.

i Marks & Spencer

Marks & Spencer (hereinafter 'M&S') is the UK's leading retailer, which provides high-quality, great-value clothing and home products, and food that it responsibly sources from around 2,000 suppliers globally.¹⁸³ It employs over 78,000 people in the UK and abroad, and has over 700 UK stores, plus an expanding international business.¹⁸⁴ It is a leading company but did not provide systematic reports with respect to CSR, with the result that relevant information cannot be found directly in its reports.

¹⁸² Ibid, 100.

¹⁸³ Corporate information about Marks & Spencer may be found on the company's official website, available at: http://corporate.marksandspencer.com/aboutus/company_overview, last accessed on 14 March 2014.

¹⁸⁴ Ibid.

As regards employees' payment and welfare, M&S only mentioned the programme, Save As You Earn (hereinafter 'SAYE'), which is extended to all employees, including executive directors, in its Annual Report 2012 in a brief description.¹⁸⁵ Additionally, M&S stressed the governance of its pension scheme, both on its website and in its annual reports. The group's pension scheme was divided into the defined benefit section for employees with an appointment date prior to 1 April 2002 and the defined contribution section open to those who joined the company on or after 1 April 2002 and before 1 November 2012.¹⁸⁶

Except for the SAYE programme and pension governance, there is little relevant information about employees' payments and welfare. As legally required, companies have the duty to provide employee welfare benefits, such as a pension or insurance. The information M&S published just reflected the legal minimum standard in this respect, but not further voluntary CSR performance in terms of employees payments and welfare.

ii Associated British Food PLC

Another company with a bad reporting record is Associated British Food PLC (hereinafter 'ABF') which is a British multinational food-processing and retailing company whose headquarters are in London.¹⁸⁷ The company is listed on the London Stock Exchange and features on the FTSE 100. The international food, ingredients and

¹⁸⁵ Marks & Spencer Annual Report 2012, 62, available at:

http://corporate.marksandspencer.com/documents/publications/2012/annual_report_2012, last accessed on 14 March 2014.

¹⁸⁶ Further information about the pension schemes is available in the Marks & Spencer Annual Report 2012, *supra* note 184, 52.

¹⁸⁷ Introduction of ABF Group can be found on corporate website, available at:

http://www.abf.co.uk/about_us/our_group/overview, last accessed on 3 April 2013.

retail group has reached sales of £11.1 billion and employed over 100,000 employees in 46 countries, both developed and developing countries.¹⁸⁸ The global company owns a complete reporting system, including website reports, CSR reports and annual reports to disclose information with respect to its CSR performance. This is especially needed where a company has a huge staff complement, and sets for itself the aim of making an effort to ensure safe workplaces and of providing in employees' needs.

The ABF Annual Report 2012 refers to the domestic and overseas employee entitlements that were implemented through pension benefit schemes, such as unfunded overseas post-retirement medical schemes that were utilised in Australia and New Zealand, the US, Canada, the Republic of Ireland, Spain, Switzerland, Germany, France, Italy, the Philippines, Thailand, Mexico and South Africa.¹⁸⁹

It would seem that ABF information about ensuring employees' welfare not only covered home staff, but also overseas employees, especially in developing countries. The ABF annual reports were audited by KPMG Audit PLC, so that the veracity of the report cannot be doubted. However, the biggest irony of this leading group with its complete CSR system is that it has been challenged by activists for failing to play the 'good corporate citizen' in the world's poorest countries. *Financial Times* reported that 'ABF's Patak and Amoy Brands . . . lack[ed] public policies requiring suppliers to pay a living wage' and 'its Twinning tea brand stood out for its commitments to a living wage for workers' that ABF requires its suppliers to exercise CSR to ensure employee's living payment, but cannot protect the fair payment to employees at its own company.¹⁹⁰ Although ABF illustrated how the group ensured employees' payment and welfare in

¹⁸⁸ Ibid.

¹⁸⁹ ABF Annual Report 2012, 65, available at:

<http://www.abf.co.uk/documents/pdfs/ar2012/abf-annual-report-2012.pdf>, last accessed on 2 April 2013.

¹⁹⁰ Lucas, L., 'ABF Food Brands Fail Living Wage Test', *Financial Times*, Tuesday, 26 February 2013.

reports, the news about the company's failure to provide living wages in the poorest countries would make the public doubt whether a company could offer its employees living wages, and provide sufficient benefits and welfare.

3.4.5 Employee engagement

Employee engagement is not an independent aspect in CSR performance or reports, such as human rights, and health and safety, but is pertinent to every issue mentioned in this chapter. To differing degrees in individual companies, employees are allowed to engage in various corporate activities that are opportunities for them to obtain information about a company, to express an opinion about the company and to communicate with employers. In the UK, companies cannot be compelled to comply with employee engagement through legal regulations; implementation is freely decided on by companies. Single-tier boards of directors are normal in the UK and no employee representatives are involved at the board level. However, employee representatives play a vital role in organizations such as trade or labour unions, to represent employees' opinion and achieve collective bargaining with employers. In this research, *employee engagement* refers to employees or employee representatives who maintain interests at work and express opinions through trade unions or employee representative meetings. Among the 90 companies studied, roughly 85% of them referred to the exercise of employee engagement in their reports, while a small minority did not report in this respect. In order to demonstrate how companies comprehensively accomplished employee engagement in corporate governance, Henry Boot PLC and Bovis PLC will be taken as two positive examples.

3.4.5.1 Examples of good reporting

i Henry Boot PLC

Henry Boot PLC (hereinafter 'Henry Boot') is a British construction business, listed on the London Stock Exchange. It was floated on the stock market in 1919 and became the first house builder ever to list.¹⁹¹ As one of the leading British construction and property companies, the group owns companies in four areas: (i) property (Henry Boot Developments Limited), (ii) land (Hallam Land Management Limited), (iii) construction (Henry Boot Construction Limited) and (iv) plant (Banner Plant Limited).¹⁹² The Henry Boot PLC CSR report was not created separately, but was included in the company's corporate Annual Report and Financial Statements. With respect to the entire reporting system, the company's report was not as comprehensive as some companies'. However, the implementation of employee engagement in the annual report was comparatively comprehensive.

The Henry Boot Annual Report and Financial Statements 2011 introduced the action that the company had taken to allow employees access to information on the health and safety in their workplace. In this regard the report stated: 'The Group runs a bespoke health and safety audit system which is used to benchmark our sites, offices and depots over the year; in 2011, 191 audits were undertaken with the results reported at subsidiary board meetings.'¹⁹³ The audited health and safety in each workplace were also disclosed to employees who had access to knowledge on the health and safety issues in their workplace.

¹⁹¹ An overview and history of Henry Boot may be found on the company website, available at: <http://www.henryboot.co.uk>, last accessed on 12 April 2013.

¹⁹² Ibid.

¹⁹³ 'Board Responsibilities', Henry Boot Annual Report and Financial Statements 2011, 37-39, available at: <http://www.henryboot.co.uk/pdf/2011/annual-report-2011.pdf>, last accessed on 12 April 2013.

In order for Henry Boot to find out what the true position of its employees was and to determine what further improvements could be made, the group obtained advice through surveys of its employees and senior managers.¹⁹⁴ In the process of decision-making, to some extent, boards of directors would design plans in corporate governance that depended on much information. Top management would get detailed practical and direct feedback, and suggestions from employees on with what they were satisfied and with what not, and what they expected to be relevant in corporate policy and governance.¹⁹⁵

Moreover, Henry Boot highlighted its compliance with the Bribery Act and a code of ethics as the guiding principles of the company. The group partnered with Expolink Europe Limited to provide employees with a freephone helpline to which suspicions of misconduct, fraud or theft could be reported.¹⁹⁶ Some of the prohibited behaviour, such as bribery and negligence of duty, was too difficult to prove, so the misconduct reporting telephone line was introduced, which is a nameless system for employees to report any negative action at work. This simplified the internal monitoring mechanism in the company.¹⁹⁷

The quality of information disclosure included in the Henry Boot Annual Report and Financial Statements 2011 was ensured through the independent audit conducted by PricewaterhouseCoopers LLP, which found that the board of directors had fulfilled its responsibilities as stated in the report.¹⁹⁸ Although the third-party audit is not specific enough to verify the statement of employee engagement, it generally confirms the

¹⁹⁴ Ibid.

¹⁹⁵ Ibid.

¹⁹⁶ Ibid, 38–40.

¹⁹⁷ Ibid.

¹⁹⁸ 'Independent Audit Statement', see Henry Boot Annual Report and Financial Statements 2011, *supra* note 193, 46.

authenticity of the entire 2011 annual report, so that in this example it assumes that the performance of employee engagement in Henry Boot is consistent with the published information.

ii Bovis Homes Group PLC

The foundation of Bovis Homes Group PLC (hereinafter 'Bovis') dates back to 1885 when Charles William Bovis founded CW Bovis & Co.¹⁹⁹ It was floated on the stock exchange in 1997 and features on the FTSE 250 and the FTSE4Good indices. The company employs more than 600 employees in locations across England and Wales, including its headquarters.²⁰⁰ Bovis publishes its CSR report annually on its company website and includes employee engagement on different aspects.

The Bovis CSR Report 2012 introduced employee engagement in respect of health and safety in that all employees and workers are given a voice and the opportunity to influence health and safety in their workplace. Therefore, some of the problems and requirements of health and safety were directly reflected by employees' feedback and reports.²⁰¹ A similar approach was also mentioned in Bovis's previous annual CSR reports.

¹⁹⁹ A brief overview of Bovis Homes Group may be found on the company's official website, available at: <http://www.bovishomesgroup.co.uk/about-us/understanding-bovis-homes/at-a-glance/>, last accessed on 2 June 2013.

²⁰⁰ Ibid.

²⁰¹ Bovis CSR Report 2012, 21-23, available at: http://www.bovishomesgroup.co.uk/pdfs/CSR_2012.pdf, last accessed on 3 June 2013. The employee engagement of health and safety was also reflected in previous Bovis CSR Reports, like CSR Report 2011, available at: http://www.bovishomesgroup.co.uk/pdfs/CSR_2011.pdf, last accessed on 3 June 2013.

Bovis implemented a series of communication platforms to bring employees into corporate governance through four means.²⁰² First, employee liaison group-elected representatives held meetings to provide regular two-way feedback sessions between employees and senior managers, with key messages from monthly Group Executive Committee meetings being disseminated.²⁰³ Second, employees were able to attend briefings with the CEO, Group Finance Director and other senior managers within the business, and have access to financial presentations and reports.²⁰⁴ Third, the quarterly magazine and regular group bulletins had been produced in-house by the public relations and graphics teams which ensured that employees were kept updated on business developments and newsworthy events.²⁰⁵ Fourth, employees also received immediate notification via electronic mail of any announcements made to the stock exchange that reflected relevant financial information about the company.²⁰⁶

Furthermore, Bovis set up a code of ethics in terms of the UK Corporate Governance Code to regulate the ethical operation in corporate governance. In order to improve the internal monitoring of breaches of the ethical code, the group operated a whistleblowing reporting line for staff to report any misconduct at work.²⁰⁷ This four-pronged approach made it possible to report on all matters and for the company to resolve them satisfactorily. This might reduce unpredicted and undetected misconduct that would negatively affect the corporate reputation and performance of the company.

²⁰² Bovis CSR Report 2012, *supra* note 201, 22.

²⁰³ *Ibid.*

²⁰⁴ *Ibid.*

²⁰⁵ *Ibid.*

²⁰⁶ *Ibid.*

²⁰⁷ *Ibid.*, 23–34.

The Bovis CSR Report is not externally monitored through professional audit or verification. However, there are individual internal committees to supervise the board's performance in particular aspects, such as health and safety or human rights. The Consultative Committee aims to monitor the employer's performance in terms of the company's code of ethics, including the exercise of employee engagement in practice.²⁰⁸

2.4.5.2 Examples of bad reporting

Owing to the unenforceable nature of employee engagement, companies carry out different actions in terms of corporate policy. Excluding those companies that did not mention employee engagement in their reporting material, a minority of companies implemented this aspect simply and unilaterally, which was reflected in their corporate reports. Cape PLC, and Peter Black Footwear and Accessories are two companies with poor performance in employee engagement according to their respective reports, which contained too little information about their CSR.

i Cape PLC

Cape PLC (hereinafter 'Cape') is an international leader in multidisciplinary services in the field of essential non-mechanical industrial services in the oil and gas, power generation, chemical, minerals and mining sectors, and major engineering and construction contractors.²⁰⁹ It employed 19,000 people to deliver safe, intelligent and qualified work across the UK, Europe and Commonwealth of Independent States, Middle East, North Africa and India, and into the Far East/Pacific Rim.²¹⁰ Cape did not provide a

²⁰⁸ Ibid.

²⁰⁹ Cape at a glance, available at: <http://www.capeplc.com/about-cape/cape-at-a-glance.aspx>, last accessed on 12 June 2013.

²¹⁰ Ibid.

CSR Report. Instead, it included a brief relevant illustration in its Corporate Annual Review and created a section entitled 'Corporate Responsibility' on the group website.

At a glance, the Cape reports contained no statement on employee engagement, such as employee reporting, surveys or communication. Only with respect to health and safety management can employees engage in corporate governance to report unsafe action. This is regulated by the CapeSafe Golden Rules.²¹¹ Cape states: 'Reporting unsafe acts and faulty workmanship – always report faulty workmanship or unsafe acts to your line manager without delay, regardless of who might be responsible.'²¹²

The reporting of unsafe situations by employees is not typical employee engagement, but more similar to a reporting mechanism. Employees only have access to reporting any unsafe behaviour at work, but no further approach to engage in corporate activities in other aspects, such as respond to corporate policy and communicate with top management. The unique employees' report had limited the scope of employee engagement in corporate governance, and obstructed the path to gain the most direct and realistic feedback and advice from employees on complete corporate policies and decisions.

ii Peter Black Footwear and Accessories Limited

²¹¹ Unsafe report was shortly mentioned in Cape Annual Review 2011, 18, available at: http://www.capeplc.com/media/207436/cape_annual_report_2011.pdf, last accessed on 13 March 2014.

²¹² Health and Safety Management may be found in the section on Corporate Responsibility on the company's website, available at: <http://www.capeplc.com/corporate-responsibility/health-and-safety/capesafe.aspx>, last accessed on 13 March 2014.

The company Peter Black Footwear and Accessories Limited (hereinafter 'Peter Black') was founded in 1947 to produce shopping bags at first. With gradual development, it became involved in the industries of footwear, homeware, furniture, toiletries and personal care until 2007, when the company was acquired by Li & Fung Group.²¹³ Among all the companies selected, Peter Black is one of a couple of limited companies on which CSR information is available to the public. This information is available on the company website that is linked to the Sustainability Website of Li & Fung.²¹⁴

In 2011 the company launched the first anonymous web-based Employee Engagement Survey of its staff, conducted by a third party, aimed at assessing engagement with employees and their customers, and finding out potential opportunities to improve the business and reputation through 56 closed-ended questions and one open-ended question.²¹⁵ This is the only description that appeared in its corporate Sustainability Statement and contained no precise detail about how the company further engaged with its employees. Compared with companies providing diversified approaches to employee engagement, Peter Black or Li & Fung only took action to get answers from their employees to what the company wanted to ask, but did not offer employees the opportunity say what they wanted to know or to report.

3.5 Comprehensive comparison

²¹³ The history and development of Peter Black Footwear and Accessories is may be found on the Peter Black Footwear and Accessories Limited Company website, available at: <http://www.pbfa.co.uk/about-us.html>, last accessed on 19 June 2013.

²¹⁴ Owing to the acquisition by Li & Fung, although Peter Black has its own independent website containing information on its services and products, the policies in corporate governance need to conform to that of Li & Fung. Therefore, the actions related to sustainability in Li & Fung were also implemented within Peter Black Footwear and Accessories.

²¹⁵ Sustainability in Li & Fung Company, available at: <http://www.lifung.com/eng/csr/csr5.php>., last accessed on 19 June 2013.

In the previous section companies were compared vertically on their CSR performance in each of the following aspects of employment: health and safety, human rights, training and development, fair payment, employee engagement, and relevant auditing. Good and bad examples were both applied to state how to achieve CSR positively in every sphere. In this section a sample of companies with comprehensive CSR reports was selected for horizontal comparison to illustrate how individual companies achieved CSR in employment in every area mentioned. Their reports, such as their CSR report or annual report, were used to judge their performance. Of all 90 companies' relevant reports, Carnival Corporation & PLC was the only one that almost published relatively complete and detailed information in every aspect.

3.5.1 Example of good reporting

Carnival Corporation & PLC

Carnival Corporation & PLC (hereinafter 'Carnival') is a global cruise company that owns many leading cruise brands, namely Carnival Cruise Lines, Holland America Line, Princess Cruises and Seabourn in North America; P&O Cruises and Cunard in the United Kingdom; AIDA Cruises in Germany; and so on.²¹⁶ It is a British–American-owned company headquartered in Miami, Florida, in the US, and in London in the UK. Carnival is respectively listed on the New York Stock Exchange and features on the S&P 500 index in the US, and is listed on the London Stock Exchange and features on the FTSE 100 index in the UK.²¹⁷ The group published its annual CSR report with complete and

²¹⁶ Corporate information is published on one the corporate website, available at: <http://phx.corporate-ir.net/phoenix.zhtml?c=200767&p=irol-prlanding>., last accessed on 27 April 2014.

²¹⁷ Ibid.

credible information under GRI (G3) Index. As a corporation with 77,000 shipboard employees, its CSR in employment mainly occupied the CSR Report in various areas.

3.5.1.1 Health and safety

In order to ensure employees' health and safety at work, Carnival set up formal joint management-worker health and safety committees, under the leadership of a senior ship's officer, which included officers and crew from the different shipboard departments.²¹⁸ In the committee specific workplace safety-related topics were reviewed and addressed during regularly scheduled meetings to discuss and recommend solutions for shipboard safety issues and promote safety awareness. Experiences and best practices would be shared throughout communications in shoreside operations departments.²¹⁹

The occupational health and safety management in Carnival complied with various international legal requirements or initiatives as the minimum legal standard. For example, corporate health and safety management was established based on the International Safety Management Code for the Safe Operation of Ships and for Pollution Prevention.²²⁰ In particular, Carnival UK used ILO Convention 155 of Occupational Health and Safety Convention and Protocol 1981 and ILO Code of Practice on Recording and Notification of Occupational Accidents and Diseases 1995 as the basis for its health

²¹⁸ Carnival Corporation & PLC Sustainability Report 2011, 72, available at: http://www.carnival.co.uk/cms/environment/reports/default.aspx?icid=CC_Footer_846, last accessed on 27 April 2013.

²¹⁹ Ibid.

²²⁰ International Safety Management Code for the Safe Operation of Ships and for Pollution Prevention is to ensure Safety at Sea, to prevent human injury or loss of life, and to avoid damage to the environment and to the ship, available at: http://www.dft.gov.uk/mca/ism_i2s_2009.05.pdf, last accessed on 28 April 2013.

and safety management and reporting.²²¹ Several operating lines had obtained additional certification in accordance with OHSAS18001:2007; and the Occupational Health and Safety Management Systems Requirements Standard, with the result that the group was not only regulated by standards in OHSAS18001, but also audited by the system with respect to performance in health and safety in the workplace.

Under the minimum legal standards, Carnival created its Health, Safety and Security Policy (hereinafter 'HESS Policy') to provide its employees with a healthy and safe place to work, and to assess the health and safety performance in management. The HESS Policy would make the group recognize hazards, reduce or eliminate risks that could result in personal injury, illness or death, and enhance effectiveness of health and safety management systems.²²² Under the health and safety management, Carnival adopted the US Bureau of Labour Statistics standard to calculate and report on the shipboard occupational injury rate.²²³ The Carnival Corporation & PLC Comprehensive Audit and Review of Safety and Emergency Response were introduced on the corporate website to monitor the group's performance on health and safety issues.²²⁴

²²¹ Carnival UK is comprised Cunard and P&O Cruises. Implementation of CSR in Carnival UK is available in the Cunard Sustainability Report 2010, 37, available at: <http://www.cunard.com/Documents/Legal%20Docs/2010%20Sustainability%20Report.pdf>, last accessed on April 27, 2013; ILO Conventions 155 of Occupational Health & Safety Convention and Protocol 1981, available at: http://www.ilo.org/dyn/normlex/en/f?p=1000:12100:0::NO::P12100_ILO_CODE:C155, last accessed on 27 April 2013; ILO Code of Practice on Recording and Notification of Occupational Accidents and Diseases 1995, available at: http://www.ilo.org/wcmsp5/groups/public/@ed_protect/@protrav/@safework/documents/normativeinstrument/wcms_107800.pdf, last accessed on 12 January 2014.

²²² See Carnival Corporation & PLC Sustainability Report 2011, *supra* note 218, 73.

²²³ Injury rate = (N/EH) x 200,000, where N = number of injuries; EH = total hours worked by all employees during the reporting year; and 200,000 = base for 100 equivalent of full-time workers (40 hours/week x 50 weeks/year, available at: <http://www.bls.gov/iif/oshdef.htm>, last accessed on 27 April 2013.

²²⁴ Carnival Corporation & PLC Comprehensive Audit and Review of Safety and Emergency Response, available at: <http://www.carnival.co.uk/legal/safety-security.aspx>, last accessed on 2 May 2013.

3.5.1.2 Human rights

Carnival's main goal in human rights is to provide equal opportunity for all employees among people of different sexes, countries and religions, and to ensure a comfortable and friendly working environment to eliminate harassment, including any form of unwelcome conduct and hostile or offensive work environment to any person.²²⁵ As the Cruise Group, Carnival firstly engaged in the ILO Maritime Labour Convention 2006 to safeguard employees' human rights on board ships.²²⁶ In addition, the Group applied ILO Conventions 87 and 98 to ensure that a vast number of employees would be entitled to the rights of collective bargaining.²²⁷

Carnival specifically prohibited all forms of child exploitation and the recruitment of child labour. It stated that 'we fully respect all applicable laws establishing a minimum age for employment'.²²⁸ The group also supported laws, co-operated with legal enforcement authorities, and complied with international network of regulations to prevent and punish the crime of sexual exploitation of children.²²⁹

²²⁵ See Carnival Corporation & PLC Sustainability Report 2011, *supra* note 218, 72.

²²⁶ ILO Maritime Labour Convention 2006 was established in 2006, including 'all up-to-date standards of existing international maritime labour Conventions and Recommendations, as well as the fundamental principles to be found in other international labour Conventions', available at: <http://www.ilo.org/global/standards/maritime-labour-convention/lang--en/index.htm>, last accessed on 2 May 2013.

²²⁷ ILO Conventions No. 98: Right to Organize and Collective Bargaining Convention 1949, available at: http://www.ilo.org/wcmsp5/groups/public/---ed_dialogue/---dialogue/documents/publication/wcms_168332.pdf, last accessed on 2 May 2013.

²²⁸ See Carnival Corporation & PLC Sustainability Report 2011, *supra* note 218, 73.

²²⁹ *Ibid*, 76–77.

Internal monitoring of compliance with human rights was combined with employee engagement so that people would audit and report the violation of human rights at work. In this regard Carnival established a website called 'Carnival Compliance', allowing employees to disclose suspected issues of non-compliance, and having the reports reviewed and investigated by the group.²³⁰ It also introduced senior engagement to force officers and managers to address potential labour issues, which included putting systems in place to prevent, report, investigate and resolve any complaints of misconduct.²³¹

3.5.1.3 Training and development

As a part of Carnival's commitment, it provided appropriate and basic support, training, advice and information in the fields of health, safety and security, to employees and others who worked on behalf of the group on board ships and shoreside.²³² Moreover, top management was obliged to develop people to ensure that employees had the knowledge and skills necessary to perform their jobs properly using appraisal and benefit programmes.²³³ Furthermore, in order to improve the quality of human capital, Carnival assisted employees in setting personal career goals, and provided sufficient skills and knowledge in the process of personal development.²³⁴

All training and development were available to all employees, including full-time, part-time and seasonal staff in all departments. In the 2011 fiscal year, the total training time undergone by employees was 5,944, 240 hours and each employee had obtained

²³⁰ The website address of Carnival Compliance is www.carnivalcompliance.com, last accessed on 4 May 2013.

²³¹ See Carnival Corporation & PLC Sustainability Report 2011, *supra* note 218, 78.

²³² *Ibid.*, 80.

²³³ *Ibid.*

²³⁴ *Ibid.*, 75–76.

training for 56 hours per year.²³⁵ The statistics precisely recorded and reported that 85% of employees on board ships and 96% of employees shoreside were respectively involved in training and development programmes during 2011.²³⁶

3.5.1.4 Fair payment and welfare

Employees' right to fair payment was secured by written employment contracts with Carnival based on their different positions. The contracts set forth basic conditions of employment, including position, wages, work hours and duration of contract for shipboard employees.²³⁷ Under the contract, appropriate remedial actions would ensure reasonable compensation due for extra working hours, so that effective protection would prevent the exploitation of employees. In order to ensure fair payment to non-union employees, Carnival alleged that the pay and benefits packages for non-union shipboard employees would meet or exceed the benefits available to Carnival's unionized employees and employees of other cruise lines, which often exceeded international standards.²³⁸

The payment and pension schemes in Carnival were also disclosed in the company's Corporate Financial Statement and Annual Review. The Carnival Annual Review 2011 stated that all pension schemes were basically covered by US or UK pension regulations and operated single-employer-defined benefit pension plans, which cover some shipboard and shoreside employees.²³⁹ Carnival UK companies specifically participated in the

²³⁵ Ibid.

²³⁶ Ibid.

²³⁷ Ibid.

²³⁸ Ibid, 81

²³⁹ 'Financial statement', Carnival Annual Report 2011, 33-34, available at:

<http://phx.corporate-ir.net/phoenix.zhtml?c=140690&p=irol-reports&other4>, last accessed on 4 May 2013.

industry-wide British Merchant Navy Officers Pension Fund, a defined benefit multi-employer pension plan, for the benefit of certain of their British shipboard officers, and an industry-wide British Merchant Navy Ratings Pension Fund for their shipboard British personnel.²⁴⁰ Additionally, several defined contribution plans were available to most of its employees, based on employee contributions, salary levels and length of service. The total expense on these plans was US\$21 million in 2011.²⁴¹

Moreover, Carnival was concerned about its employees' life quality and ensured that they enjoyed enough rest and recreation. Carnival Cruise Lines opened staff communication so that employees could apply to the executive office to change their sailing schedule due to personal time management.²⁴² This led to an improvement in the working-time mechanism, and allowed employees reasonable rest after work, so that they could be energetic and healthy at work.

3.5.1.5 How Carnival's CSR Report works

Analysis of Carnival's reports regarding its CSR in employment shows that it has entirely achieved performance with respect to employees' health and safety, human rights, training and development, fair payment, and employee engagement. Furthermore, information disclosure on performance is monitored through internal supervision and third-party audit. The group basically complied with international regulations, domestic laws and relevant initiatives to implement CSR as the minimum legal standards in the fields of health and safety, human rights, and fair payment. Carnival also engaged in various voluntary actions over and above the minimum level to achieve its CSR towards

²⁴⁰ Ibid, 33.

²⁴¹ Ibid.

²⁴² See Carnival Corporation & PLC Sustainability Report 2011, *supra* note 218, 74.

its employees in corporate governance. Employee engagement was not independently mentioned in its Sustainability Report 2010, but is present throughout its CSR in health and safety and human rights. The sustainability report was created in the format of the GRI with individual reportable information in each item, such as accident and injury rate. The application level and completion of information is verified by the GRI, the application of which would be monitored in the report.²⁴³ The accreditation of OHSAS18001 in health and safety, and external auditing of fair payment in the financial statements of Annual Review 2011 by an independent, registered public accounting firm both provided an effective audit of the sustainability report and real performance of CSR.²⁴⁴ In addition, employee engagement can be treated as a form of internal audit when corporate governance of CSR towards employees is monitored through the reporting of misconduct.

3.5.2 Example of bad reporting

Cape PLC

As mentioned before, Cape was selected as an example in the horizontal comparison of bad reporting since it had provided an incomplete CSR report containing only a description on the aspect of health and safety, and one-sentence descriptions on some other sectors. As mentioned in the previous section, if companies' information disclosure published amounts to fewer than three aspects, the report will be evaluated as bad quality. Under this circumstance, the Cape CSR Website Report disclosed information on fewer than two dimensions, with the result that it was selected as an example of bad reporting.

²⁴³ Ibid, 57.

²⁴⁴ 'Independent Audit Report', see Carnival Annual Review 2011, *supra* note 239, 37; see also Carnival Corporation & PLC Sustainability Report 2011, *supra* note 218, 57.

In respect of health and safety, the Cape report stated that Cape had set up a health and safety management system on the basis of OHSAS18001 and had managed 'zero harm' in the workplace through the reporting on unsafe situations.²⁴⁵ In addition, the Cape information briefly mentioned its general international development and management training initiatives to employees without any detail about how the company had conducted these training programmes among employees.²⁴⁶ Moreover, workplace control was exaggerated when it was defined as an internal monitoring approach to health and safety.

The incomplete CSR information on employees that was reported made it unclear to data users what the detailed performance of CSR towards employees in the company was. The lack of statement also means the under-performance of the company in its CSR towards its employee in various areas in the company. More importantly, the lack of monitoring mechanism in Cape's CSR reporting system, and lack of audit or external verification by a public organization, leave the validity of the reported information open to doubt and challenge.

3.6 Summary

The empirical research in this chapter was conducted on the basis of information disclosure in 90 companies. From the examples and database presented in Table 1, over 80% of companies provided precise information in the form of different company reports to demonstrate their CSR performance in employment through corporate governance. The legal requirement primarily requires that companies publish information with respect to

²⁴⁵ See Cape Annual Review 2011, *supra* note 211.

²⁴⁶ *Ibid.*

social issues and employee matters, for example, Section 417 of the Companies Act 2006 and RIDDOR respectively require reporting on aspects of employee, and health and safety in the workplace.²⁴⁷ Additionally, more than 45 companies had adopted the voluntary reporting approach to present their CSR performance in employment. Many companies created official reports on the basis of the GRI or UN Global Compact.

The authenticity and quality of the published information is ensured through the internal supervision of stakeholders, especially employees, and external auditing and verification by third parties. For example, 9 companies applied GRI reporting and self-check monitoring or third-party verification by means of the Sustainability Disclosure Database. More than 53% of the companies, particularly FTSE 100 companies, applied both GRI reporting and verification, and third-party assurance company auditing to measure the reliability of the information they disclosed, which is accompanied by a third-party assurance report for the purpose of public monitoring.

As regards reliable information disclosure among the 90 companies, it was found that there was sufficient legislation that could act as the legal minimum standard in the exercise of CSR in employment. Both internal corporate governance and external initiatives would be informed by the legal basis. Beyond law, UK governments, industrial committees, and NGOs set up numerous voluntary codes of conducts to inform companies' CSR implementation in practice, namely the ACAS booklet in the BIS, and the Health and Safety Charter of the Home Builders Federation. In some particular industries, such as construction and manufacturing, there are also industrial standards of CSR that regulate employees' health and safety at work, including the EU manufacturing sector's accident rate, CCS guideline and the like. According to the examples and the data, 12 of the 30 randomly selected companies in the industries of manufacturing and

²⁴⁷ See Companies Act 2006, Section 147, *supra* note 4; see also RIDDOR, *supra* note 41.

construction had adopted the national and industrial voluntary guidelines on exercising CSR in corporate governance.

Where companies had implemented CSR, around 60% of them had applied international guidelines and standards in corporate governance, especially in the field of employees' human rights, which is regulated by ILO Conventions, standards and the UN Human Rights Declaration. These guidelines are voluntary and directly adopted in company's decision-making on CSR. In addition, various ISO standards are also voluntary instructions, and 25 companies explicitly presented information on their use to exercise employee protection with respect to health and safety at work and human rights. Moreover, 15 companies had adopted the UN Global Compact as one of the most popular initiatives, to exercise CSR under the principles of human rights, labour, the environment and anti-corruption, and the framework of information disclosure.

According to the research, employee engagement in most of the companies is in accordance with the process of stakeholder engagement introduced in Chapter 2, including employee information, employee response and employee communication. In this process, employers not only publish information to employees, but also obtain feedback and advice from them, so that the employers would obtain direct knowledge about employees' complaints and attitude to their companies' performance, and gain a broad view on how to improve employee satisfaction through grievance reports, a whistle-blowing policy or employee dialogue. In more than half of the selected companies, the trade unions, labour unions or employee representatives are the organizations that challenge employers to engage employees in collective bargaining, and to ensure and assert employees' legal rights at work.

In respect of the empirical research done in this study, there are two points to be emphasized in the gap in information disclosure of UK companies' performance in CSR with regard to employees in corporate governance. First, the selected UK companies were limited to companies that were within industries such as manufacturing, construction and transportation, which are labour-intensive companies that are involved in more specific issues in employment, such as safety in work conditions, respect for human rights and fair payment. The research conducted into the reports collected from these industries is aimed at providing an overview of how these labour-focused companies adopted a CSR approach in corporate governance to ensure employees' interest at work. The comparative examples concentrate on the applicable initiatives and quality of information disclosure of the companies that were researched, but do not indicate which company implemented any particular action. Irrespective of the division in the comprehensive comparison, it is difficult to compare companies in specifically the same industry, because in the process of information disclosure, collection and analysis, there might only be a few companies in the total industry that disclosed information that could be applied in this research. Among the few companies in the same industry, it is no coincidence that two companies can respectively provide good and bad examples in the same division. Furthermore, there might be only one company in a particular industry that forms part of the FTSE100 companies that was chosen as an example, such as the unique food company, AB Food. There might not be another company in the same industry that could be used as an example to demonstrate the opposite. Moreover, at the beginning of the research, when randomly choosing studied companies, it was found that many labour-intensive companies in the industries of manufacturing and construction seldom published information in respect of CSR to employees or even lacked CSR information disclosure completely. For example, Peter Black Footwear and Accessories Limited was selected as a bad example of employee engagement; it would have been ideal if another foot manufacturer could have been selected as a good example. However, among all the

companies researched, Peter Black is a unique footwear company. Compared with other reports in respect of employee engagement, this company's information disclosure is of relatively bad quality, and lacks precise statement of activities and third-party monitoring. Therefore, all comparisons are made among companies in labour-intensive industries but it was difficult to compare companies particularly in the same industry.

Second, as mentioned in the section on methodology, the standard to evaluate the performance of companies' CSR with regard to employees in corporate governance is basically dependent on the published information and third-party monitoring from an assurance company or NGO. However, although a company that performed well in information disclosure and verification might have been selected as a positive example, the screening by public investors, the media and consumers would also affect the evaluation of that company's CSR exercise in this empirical research. For instance, at the beginning of the empirical research among selected UK companies, AB Food was chosen as a good example of fair payment and welfare because its *Annual Report 2012* explicitly stated the numbers, index and actions in respect of employees' payment and welfare, and the report was audited by the auditing firm KPMG. However, news in the *Financial Times* revealed that the company failed to provide workers with a living wage in poor countries. To some extent, this led to inconsistency between the reported information and public news, and negatively affected the company's public reputation. Therefore, AB Food was ultimately adopted as an example to illustrate how a company performs well in its verified report, but fails to ensure employees' payment in reality.

This empirical research is aimed at observing companies' CSR performance through the quality and content of information disclosure among selected companies, but not the real effect of their operation. It is assumed that all information adopted in this thesis is truly reflective of the real CSR exercise in individual companies and that the third-party audit

ensures the authenticity of reports. However, newspapers, other media and even stakeholders would monitor companies' particular negative performance or accidental tragedy in practice, which will affect information users' judgement and evaluation of these companies' CSR performance and reports. It is difficult to solve the objective gap between information disclosure and observation of the real effect of CSR in companies in this research because the extent of public news and monitoring will always go beyond and update immediately the information collected for research purposes. However, information disclosure accompanied by a valid audit is still the most effective route for stakeholders to follow in gaining comprehensive knowledge of companies' CSR performance rather than a news report or public comment.

Chapter 4: Chinese Companies' Corporate Social Responsibility in Employment: Case Studies

After the Shell company's CSR report had first been introduced in China in 1999, Chinese companies tried to adopt CSR in corporate governance. This was the start of strategic management in the areas of environmental protection and product quality, and recognition that good performance on the environmental and social issues largely affected marketing development.¹ However, until the late 1990s, the one factor, namely labour, which slightly influenced corporate operation internally, was still ignored in companies and the public. As an emerging market with the most potential, China developed numerous companies in huge need of human resources, in the fields of apparel and textiles, automobiles, electronics technology and so on. Among these, the 'sweat shop' emerged in some private and overseas companies, which greatly reduced the cost of human resources, and violated employees' health and safety, human rights, and rights to fair payment. This had a negative social effect and was reported by the public media, which directly harmed corporate reputations and revenue.

As a member state of the ILO, China prohibits any action that violates the human rights of labour, and constantly tries to improve its policies to ensure employees' rights in the workplace. Many companies in developed countries prefer to invest in, or co-operate with, companies that have a good reputation and are corporately socially responsible, which includes protecting their employees in corporate governance. In order for Chinese companies to be competitive in the global market, they have to move their focus from having a solely economic impact to a social impact. They should take positive action to

¹ Lee, S. Y., 'Fortune China CSR Ranking 2011 Report', *Fortune China*, March 15, 2001, available at: http://www.fortunechina.com/rankings/c/2011-03/15/content_51879.htm, last accessed on 12 June 2013.

ensure that their employees' legal rights and interests are protected. As in Chapter 3, this chapter will apply comparative case studies to illustrate the information disclosure of Chinese companies. Empirical research was used to compare and analyse the implementation of CSR in employment in Chinese companies.

4.1 Overview

In China the implementation of CSR in corporate governance is generally required by Article 5 of Company Law 2006 which stipulates that companies should comply with all regulations, and social and business morals; operate their business in good faith; take social responsibility; and accept supervision from the government and the public.² Articles 17 and 18 of Company Law 2005, especially, provide legal standards on how to ensure employees' rights at work. Employers shall strengthen labour protection through employment contracts and social insurance, and offer professional development and in-service training.³ Employees, in turn, are conferred the freedom to participate in trade union activities and the right to conclude collective contracts with respect to payment, health and safety, working hours, working conditions, and so on. The issues that employees might have should be taken into consideration in decision-making and democratic management.⁴ According to CSR reporting, two Chinese stock markets

² Chinese Company Law 2005 [《公司法》, zhongguogongsifa], Article: 'When undertaking business operations, a company shall comply with the laws and administrative regulations, social morality and business morality. It shall act in good faith, accept the supervision of the government and the general public, and bear social responsibilities. The legitimate rights and interests of a company shall be protected by laws and may not be infringed'.

³ Ibid., Article 17: 'The company shall protect the lawful rights and interests of its employees, conclude employment contracts with the employees, buy social insurances, strengthen labour protection so as to realize safe production. The company shall, in various forms, reinforce the vocational education and in-service training of its employees so as to improve their personal quality.'

⁴ Ibid., Article 18: 'The employees of a company shall, according to the Labor Union Law of the People's Republic of China, organize a labor union, which shall carry out union activities and safeguard the lawful rights and interests of the employees. The company shall provide necessary conditions for its labor union to carry out activities. The labor union shall, on behalf of the employees, conclude the collective contract with

published relevant guidelines on CSR in listed companies. For example, the Shenzhen Stock Exchange established the Guidelines on CSR in Listed Companies that stipulate that companies should achieve CSR towards their employees in issues of health and safety; human rights; fair payment and welfare; and vocational development. Information on their CSR must be disclosed in the format of a particular report and self-evaluated against the standards of the guidelines.⁵

Many companies went beyond the minimum legal standards and gradually took voluntary initiatives in CSR and periodically created CSR or sustainability reports, as did companies in developed countries. Syntao, which is a Chinese NGO involved in professional ESG research, published an authoritative report on the performance and operation of CSR in Chinese companies after researching more than 2,000 companies in China (including Hong Kong and Taiwan).⁶ The Syntao report, 'Revealing China's ESG Issues 2011', disclosed that issues about CSR in employment related to health and safety, such as occupational disease and injury; and labour conditions, such as outstanding payment, had been enforced by laws and improved above the legal level. However, there are still incidents that have been unreported and are unavoidable. Therefore, it is

the company with respect to the remuneration, working hours, welfare, insurance, work safety and sanitation and other matters. Pursuant to the Constitution and other relevant laws, a company shall implement democratic management in the form of meeting of the representatives of the employees or any other ways. To make a decision on restructuring or any important issue related to business operation, or to formulate any important regulation, a company shall solicit the opinions of its labor union, and shall solicit the opinions and proposals of the employees through the meeting of the representatives of the employees or in any other way.' See *supra* note 3.

⁵ The rules of CSR in employment and CSR reporting are respectively stated in Chapters 3 and 6 of the Shenzhen Stock Exchange Guideline of CSR in Listed Companies [深市上市公司企业社会责任指南, shenshishangshigongsiquyeshehuizerenzhinan], available at: <http://wenku.baidu.com/view/495217c34028915f804dc26f.html>, last accessed on 28 May 2013.

⁶ Syntao, which is a company founded in 2005, provides the services of professional analysis, consultancy and monitoring in the fields of ESG research and sustainability issues. It also works for other stakeholders, such as government and NGOs.

necessary to enhance the efficiency of CSR towards employees, and improve information disclosure and monitoring in Chinese companies.⁷

In this chapter, Chinese companies' implementation of CSR in employment is demonstrated and analysed through the CSR reports collected from the Top 100 companies (2013), excluding companies in the industries of finance, real estate and high technology (28 companies), plus 15 randomly selected companies in the field of manufacturing.⁸ The research conducted into 87 Chinese companies, which is based on their CSR information disclosure, will reflect the exercise of CSR in employment, relating to health and safety; human rights; fair payment and welfare; employee training and development; and employee engagement through legal and voluntary approaches.

4.2 General CSR initiatives in employment

The data collected from published reports will demonstrate the approaches adopted in terms of legal requirements and voluntary initiatives to implementing CSR in employment in corporate governance. The data in Table 2 will be used in the following sections to introduce the actions that Chinese companies are taking according to or beyond legislation.

4.2.1 Compliance with minimum legal standards

⁷ Britsch, A. and Nette, A., *Revealing China's ESG Issues 2011: A Study of Chinese News About Companies in Connection with Environmental, Social and Governmental Issues*, available at: http://www.syntao.com/SyntaoReport_Show_CN.asp?ID=23&FID=18, last accessed on 13 January 2014.

⁸ China Companies Top 100 is in accordance with the ranking in 2013, China Companies Top 100 2013 [2013 中国百强企业, zhongguobaiqiangqiye], available at: <http://www.doc88.com/p-4117375805529.html>, last accessed on 8 May 2013. The randomly selected companies refer to the industries of manufacturing, such as fashion companies, footwear companies and cosmetic companies, all of which applied SA8000 standards in CSR, and were recommended by the China National Textile and Apparel Council in 2013.

All companies in China have to comply with Labour Contract Law in employment that stipulates that corporate contracts with employees and codes would be established on the basis of legislation.⁹ The law compels companies to conclude labour contracts with their employees that provide comprehensive protection with respect to working conditions, a fair position between labour and management, and legal payment to employees. Articles 47 and 54, particularly, regulate the capital compensation to workers, the working conditions in relation to the collective contract, and how trade unions represent employees in taking legal action against any violation in collective bargaining.¹⁰ Article 42(4) requires the special protection of pregnant women employees, namely that the employer cannot dismiss women employees when they are in their pregnancy, confinement or nursing period.¹¹

The Law of the People's Republic of China on Work Safety (hereinafter the 'Law on Work Safety') is the main legislation dealing with issues of safety at work that is applicable to all companies in the normal process of production or business activities.¹² Article 17 requires companies to clarify the responsibility of work safety and set up internal safety mechanisms at work. Articles 21 and 22 compel employers to implement

⁹ The official Labour Contract Law was adopted at the 28th Session of the Standing Committee of the Tenth National People's Congress of the People's Republic of China on 29 June 2007, and came into force on 1 January 2008.

¹⁰ Labour Contract Law [劳动合同法, laodonghetongfa], Articles 47 and 56.

¹¹ Ibid., Article 42. It regulates five situations that without consent, employers cannot terminate the contract with employees.

¹² The Law of the People's Republic of China on Work Safety [中华人民共和国安全生产法, zhonghuarenmingongheguoanquanshengchanfa], was adopted at the 28th Meeting of the Standing Committee of the 9th National People's Congress of the People's Republic of China on 29 June 2002, and came into force on 1 November 2002. 'In the normal process of production or business activities' excludes particular industries regulated by regulations of fire-fighting, road traffic safety, railway traffic safety, and water-way traffic safety.'

safety training among their employees to ensure that they take protective action at work.¹³ Chapter 4 of the Law on Work Safety imposes the duty on governments to strictly supervise the performance of companies' work safety: 'make arrangements for the departments concerned, in keeping with the division of responsibilities, to carry out strict inspections in the production and business units located in their administrative regions in which major accidents due to lack of work safety are liable to occur'.¹⁴ Article 42(1) specifically mentions that companies must prevent and apply effective treatment to occupational health diseases, such as rescue operations, handling emergency incidents and routine physical examinations of employees.¹⁵

The administrative government regulations also provide rules concerning the protection of employees; for example, the State Council published the Provisions on Prohibition of Child Labour that prevents companies from using child labour under 16 years of age.¹⁶ The Ministry of Labour and Social Security decreed the Provisions on Minimum Wages which requires that the local standard for a minimum wage should be negotiated and decided among local administrative departments of government, trade unions at the same level and the Association of Local Entrepreneurs. The regional principle and minimum payment are based on local living standards, average amount of social security, industrial productive capacity and so forth. The provisions also present the formula to calculate local minimum wages.¹⁷

¹³ See Law on Work Safety, *supra* note 12, Articles 17, 21 and 22.

¹⁴ *Ibid.*, Articles 53 to 67 and Article 4.

¹⁵ *Ibid.*, Article 42.

¹⁶ Provisions on Prohibition of Child Labour [禁止使用童工规定, *jinzhi shi yong tong gong gui ding*], was adopted at the 63rd Executive Meeting of the State Council on 18 September 2002, promulgated by Decree No. 364 of the State Council of the People's Republic of China on 1 October 2002, and came into force on 1 December 2002.

¹⁷ Provisions on Minimum Wage [最低工资规定, *zui di gong zi gui ding*], was adopted at the 7th Executive Meeting of the Ministry of Labour and Social Security on 30 December 2003, and came into force on 1 March 2004. See Articles 4, 5 and 7, and Appendix: Provisions on Minimum Wage.

Additionally, the Ministry of Labour and Social Security listed a series of ILO Conventions that China has concluded and signed as the main international legal requirement for the protection of employees. When China became a signatory to the ILO Conventions, it was obliged to adopt the global standards into its domestic legislation. Therefore, when companies comply with national regulations, they indirectly apply the international legislation. Of the 87 companies researched, 30% obviously expressed the use of ILO Standards as their guidelines for CSR in employment in their CSR reports.

Occupational Safety and Health Convention 1981 (No. 155) is one of the major foundations regulating health and safety issues in the workplace.¹⁸ It enforces the adoption of the convention in national policies, and at national and undertaking levels. For example, section 2 states: 'Each Member shall, in the light of national conditions and practice, and in consultation with the most representative organizations of employers and workers, formulate, implement and periodically review a coherent national policy on occupational safety, occupational health and the working environment'; Section 3 requires that '[t]he enforcement of laws and regulations concerning occupational health and safety, and the working environment shall be secured by an adequate and appropriate system of inspection'. As an undertaking, companies are asked to ensure health and safety of equipment, machinery and the workplace in practice.¹⁹

Moreover, the international conventions provide further details in various aspects, such as Safety and Health in Construction Convention 1988 (No. 167).²⁰ They are aimed at

¹⁸ Occupational Safety and Health Convention 1981 (No. 155) was convened by the Governing Body of the ILO in Geneva on 3 June 1981, and came into force on 21 June 1981.

¹⁹ Occupational Safety and Health Convention 1981 (No. 155), Article 4(1) of section II, Article 9(1) of section III and Article 16 of section IV.

²⁰ Safety and Health in Construction Convention 1988 (No. 167) was convened by the ILO Governing Body at the 75th Meeting in Geneva on 1 June 1988, and came into force on 20 June 1988.

providing the legal, administrative, technical and educational framework for health and safety in construction to prevent accidents and diseases, and harmful effects on workers' health and safety at work in construction; provide initiatives to ensure safety, health and working conditions, construction processes, activities, technologies and operations; and take appropriate measures to plan, control and enforce health and safety at work in corporate governance.²¹

4.2.2 Voluntary CSR initiatives in employment

Chinese administrative departments play a major role in guiding the development of CSR in companies. They provide instructive approaches and a framework about the implementation of CSR, including the issue of employees. First, the SASAC published the Guidelines to the Stated-owned Enterprises Directly Under the Central Government on Fulfilling Corporate Social Responsibility (hereinafter 'SASAC Guidelines'), which had been adopted as the basis of CSR implementation in the CSR reports of state-owned companies. The guidelines were aimed at standardizing the performance of CSR and enhancing the image of state-owned companies.²² Rules 13 and 14 state the requirements of CSR towards employees concerning production safety and protecting their legal rights. The guidelines require employers to establish a responsibility system for safe production and an emergency management system to avoid accidents. It is necessary to ensure safe and healthy working conditions and living environment to improve employees' health and prevent any harm from occupational diseases. Companies have to respect employees'

²¹ It is concluded from the Articles 14, 15, 16 and 18 of Safety and Health in Construction Convention, 1988. The convention also guides the proper use and preventative measures in the use of specific equipment, such as scaffolding, ladders, cranes, and works at heights and roofing.

²² The Stated-owned Assets Supervision and Administration Commission: The Guidelines to the Stated-owned Enterprises Directly under the Central Government on Fulfilling Corporate Social Responsibility reflected the spirit of the 17th CPC National Congress and the scientific outlook on development and realized the sustainability of enterprises, society and environment in all respects.

human rights at work, provide professional training and development, and pay employees legally and include social insurance.²³

Additionally, some of the companies that were researched indicated that they exercised CSR and created reports that relied on industrial CSR guidelines, such as Guidelines to Chinese Industrial Enterprises and Industrial Association of Social Responsibility (hereinafter 'the Industrial Guidelines').²⁴ Chapter 5 of the Industrial Guidelines relates to CSR in employment with respect to health and safety, human rights, fair payment, employment engagement and professional training. For example, Rule 5.3.7.1 states that all employees should be protected not only under domestic legislation, but also under the prevention of any discrimination. Rules 5.3.7.5 and 5.3.7.7 mention that companies should establish trade unions under law to involve employees in the democratic management of companies and to allow them to express their opinion to employers.²⁵

Especially among the researched textile and apparel companies, CSC9000T is one of most effective and detailed industrial instructions on CSR in corporate governance in the industry. It is the main framework and self-evaluation system of CSR in employment.²⁶

²³ SASAC Guidelines, Rule 13 and 14.

²⁴ China Industrial CSR Instruction and Guideline (GSRI-CHINA 2.0) [中国工业协会及工业企业社会责任指南, zhongguogongyexiehuijigongyeqiyeshehuizerenzhinan], Second Edition, was researched by the Industrial Association, academic institutions and NGOs, and originally published on 2 April 2008, available at:

http://wenku.baidu.com/link?url=go-uriX5XR0P82S2f5NIOsL-VX5xH_cx_tc3V1z-0J0ShK3IA0_-NU1MWKDnN0AJOcZocmy3zZ7Djd6JAeOtpUNebkq6IxrsGaGqQsEtiZa, last accessed on 1 June 2013.

²⁵ Ibid., Chapter 5.

²⁶ In the CSC9000T it is called 'the process of PDCA: planning, doing, checking and acting'. To 'plan' is to establish the objectives and procedures necessary to deliver results in accordance with the enterprise's Code of Conduct for Social Responsibility; to 'do' is to implement the procedures; to 'check' is to monitor and measure procedures against the enterprise's Code of Conduct, objectives, targets, legal and other requirements, and report the results; and to 'act' is to take actions to continually improve the performance of the Social Responsibility Management System.

It set up a systematic process of 'planning, doing, checking and improving' CSR in employment under ILO Conventions which integrated the main stakeholder–employee interests into the business strategy and operation.²⁷ The requirement of CSR in human rights; health and safety; employee engagement; fair payment; and so on was divided into details and turned into an evaluation sheet according to which employers are able to score the performance of CSR in employment specifically according to every single provision.

Moreover, Chinese governments and companies widely recommended and adopted comprehensive international standards and initiatives in the implementation of CSR towards their employees. For instance, in some studied CSR reports, ISO26000 is the international standard of CSR that addresses the issues of organizational governance, human rights, labour practices, the environment, fair operating practices, consumer issues, and community engagement and development.²⁸ Concerning CSR towards employees, provisions of human rights define that the notion and respect for human rights are widely regarded as essential to law, and concepts of social justice and fairness. States have a duty to respect, protect and fulfil human rights, while an organization has the responsibility to respect human rights within operations.²⁹ The achievement of harmonized employment relationships, conditions of work and social protection, health and safety at work, employee dialogue, and human development and training in the workplace had been fully illustrated in the statement of labour practices.³⁰

²⁷ Ibid.

²⁸ ISO26000 offers guidance on socially responsible behaviour and possible actions, and does not contain requirements that, in contrast to ISO management system standards, are not certifiable. It cannot be used as basis for audits, conformity tests and certificates or for any other kind of compliance statements.

²⁹ ISO26000, Provision 6.3 Human Rights, available at:

<http://www.iso.org/iso/home/standards/iso26000.htm>, last accessed on 12 March 2014.

³⁰ Ibid., Provision 6.4 Labour Practices.

The UN Global Compact is another popular standard widely applied among Chinese companies. Some of the companies researched had adopted ten principles as the framework for decision-making and implementation of CSR. Among the principles, the aspects of human rights and workers are to eliminate the abuse of human rights and violation of enforced labour, child labour and occupational discrimination. Employee engagement is also ensured by the principle of collective bargaining and freedom of association. The adoption of the UN Global Compact is the great impetus and instruction for Chinese enterprises to achieve CSR towards their employees at the international level.

4.2.3 Information disclosure and monitoring

At the developing stage of implementing CSR, Chinese government departments show the major direction on how to disclose information on CSR. First, the SASAC Guidelines require that the state-owned enterprises under central government control should disclose CSR information: 'Enterprises having experience in CSR work, should establish an information releasing mechanism, providing updated and regular information about CSR performance and sustainable development, plans and measures in carrying out CSR.'³¹

The School of Modern Issues in the China Academy of Social Science published the Guideline on CSR Reporting Guides to define and improve the format and core issues of CSR reporting, largely applied in selected companies.³² It emphasized the different main

³¹ See The SASAC Guidelines, Rule 18, *supra* note 23.

³² China Academy of Social Science, Chinese CSR Reporting Guide: It was firstly published in December 2009 as CASS-CSR 1.0, which was followed by a series of forums to discuss the operation and improvement of the guide. Then in September 2010 the guidebook had expanded its coverage, improved the indicator and updated the case studies at the international level that the academic panel, CSR experts and industry experts from governments, companies and academies are preparing the development of CASS-CSR 2.0, available at: <http://wenku.baidu.com/view/332d131e6bd97f192279e92f.html>, last accessed on 12 December 2013.

points of CSR in various industries through industrial research, including the factors in employment, and evaluated the performance, accuracy and efficiency of CSR reporting among companies and industries.

More than 40% of companies in this research applied the GRI Reporting system to their CSR reports, because it is the benchmarked and globally accepted reporting initiative.³³ GRI offered companies a large amount of experience in enhancing the transparency and credibility in information disclosure, and made Chinese companies meet the international need for CSR. Furthermore, in the unified reporting system, companies can directly compare the performance of CSR with competitors through the clarified and identified reporting framework, within the same market, region or industry.

Regarding CSR monitoring, some of the collected CSR reports were not verified through third-party audit, some of the reports had been audited by a third party, such as an assurance company, and some of the CSR reports were commented on by industrial or professional organizations or verified by a certification authority. Companies in the manufacturing industry use SA8000 verification to enhance the credibility of CSR reports that refer to the monitoring of child labour, discrimination, working hours, wages, freedom of association and so forth.³⁴ Companies that submitted an application for SA8000 verification would be audited by a qualified authority under the SA8000 Standard and awarded a certificate of SA8000 achievement. In addition, companies who

³³ The new version of GRI (G4) was officially updated in May 2013 after broad discussion and research by experts and companies. GRI (G4), available at: <https://www.globalreporting.org/resource/library/GRIG4-Part1-Reporting-Principles-and-Standard-Disclosure.pdf>, last accessed on 12 June 2013.

³⁴ SA8000, the auditable certification standard that encourages organizations to develop, maintain and apply socially acceptable practices in the workplace, mainly in the field of CSR of employment, SA8000 Standard, available at: http://www.sa-intl.org/_data/n_0001/resources/live/2008StdEnglishFinal.pdf, last accessed on 12 July 2013.

allegedly applied the UN Global Compact to their CSR would be simultaneously monitored by the system, as mentioned in Chapter 3.

4.3 Methodology

According to the overview of the Chinese companies studied, the empirical and comparative case studies are depended on 77 CSR reports analysed with specific reference to their exercise of CSR in employment.³⁵ As in Chapter 3, which dealt with CSR in UK companies, the collected data will be divided and summarized into five aspects, namely (i) health and safety; (ii) human rights; (iii) training and development; (iv) fair payment and welfare; and (v) employee engagement. Two additional factors will be included to judge the efficiency of the CSR reports in each column, namely (i) reporting system and (ii) monitoring. The comparison and analysis of the 77 Chinese CSR reports on how these companies improved their CSR in employment will also be implemented divisionally and comprehensively. However, because the total number of researched Chinese CSR reports is lower than for the UK, this chapter will only analyse one example of good reporting and one example of bad reporting in the vertical comparisons.

4.4 Divisional comparison

In this section, 77 Chinese companies that provided information in their reports were compared vertically and analysed according to each of the five aspects, namely (i) health and safety; (ii) human rights; (iii) training and development; (iv) fair payment and welfare; and (v) employee engagement. Their reporting and monitoring of reports were

³⁵ Among the Top 100 companies, 28 companies are in the industries of finance, real estate and high technology. However within the rest of the 72 companies, 10 companies lack applicable information disclosure about CSR in employment, so that 62 companies within Top 100 companies are eligible for this research. If the 15 randomly selected companies are included, the total number in the database is 77.

also analysed. Examples of good and bad reporting will show how companies sufficiently or insufficiently achieved CSR in employment in every sector, and if they had complied with minimum legal standards and advanced voluntary initiatives.

4.4.1 Health and safety

All 77 CSR reports indicated that the companies had revealed information about their implementation of health and safety in CSR in employment with respect to production safety, emergency control, professional health and other issues. China National Offshore Oil Corporation presented the best report in this regard, whereas Huayu Automotive System Corporation comparatively showed the poorest performance in information disclosure.

4.4.1.1 Example of good reporting

China National Offshore Oil Corporation

China National Offshore Oil Corporation (hereinafter 'CNOOC') is the largest offshore oil and gas producer in China, and the biggest and monopolistic government-owned company operating directly under the SASAC of China. CNOOC was founded in 1982 and is located in Beijing. The company evolved from a pure upstream oil-and-gas-exploiting company to an international energy company that provides primary businesses and a complete industrial chain. Through long-term development and innovation with the Second Leap Forward Programme.³⁶ CNOOC has transformed its business model and adjusted the industry structure, ranging from traditional and main

³⁶ The Second Leap Forward Programme was created and pointed out by the CEO of CNOOC, Mr Yilin Wang, at the APEC Forum in December 2012. It was the leading innovation, aimed at enhancing the capacity of exploiting oil and gas in deep-sea area by the specific '981' Drilling Platform System.

segments of oil and gas exploration and development, to refining gas, and power generation, engineering technical and professional services, alternative energies, and financial services.³⁷

As one of the most powerful state-owned companies, CNOOC implemented comprehensive policies on, and approaches to, CSR in employment, especially with respect to health and safety. According to the CNOOC CSR Report 2012, the protection of health and safety was divided into three aspects, namely (i) occupational health, (ii) operational safety and (iii) employee health care.

As regards occupational health, CNOOC strictly complied with the Law of the People's Republic of China on Prevention and Control of Occupational Diseases, and set up a systematic occupational health management system that kept close track of changes in the national occupational health regulations on construction projects, workplace, occupations such as occupational health surveillance, and other related areas, and implemented the assessment, review and inspection of Occupational Disease Hazards at Construction Projects and Health Management Rules for Offshore Workers. These data provided the identification, analysis and control of occupational disease risk factors with the purpose of improving the workplace environment and taking active measures to protect the health of employees. The company stated that: 'We have, in 2012, reviewed 9 preliminary assessment reports, as well as reviewed assessment reports on the effects of control measures and inspected the completed protective facilities for occupational disease hazards at 3 projects. Additionally, we set forth new requirements on the assessment of the effects of control measures for occupational disease hazards.'³⁸

³⁷ The overview of CNOOC is published through the corporate business introduction website, available at: http://en.cnooc.com.cn/data/html/english/channel_110.html, last accessed on 12 August 2013.

³⁸ CNOOC, 'Occupational health', CSR Report 2012, 47, available at: <http://www.cnooc.com.cn/data/kcxfzbg/2012en/online.htm>, last accessed on 14 August 2013.

CNOOC commenced with educational programmes in occupational health, so-called occupational health awareness campaigns and training. It increased awareness among employees of the prevention and control of occupational diseases, and carried out onsite training for the management, occupational health managers and technical operators of the various companies, in order to promote proper practices for the management of occupational health, and the prevention and control of occupational disease hazards.³⁹ This mission was mainly achieved by the CNOOC General Hospital and the Worker's Hospital of CNOOC Nanhai West Corporation who were responsible for providing medical assistance; field emergency medical service; routine diagnosis and treatment; healthcare; prevention; treatment of communicable diseases and food poisoning; and health awareness and education.⁴⁰

With respect to operational safety, and specifically production safety, CNOOC aimed to create a safe working environment, and reduce the rate of injury and accident. It had reported 117 cases of reportable injuries and no fatal accident among employees in 2012.⁴¹ The company ensured operational safety through investigation, tracking and elimination of major hazards that endangered facilities, equipment and the onsite environment. In addition, the CSR Report revealed that CNOOC had compiled Guidelines on Preparing On-Site Emergency Response Action Plans and guided the various business units in developing emergency plans to push the development of the emergency management information system.⁴²

³⁹ Ibid., 48–49.

⁴⁰ Ibid.

⁴¹ Ibid.

⁴² Ibid.

Employee health care in CNOOC was exercised through routine employee health tests, diagnoses and recovery treatment, especially in mental health care. The company established a specific department to deal with employees' mental health crises; it built stress management models, and offered stress management and mental health services. This team carried out in-depth research into the cause, development and effects of mental stress in employees to build up employees' psychology and optimism.⁴³ A series of actions in healthcare protection ensured that employees kept physically and psychologically healthy at work which would enhance efficiency among the workers.

The CNOOC CSR report was edited through the GRI Reporting System and verified by the paid-service GRI Application Level Check and free-charge service, the Sustainability Disclosure Database, to ensure that the information in the report was accurate and credible. CNOOC had invited the CSR Research Centre of the Economics Division at the Chinese Academy of Social Sciences to rate and assess the CNOOC's CSR report with respect to completeness, materiality, balance, comparability, readability and creativity. The research centre commented as follows on the overall rating: 'Through evaluation and deliberations, the rating team agreed to rate China National Offshore Oil Corporation Sustainability Report 2012 as leading by giving a four-and-a-half star (in a five-star) rating to it.'⁴⁴ The third-party audit had objectively evaluated the quality of the CNOOC CSR report which made it reliable to the public.

4.4.1.2 Example of bad reporting

Huayu Automotive System Corporation

⁴³ Ibid., 69.

⁴⁴ Third-party assessment of the report was conducted by experts in the CSR Research Centre of Economics Division of Chinese Academy of Social Sciences. See CNOOC CSR Report 2012, *supra* note 38, 83.

Huayu Automotive Systems Corporation (hereinafter 'Huayu'), was listed on the Shanghai Stock Exchange in 2009. Its headquarters are located in Shanghai. The company focuses independently on research and development, production, and marketing of automotive components. It has its six core business divisions: (i) metal forming and dies, (ii) interior and exterior trimming, (iii) electric and electronics parts, (iv) functional parts, (v) hot-worked parts, and (vi) new energy parts. By the end of 2012, the company had held a total capital stock of 2.58 billion shares, consolidated total assets of RMB48.24 billion and collected sales revenue of RMB108.924 billion.⁴⁵ The company had set up 28 invested companies and 188 bases. It employed up to 80,000 employees for research and development, manufacturing, and customer service in 19 provinces, cities and autonomous regions.⁴⁶

Among the CSR reports collected, the information contained in the Huayu CSR report was comparatively weak and incomplete, with little detail and reportable data, especially regarding health and safety in employment. The Huayu CSR Report 2012 stated that the company had strictly complied with relevant legislation to implement management in health and safety, evaluated safety crisis and control, and had prevented occupational disease from breaking out among employees. Moreover, about 44 company-owned businesses had been accredited by OHSAS18001, with no critical injury, accident or fire hazard.⁴⁷

⁴⁵ Introduction to Huayu Automotive System Corporation is revealed on the company's website, available at: <http://www.huayu-auto.com/english/gsgk/gsjj/index.shtml>, last accessed on 1 June 2014

⁴⁶ Ibid.

⁴⁷ Huayu Automotive System Corporation, 'Production Safety', CSR Report 2012, 17, available at: <http://www.sustainabilityreport.cn/ReportShow.asp?ReportId=5001>, last accessed on 1 June 2013.

The brief description of the company's implementation of health and safety lacks effective information that the public could access to show them how Huayu had performed corporate governance to achieve health and safety in employment in the workplace. First, the report mentioned the adoption of regulations. However, it did not explain the specific laws that applied in practice. Additionally, the report had little information about precise management policies and procedure in health and safety; what assessment the company had used; and the result of the assessment after evaluation and analysis. Furthermore, this report contains no reportable data on the number of injuries, occupational disease outbreaks and accidents at work. Moreover, the Huayu CSR Report 2012 had not been verified by any reporting or monitoring system, such as the GRI Reporting System or the UN Global Compact. It had also not been audited by a third party, which largely reduced its credibility, the quality of the statements and the CSR report itself to the public.

4.4.2 Human rights

Human rights is both a legal and voluntary notion that had been adopted by employers as an important CSR issue in employment. According to the research conducted into 77 Chinese company CSR reports, the vast majority of companies demonstrated their exercise of human rights in their reports, such as equal opportunities for employees, or respect for disabilities or women staff members. China Shenhua Energy Company stated comprehensively how it had achieved human rights in CSR, while the China State Engineering Construction Corporation is an example of the exact opposite.

4.4.2.1 Example of good reporting

China Shenhua Energy Company

China Shenhua Energy Company (hereinafter 'China Shenhua') is a completely state-owned company founded in October 1995 with the approval of the State Council. It is listed in Hong Kong and Shanghai, and is a so-called super large-scale energy enterprise with coal as its core business. It is also involved in the fields of electric power, railway, port, shipping, coal-to-liquids and coal chemical engineering, and integrates production, transportation and sales. The company is China's largest and most advanced coal enterprise, and the largest coal distributor in the world. It was ranked at 234 on the Global Top 500 Enterprises 2012 by *Fortune Magazine*. The company, which employs 211,500 employees, set itself the goal of being an internationally competitive and first-class coal and energy enterprise, and treated its resource of human capital as one of the main components in its corporate governance and development.⁴⁸

In the 2012 CSR report China Shenhua greatly emphasized respect for employees' human rights at work, in order to build up harmonious employment relations. On the minimum legal basis of the official labour law and labour contract law, the company set up the principle of 'equality, free will and mutual agreement' to implement the company-wide labour contract system, the collective contract system and the employee representative committee system.⁴⁹ A series of policies on human rights ensured no forced labour at work, and employees' freedom of association to assert their legal rights and interests. The company promised no sexual and regional discrimination, and provided job opportunities to the disabled and ethnic minority through creating work arrangements that were specific to the posts of the disabled. It also showed respect for the habits of ethnic

⁴⁸ The company introduction to China Shenhua Energy Company is revealed on the official website, available at: <http://www.shenhuagroup.com.cn/english/about0us/profile0of0shenhua/index.shtml>, last accessed on 12 July 2013.

⁴⁹ 'Human Rights of Employees', China Shenhua Energy Company CSR Report 2012, 52, available at: <http://www.sustainabilityreport.cn/ReportShow.asp?ReportId=5497>, last accessed on 12 July 2013.

minorities, such as in meeting their dietary and religious need. The company's CSR Report stated that at the end of 2012 the company had a total of 278 disabled employees and 4,551 ethnic minority employees.⁵⁰

China Shenhua gave employees with low levels of education access to work. The number of such employees reached 41,908 out of a total workforce of 89,144 employees.⁵¹ About half of the employees are below the level of college graduate, but enjoy respect and equal opportunities at work.⁵² The company's Department of Human Resources is expected to provide lowly educated employees, who are mostly engaged in labour-focused work, with fair treatment and ensured welfare. Moreover, because employers generally preferred to recruit highly educated people, the employment of poorly educated employees was done with a view to reducing social unemployment.⁵³

Since the company is involved in coal mining and railway industries, male employees largely dominate the staff complement in the company. In the 2012 CSR report it had been calculated that at the end of 2012 the company had a total of 17,542 women employees, accounting for 19.7% of total employees.⁵⁴ In order to show its respect for equal human rights to women employees, the company had arranged positions for women workers according to workload and working conditions. The Female Worker Committee, which is primarily responsible for matters relating to women workers, had implemented a special collective contract for women workers to safeguard their legitimate rights and special interests; introduced specific measures to safeguard the rights and interests of

⁵⁰ Ibid.

⁵¹ Ibid.

⁵² Ibid., 54.

⁵³ Ibid., 53.

⁵⁴ Ibid.

women employees; and made rational adjustments to their vacation, healthcare arrangements and labour protection supplies.⁵⁵

China Shenhua's CSR report was drafted on the structure and guidelines of the GRI Reporting System and was verified by GRI Level Application Check. It stated that 'China Shenhua Energy Company had presented its 2012 CSR Report to GRI's Report Services, which concluded that the report had fulfilled the requirement of Application Level B+.'⁵⁶ Moreover, the CSR Report 2012 had also been audited by KPMG China branch, which declared that '[b]ased on the procedures performed, as described above, nothing has come to our attention that causes us to believe that the SR Report of CSEC for the year ended 31 December 2012 is not presented fairly, in all material respects, in accordance with the disclosure recommendations of the SSE Guidelines.'⁵⁷ The double third-party audit by official and professional organizations enhances the authenticity and credibility of the report, and it is more persuasive and acceptable to the public.

4.4.2.2 Example of bad reporting

China State Engineering Construction Corporation

China State Engineering Construction Corporation (hereinafter 'China Construction') is a state-owned and backed enterprises, with construction and real estate as its core business.

⁵⁵ Ibid.

⁵⁶ China Shenhua adopted the indicator system and relevant disclosure requirements of the third edition of GRI Guidelines (G3.1), and applied the Application Level B+ as the reporting standard. The Statement of GRI. See China Shenhua Energy Company CSR Report 2012, *supra* note 49, 105.

⁵⁷ KPMG conducted the audit on China Shenhua CSR Report 2012 through making inquiries from people in charge of preparing the CSR report, applying analytical procedures and comparing information presented in this report. 'For the conclusion of the audit', see China Shenhua Energy Company CSR Report 2012, *supra* note 49, 101.

It was established in 1982 with the State Administration of Building Construction as its precursor.⁵⁸ It developed in both domestic and overseas markets, and the corporation has grown into China's largest construction and real estate industry and contractor of building works. It achieved its goal of becoming the largest transnational construction company in the developing countries and the top home-builder in the world.⁵⁹ Until 2012, China Construction had conducted business with 100 countries around the world and had reached accumulated global contracts of RMB4 trillion. This state-owned company firmly performs its political, social and economic responsibilities. It generates approximately 800,000 jobs in society each year and helps over 2.5 million people from these 800,000 families to lead well-off lives.⁶⁰

As the company has a huge need for human resources, especially migrant labourers, the concern of employees' interests became one of the focal issues in corporate governance. However, China Construction adopted a very limited range to disclose its performance about employees' human rights in its CSR Report 2012. The report stated: 'We treat all employees equally, regardless of their sex, age, nationality, religion and cultural background. We abide by the relevant laws and regulations of the project location, boycotting child labour and prohibiting forced labour.'⁶¹ From this statement, it seemed like general policies that were no different from the strategies employed in other companies who also protected employees' human rights. It did not refer in detail to how the company safeguarded human rights among employees and what legal basis had been

⁵⁸ China State Construction Engineering Construction Corporation, the introduction is published in the company profile on the company's website, available at:

http://english.cscec.com/art/2012/11/6/art_134_227.html, last accessed on 2 July 2013.

⁵⁹ Ibid.

⁶⁰ Ibid.

⁶¹ 'Protecting the Rights and Interests of Employees', China Construction CSR Report 2012, 61, available at: <http://www.sustainabilityreport.cn/ReportShow.asp?ReportId=5243>, last accessed on 12 November 2013.

applied as minimum standard in practice. For a company with so many migrant workers, the China Construction CSR Report 2012 disclosed no information relevant to the specific protection of this special group of workers.

China Construction's performance in protecting its employees' human rights was ambiguously described in its 2012 CSR Report. However, the company contended that its CSR implementation and the report itself strictly complied with the GRI Reporting Guidelines and instructions of ISO26000. The company was monitored externally by a third-party auditor, Tuv Nord, and evaluated by the CSR Research Centre of the China Academy of Social Science through professional observation and analysis, which guarantees the quality and consistency of China Construction CSR Report 2012 to public readers.⁶² Although the company's CSR Report was drafted on the basis of international standards, and externally verified by auditors and other professionals, the content on human rights lacks a precise and effective statement on the company's CSR performance. The result is that the audit amounts to a 'window-dressing' process for the benefit of the public in order to ensure the reliability of China's Construction's CSR Report. Because auditing is the tool used to verify the authenticity of the report, if the information disclosure itself is not sufficient and precise, the monitoring is not meaningful to the public.

4.4.3 Training and development

In order to attract potential employees and improve their professional capacity, all researched companies carried out employee training and development. This increased

⁶² Tuv Nord is an international provider of security, inspection and certification services in the fields of industry, mobility, natural resources, aerospace, education and training to offer independent, impartial third-party evaluation and judgement. 'The certificate of third-party assurance', see China Construction CSR Report 2012, *supra* note 61, 106–107.

companies profit and broadened the career path of their employees. Among the 77 Chinese company CSR reports, China Southern Airline Holding Company presented varied and systematic programmes of training and development in CSR, while Tongling Nonferrous Metal Group Holding Corporation only provided a brief introduction to the implementation of employee training and development in its published information.

4.4.3.1 Example of good reporting

China Southern Air Holding Company

China Southern Air Holding Company (hereinafter 'CSAH') is a state-owned air transportation group, with China Southern Airlines as its core entity. Together with the assets and flight operations of Xinjiang Airlines and China Northern Airlines, it is under the direct control of the SASAC. The company was established on 11 October 2002 and was publicly listed in New York and Hong Kong in 1997, and the holding company was listed on the Shanghai Stock Market in 2003.⁶³ Its business interests cover air transportation and cargo logistics; import and export trading; financing; construction and development; media; and advertising. CSAH employs over 80,000 employees, manages assets in excess of RMB200 billion and transported more than 86.46 million passengers in 2012 alone.⁶⁴ The potential international airline has established 42 domestic offices and 56 global branches all over the world to achieve its goals of 'Customer First, Respecting Staff, Advantage, Continuous Innovation and Favorable Return'.⁶⁵

⁶³ The overview and information of China Southern Air Holding Corporation profile was published on the corporate business website, available at: <http://www.csair.cn/en/pages/company.aspx>, last accessed on 12 June 2013.

⁶⁴ Ibid.

⁶⁵ Ibid.

As a state-owned company with a vast number of employees, CSAH created a series of classified training and development plans for all staff members; among both management and staff. The CSAH CSR Report 2012 introduced the leadership learning map for management that included training programmes aimed at improving employees at top, middle and basic management levels.⁶⁶ First, the aim was to strength the training for top management, which improved their managerial and executive competencies. This was accomplished through exchanging top managers between different airports or airlines to learn advanced practices and effective operation in corporate governance.⁶⁷ Second, the quality training offered mid-level managerial staff comprised on-the-job training courses, seminars and advanced courses to enhance managerial capability at work.⁶⁸ Third, higher education programmes for basic-level management were offered in co-operation with Tsinghua University, which provided continuing education in major subjects such as management, law and human resources, which greatly boosted employees' vision, talent and managerial skills.⁶⁹

In addition, in the CSR Report 2012, CSAH stated that it had adopted a system of ensuring the steady progress of staff training through a credit system. In terms of this system, frontline employees could participate in training courses related to their job requirements, individual interest and career development plan.⁷⁰ When employees had earned enough credits, they would be granted a certificate and the qualification to compete for higher posts. Owing to the international recruitment of foreign pilots and flight attendants, the company offered a series of customized professional training courses to improve cabin service skills, communication and management.⁷¹

⁶⁶ 'Promoting employee career development', CSAH CSR Report 2012 (English Edition), 73.

⁶⁷ Ibid.

⁶⁸ Ibid.

⁶⁹ Ibid.

⁷⁰ Ibid.

⁷¹ Ibid., 74–75.

Moreover, from 2012, CSAH started the 'temporary employees turn regular' recruiting test to extend the career development path to its staff members. After a period of training and learning, the temporary employees could voluntarily attend the company's internal recruitment process. Once they had passed the test, the company would transfer their temporary employment to regular employment. At the end of 2012, 35 temporary employees had successfully passed the recruitment competition and became regular flight attendants and administrative clerks. This initiative highly stimulated employees' motivation to enhance their personal capability and skills, and discovered employees' talent and potential in the workplace.⁷²

The CSAH CSR Report 2012 claimed the strict application of GRI Guidelines for the reporting system, so that it would systematically ensure the completion of information in the report. Furthermore, this report was also externally audited by a third party, Bureau Veritas, which is a global professional company that offers testing, inspection and certification services. It had evaluated the CSAH CSR Report 2012 and noted on the certificate that it issued, the Bureau Veritas Certificate, that the information and data included in the scope of our assurance were accurate, reliable and free from material mistake or misstatement. This information is presented in a clear, understandable and accessible manner; the report provides a fair and balanced representation of activities of China Southern during the year 2012. China Southern had established appropriate systems for the collection, aggregation and analysis of relevant information.⁷³ The third party greatly confirmed the methodology and content of the report, which increased the credibility and applicability of the report to public readers.

⁷² Ibid., 72.

⁷³ 'GRI Reporting Guidelines and third-party audit', see CSAH CSR Report 2012, *supra* note 66, 90–94.

4.4.3.2 Example of bad reporting

Tongling Nonferrous Metal Group Holding Corporation

Tongling Nonferrous Metal Group Holding Corporation (hereinafter 'Tongling Nonferrous Metals') was founded in December 1949 and put into production in June 1952. It is located in Tongling City, Anhui Province, which is one of the cradles of China's Bronze Culture and given the name 'Chinese Ancient Bronze Capital'.⁷⁴ After development of more than 60 years, the group has become an extra-large-scale state-owned company that has as its core business nonferrous metals, chemicals and equipment manufacture. It is mainly engaged in geological exploration; mining; mineral processing; copper, lead and zinc smelting and refining; and other metal production. In Tongling Nonferrous Metals the output of its main product, cathode copper, ranks among the international top 5 producers, leading in the volume of export and import in the industry. As one of China's Top 500 enterprises, the Group established economic, technical and trade co-operation relationships with more than 30 countries and regions around the world, and participated in resource exploration and development in many countries such as Chile, Peru, Canada and Ecuador.⁷⁵

The implementation of employee training and development in Tongling Nonferrous Metals was reflected in its CSR Report 2012 as that the group had revised its Annual Training and Development Plan 2012. In terms of the plan, it was a four-step

⁷⁴ The overview of Tongling Nonferrous Metals Group Holding Corporation is revealed in the company profile on the company website, available at: http://www.tnmg.com.cn/iaboutus/gywm-dszzc_E.aspx?classid=577&classname=企业简介&page=1, last accessed on 2 November 2013.

⁷⁵ Ibid.

arrangement, including continual study by mid and top management, post training, qualification and development of skills, and skills competition.⁷⁶

Employee training and development in the Tongling Nonferrous Metals CSR Report 2012 were described in only four sentences, without a detailed statement about how every stage of the plan had been achieved through precise performance. Simultaneously, the whole report was disclosed in free style and not monitored by any third-party audit. Owing to the lack of applicable information, the CSR Report 2012 was comparatively impractical and useless to public users, and the credibility of the report is open to question.

4.4.4 Fair payment and welfare

Under the official labour contract law, employers are required to pay their employees legal salaries and social security. Using the minimum standards as a basis, many companies provided extra welfare, commercial insurance and funding to improve employees' interests. Of the 77 Chinese company CSR reports collected for research purposes, 98% had illustrated how they ensured employees' legal interest in CSR. Qingdao Haier Group showed good performance and disclosed the details about how it had implemented this issue, whereas China Northern Railway Company provided little reliable information in its CSR report.

4.4.4.1 Example of good reporting

Qingdao Haier Group

⁷⁶ 'Implementing Employee Training and Education', Tonling Nonferrous Metals CSR Report 2012, 4–5, available at: <http://www.sustainabilityreport.cn/ReportShow.asp?ReportId=4809>, last accessed on 21 August 2013.

Qingdao Haier Group (hereinafter 'Haier') was founded in 1984 and initially listed on Shanghai Stock Market in November 1993. In the past 28 years, through its innovative strategies and rapid development, Haier has transformed its business format from an insolvent collectively owned factory, Qingdao Refrigerator Factory, on the brink of bankruptcy, into the number 1 global home appliance brand.⁷⁷ The company conducts business ranging from manufacturing electronic appliance and sales; to research and development in chemical products; real estates; information technology; and business consultation. Haier went through four phases during its development: (i) brand building, (ii) diversification, (iii) internationalization and (iv) global top branding. Until 2012, the business had diversified not only in Asia, but also in the US, Europe, Middle East, Africa and Australia. It globally owns 29 manufacturing centres, 19 overseas branches, and over 50,000 employees.⁷⁸

Owing to its large need for human resources, Haier has implemented various effective salary and welfare mechanisms to attract potential employees and maintain stable employment relationships. In the Haier CSR Report 2012 the company stated that the Diamond Model mechanism, which ensured employees' salaries and other welfare, was the most optimized and satisfactory system used among employees, including a programme of periodical payment, diversified welfare, and the 'Happy Life' welfare plan.⁷⁹

⁷⁷ The introduction to Haier was summarized from the section of Overview and Strategy on the corporate website, available at: http://www.haier.net/en/about_haier/haier_strategy/, last accessed on 12 September 2013; see also the company overview, available at: <http://www.haier.net/en/>, last accessed on 12 September 2013.

⁷⁸ Ibid.

⁷⁹ 'People's Welfare', Haier Group CSR 2012, 27-28, available at: http://www.sustainabilityreport.cn/Uploads/Reports/%7BF6A74CA6-E155-4BCA-BD15-A9746DB4C112%7D_qingdaohaier.pdf, last 13 September 2013.

The term payment programme was classified into short-term payment, medium-term payment and long-term payment, in respect of which employees would be paid and rewarded according to the respective periods that they had worked. *Short-term payment* is defined as 'the fixed salary that employees would be paid monthly according to the amount regulated in their labour contract'. Medium-term payment is the incentive and competitive award paid at the end of each year, which is the annual bonus related to employees' post, performance and achievement.⁸⁰ For example, employees in the Department of Sales would obtain an annual bonus by enhancing sales volumes within a financial year, while the reward for employees in the Department of Manufacturing would be related to the quantity and quality of products. Long-term payment is in the form of the Long-term Incentive Reward that people who have been employed for more than 15 years in Haier would receive. Long-term employees would receive an increased bonus according to the length of their employment, and longer paid holidays as incentive standards.⁸¹

In addition, Haier offered its employees a series of welfare benefits, including legally required insurance and extra welfare benefits. As the Labour and Contract Law and Social Securities Act regulates, the company provided a welfare package, the so-called Five Social Securities and One Funding to all employees.⁸² It comprised endowment insurance, medical insurance, unemployment insurance, pregnancy insurance, injury insurance and housing funding. Furthermore, in order to improve medical treatment, Haier purchased extra medical insurance from commercial insurance companies and enhanced the amount of health care.⁸³ Moreover, a supplementary pension is the

⁸⁰ Ibid.

⁸¹ Ibid.

⁸² Ibid, 79–80.

⁸³ Ibid.

additional welfare afforded by the employer. With the annual accumulation, employees' pension will be increased after retirement.

The Happy Life Programme aims to create relaxing working conditions for employees through paid holidays, flexible holidays and varied care to their families. The strategy of flexible holidays is to ensure that employees arrange their working and leisure time properly, and to improve effective time management. In order to encourage staff to concentrate at work, the family care the company offers assists employees in relieving family burdens. The programme includes donations to particular families that are in poverty or need specific help. Haier is particularly concerned about the development of its employees' children and has included this in its family care action plans. Among other things, the company provides its employees' children with gifts on International Children's Day or on the children's birthday.⁸⁴

The Haier CSR Report 2012 was disclosed under the GRI Reporting Guidelines and self-checked through the free-charge service, the Sustainability Disclosure Database, so that the completion of information would be primarily ensured within the GRI system.⁸⁵ In addition, the China Household Appliances Association (hereinafter 'the Association') had commented on the report at the beginning of 2013, generally stating that its observation of the company's behaviour and CSR Report 2012 was that the Haier Group had shown good performance in CSR and was leading the new innovation of social responsibility in the industry of household appliances.⁸⁶ Although the comment from the Association is not as professional, comprehensive and accurate as that of audit firms, it basically verified the authenticity of Haier's actions as stated in its CSR report.

⁸⁴ Ibid.

⁸⁵ 'Evaluation of CSR Report', see Haier Group CSR 2012, *supra* note 79, 47–48.

⁸⁶ Ibid.

4.4.4.2 Example of bad reporting

China North Railway Corporation

China North Railway Corporation (hereinafter 'CNR') is a listed company approved by the State Council, SASAC, and China Securities Regulatory Commission, located in Beijing.⁸⁷ This leading railway company includes the research, development, design, manufacturing, refurbishment, overhaul and service of rolling stock (including multiple units), urban rail vehicles, engineering machinery, electromechanical equipment, electronic equipment and related units. CNR's rolling stock and urban railway vehicles occupied over 50% of the domestic market, and had been exported to more than 70 countries and regions.⁸⁸ CNR is the largest supplier of wind generators, oil drilling rigs and railway cranes in China. The development and competitiveness of the company is backed up by a huge research and innovation group comprising 11,600 professional technicians, 1 high-speed train state engineering laboratory, 2 state pilot innovative enterprises, 3 postdoctoral workstations, 4 research and development centres, 5 high-technology enterprises and 6 state-authorized enterprise technical centres.⁸⁹

It is assumed that a company ranked in a top national position with a large number of employees would have established precise and applicable strategies to deal with employment payment and welfare. However, the CNR CSR Report 2012 contained little detailed information on how employees' salaries and welfare had been provided. The report mentioned that in terms of the official labour contract law, the company only

⁸⁷ China North Railway Corporation, the overview and history of the business is published on the official website, available at: <http://www.chinacnr.com/Page/195/language/zh-CN/default.aspx>, last accessed on 12 August 2013.

⁸⁸ Ibid.

⁸⁹ Ibid.

ensured 100% coverage of employees' social securities, including endowment, medical and unemployment insurance. In addition, CNR implemented family assistance to solve problems involving retired employees or employees from poor families.⁹⁰

The statement of employee welfare treatment looks more like headings, rather than proper descriptive information explaining how the employer covered assistance to its employees. The report also lacks a statement regarding the wage mechanism, for example, what is the standard for basic salaries or how are employees rewarded through performance-based salary increases. The little reported information leads to weak persuasion of the public, and the lack of external monitoring, reduced the credibility of the CNR CSR report among the public.

4.4.5 Employee engagement

Most of the 77 Chinese companies researched referred to the aspect of employee engagement in their CSR reports, in order to bridge the communication gap between employees and top management in corporate governance. As regards information disclosure about employee engagement, the TCL Group provided relatively the most comprehensive and credible detail, and had undergone a third-party audit. In contrast, Jiu Gang Steel Corporation showed the worst performance in all the CSR reports on the issue of employee engagement.

4.4.5.1 Example of good reporting

TCL Group

⁹⁰ CNR CSR Report 2012, 47-49. CNR CSR reports are edited in Chinese, so that all statements were translated and edited into English in accordance with the original Chinese edition, available at: <http://www.chinacnr.com/Page/221/language/zh-CN/default.aspx>, last accessed on 12 September 2013.

The TCL Group (hereinafter 'TCL') was founded in Guangdong Province in 1981 as one of the largest consumer electronics enterprises in China. It has a global presence with three listed companies, namely (i) TCL Corporation, (ii) TCL Multimedia and (iii) TCL Communication, that support the group in the international market. In over 30 years of diligent development and innovation TCL has created outstanding achievements and many 'firsts' in China: the first wireless landline telephone; the first 28 inch colour television set, the first diamond-inlaid mobile telephone and the first Chinese-made dual-core processor laptop computer.⁹¹ From 1999 TCL has gone beyond the domestic market, and moved forward in the European and US markets. By the end of 2012, the company employed more than 60,000 people and owned more than 40 sales offices around the world, supporting the TCL dream of 'The Creative Life'.⁹²

TCL set up harmonized employment relationships in its company through varied approaches to employee engagement in corporate governance. In the TCL CSR Report 2012 the group lists five typical actions that refer to employee participation within the company, namely (i) employee forum, (ii) employee survey, (iii) development of trade unions, (iv) media communication and (v) employee voice.⁹³

In the report it is stated that the group and each department regularly held forums involving top management and employees to solve problems and focus on issues mentioned by staff members. In these forums employees were given access to publicly and directly reveal the shortcomings in their place of work, and to express their

⁹¹ TCL is short for 'The Creative Life' which was listed on the Shenzhen Stock Market and Hong Kong Stock Market. The introduction to TCL Group is revealed on the corporate website, available at: <http://www.tcl.com/en.php/news/about/id/143.html>, last accessed on 12 July 2013.

⁹² Ibid.

⁹³ 'Employee Engagement at work', TCL CSR Report 2012, 18, available at: <http://www.sustainabilityreport.cn/ReportShow.asp?ReportId=4861>, last accessed on 12 July 2013.

expectations about work and life, while top management would give its response as soon as possible. The results of the feedback would be monitored by employee representatives.⁹⁴

The employee survey was an anonymous method used to rank employees' satisfaction with the company's corporate policy and governance in employment. The questionnaire was distributed among apprentices and medium- to high-level engineers who were new participants in the business and superior technicians. The survey covered ten factors, including career development, difficulty at work, communication with top management and harmony in teamwork.⁹⁵

The trade union is the basic organization that connects employees with the company and safeguards employees' interests. It affords employees the opportunity to assert their rights; complain about, and appeal against, violations of their rights; and to claim compensation in cases where their rights have been violated.⁹⁶ In the case of TLC, the trade union reflected employees' interests and needs to the company's decision-making body after frequent communication with staff and employee representatives at meetings. As the intermediate body, it also submitted proposals to top management referring to issues on how to meet employees' interests, and to balance the company's development and profit.⁹⁷

TCL established a media team to edit the inhouse publication, *Company Newspaper*, and to publish and update news and information for employees, in order to ensure their right to know. In 2012 the *Company Newspaper* had disseminated much news related to,

⁹⁴ Ibid.

⁹⁵ Ibid., 17.

⁹⁶ Ibid.

⁹⁷ Ibid., 17–18.

among other things, all important decisions, changes and activities in the company; new policies on corporate governance; and employee awards and punishment, which provided the path for employees to monitor corporate behaviour internally.⁹⁸

TCL created the 'Voice Wall' in the workplace so that employees could express their voice by sticking notes on the wall, anonymously. Staff posted their advice, ideas, expectations and dissatisfaction to the company on the wall at any time. The employer would duly collect employees' opinion and take action. It has been the most regular and direct approach for people to speak up and has enhanced the efficiency of communication in employment.⁹⁹

The TCL CSR Report 2012 was edited under the Shenzhen Stock Market CSR Disclosure Guidelines and GRI Guidelines, so that the company could verify the completion of information through the GRI free-charge Sustainability Disclosure Database.¹⁰⁰ The report was monitored by the China Electronic Image Association and *Commercial Value Magazine* as an external audit and for comment. *Commercial Value Magazine* said that TCL had largely achieved CSR and the goal of 'green business' in corporate governance, and created a positive corporate image in the competitive global market.¹⁰¹ This valuable evaluation of the performance of CSR in TCL confirmed the implementation of CSR in the company, and enhanced the authenticity of the published information in TCL's 2012 CSR report.¹⁰²

⁹⁸ Ibid.

⁹⁹ Ibid.

¹⁰⁰ 'Internal and External Evaluation', see TCL CSR Report 2012, *supra* note 93, 61–63.

¹⁰¹ Ibid.

¹⁰² In the Chinese Companies CSR Performance Election 2012, *Commercial Value Magazine* evaluated TCL's annual CSR performance as Rejuvenation, Modernism, and Globalism that led the innovation and development of CSR among competitive businesses and industries. The article was translated into English from the original Chinese news, available at: <http://www.cfi.net.cn/p20130227001080.html>, last accessed on 12 January 2014

4.4.5.2 Example of bad reporting

Jiu Gang Steel Corporation

Jiu Gang Steel Corporation (hereinafter 'JISCO') was founded in 1958 in Jiu Quan, Gansu Province. The main sectors in which the company is involved cover steel mining and production, iron making, mechanical manufacture, and welding material.¹⁰³ The company has been among the China's Top 100 companies for decades and was listed on the Shanghai Stock Exchange in 2000 and has assets worth RMB87 billion. JISCO is a state-owned company that employs 37,800 employees, and owns more than 50 subordinate units and more than 30 controlled branches and affiliates.¹⁰⁴

The JISCO Sustainability Report 2012 reflects the goal of building up positive employment relationships through collective bargaining and democratic management. The company organized different levels of trade unions to ensure its staff's interests and to protect employees' rights to know, to engage and to monitor, so that people were able to participate in corporate affairs within the broadest range.¹⁰⁵ In addition, in order to enhance corporate cohesion, trade unions hosted various employee activities monthly, such as entertainment shows, football matches and yoga training.¹⁰⁶

As regards the Sustainability Report, the information on employee engagement was more like a general policy or notion, and provided no detail on how the company engaged

¹⁰³ Overview of Jiu Gang Steel Corporation is published on corporate profile, available at:

<http://www.jiugang.com/structure/ywlm/ezjjg/gp>, last accessed on 1 November 2013.

¹⁰⁴ Ibid.

¹⁰⁵ JISCO Steel Sustainability Report 2012, the chapter on Protecting Employees' Interests, available at:

<http://www.sustainabilityreport.cn/ReportShow.asp?ReportId=5144>, last accessed on 1 November 2013.

¹⁰⁶ Ibid.

employees in corporate governance and activities. Employee engagement should be achieved through some approaches to communication or connection. The report contained little description in this respect, which leads to incomplete information disclosure. Moreover, although employees are conferred the rights to internal monitoring of the company's CSR performance, the sustainability report had not been monitored or audited externally by a third party. Therefore, the authenticity and reliability of the brief report might be doubted and questioned by the public.

4.5 Comprehensive comparison

Divisional comparison is different from comprehensive comparison of companies' good or bad CSR performance in employment, which is assessed through their CSR reports. In this section a sample of companies will be used to assess comprehensive CSR reporting in a horizontal comparison to illustrate how Chinese companies achieved CSR in employment in every area mentioned as reflected in all reported material, such as their CSR report or annual report, with respect to health and safety; human rights; training and development; employee payment and welfare; employee engagement; and relevant auditing. Among the 77 company reports that were researched, China Resources Power Holdings Company provided the public with the highest-quality CSR report, whereas Shanxi Coal Import & Export Group Corporation showed poor performance in information disclosure in its CSR report.

4.5.1 Example of good reporting

China Resources Power Holdings Company

China Resources Power Holdings Company (hereinafter 'CR Power') wholly owns coal-fired generation projects all over China and was incorporated in Hong Kong on 27 August 2001. The company has authorized capital of HK\$10 billion and was listed on the Main Board of the Stock Exchange of Hong Kong Limited on 12 November 2003.¹⁰⁷ It is involved in the investment, development, operation and management of power plants. The company is the leading power generation business. CR Power's overall power capacity is 40% in Eastern China, 21% in Central China, 20% in Southern China, 10% in North-eastern China and 9% in Northern China.¹⁰⁸ CR Power employed over 400,000 people in the fields of production and distribution of daily consumer goods, properties and related industries, infrastructure, and utilities.¹⁰⁹ As one of the most powerful companies in China with a large number of employees, CR Power performed positively in CSR in employment. The company ensured its employees' interest in various aspects which was accurately reflected in the CR Power CSR Report. In the section that follows, the CR Power CSR Report 2011 will be used as the most updated information, to demonstrate how the company comprehensively achieved CSR in employment.¹¹⁰

4.5.1.1 Health and safety

To attain the goal of 'no accidents, no threats to health and responsibility to the society', CR Power has created a professional and efficient five-tier safety management and surveillance system to assure health and safety in the workplace. In 2011 CR Power issued the Safety Evaluation Criteria, 28 Key Measures for Prevention of Major

¹⁰⁷ China Resource Power Holdings Company, the overview of, and introduction to, the company were stated in the company's profile' on the company's website, available at: <http://www.cr-power.com/en/article.asp?cid=95&nav=1>, last accessed on 12 September 2013.

¹⁰⁸ Ibid.

¹⁰⁹ Ibid.

¹¹⁰ Ibid.

Accidents in Power Production, Accident Investigation Procedures, and Regulations Against Rule Breaking Behaviours; and compiled safety management guidelines such as the Comprehensive Emergency Plan.¹¹¹ In the process of production safety management, CR Power focused on its emergency management system to prepare emergency drills and set up a rescue team for dynamic crisis management, which enhanced safety awareness among employees and trained their ability to respond to emergencies.¹¹²

Additionally, the company implemented a range of safety and risk prevention systems, within the framework of the regulations set by the National Occupational Safety Association (hereinafter 'NOSA'), called the 'Safety, Health and Environmental Protection System', and incorporated it into its corporate governance. Spot inspection and regular technical supervision were successfully launched to reduce the danger of accidents and injury during work. The indicator of injury and accidents at work was also disclosed independently and in the company's CSR report to the public. Under the NOSA five-star safety management system, CR Power carried out a series of safety education and training programmes among employees, including Safety Month Activities, Safety Essay Contests and Fire-fighting Skills Competition.¹¹³

Moreover, CR Power strictly complied with the Code of Occupational Disease Prevention, and the regulations on occupational disease prevention in local provinces and cities. The company tried to improve employees' health management network and provided health checks for them on a regular basis. The company paid much more attention to frontline employees, such as coal miners. It offered them specific physical

¹¹¹ 'Production Safety and Employee Health and Safety', CR CSR Report 2011 (English Edition), 46-49 and 63, available at: http://www.cr-power.com/download/CPS1210014_E.pdf, last accessed on 12 March 2014.

¹¹² Ibid.

¹¹³ 'Emergency Control and Management', see CR CSR Report 2011, *supra* note 111, 48-49.

examinations of their lungs, liver, heart and nose, in order to prevent occupational disease due to the dust, polluted air and radiation.¹¹⁴

4.5.1.2 Human rights

CR Power adheres to the philosophy that 'everything depends on the people and everything is for the people'.¹¹⁵ In the light of this, it pursues the mutual development of both employees and the business. Therefore, it is necessary to fully respect employees' human rights and create a friendly, harmonious and pleasant working environment for all employees. Under the official labour law and labour contract law, the company conducted a transparent and free recruitment and promotion programme; and provided equal opportunities to its staff, regardless of sex, religion, race or age.¹¹⁶ Discrimination and forced labour in employment are absolutely forbidden under national and international legislation.¹¹⁷

By the end of 2011, CR Power, including its subsidiaries, employed 6,400 women staff members in a total of 36,400 employees, making up 17.6% of the total number of employees. Except for male-specific work, such as coal mining, all posts and work opportunities are equally available to women employees. Furthermore, the company showed special respect to women employees, through its protection of pregnant women employees, special health checks for women employees and gifts to women employees on International Woman's Day.¹¹⁸

¹¹⁴ 'Employee Health and Safety and Occupational Disease', see CR CSR Report 2011, *supra* note 111, 63.

¹¹⁵ 'Employees' Human Rights', see CR CSR Report 2011, *supra* note 111, 62.

¹¹⁶ *Ibid.*

¹¹⁷ *Ibid.*

¹¹⁸ *Ibid.*

4.5.1.3 Training and development

In order to improve employees' value, CR Power implemented the Job Sequence Management Scheme of CR Power, which allows employees to develop on a dual-career path in their professional development through systematic training. In its 2011 CSR report it stated that the company had organized training for more than 38,000 staff members, involving 11 training opportunities to managers, covering 152 core managers. Such courses were designed for the training of highly talented employees, newly appointed general managers and current general managers.¹¹⁹

In addition, varied training was offered in the latest division, the Renewable Energy Department. The training courses were specially designed for 'newly appointed chief commanders' and 'newly appointed leaders of wind farms', including all newly promoted managers. A series of training benefited potential employees at head office, that is, over 389 individuals, lasting a total of 371 hours (53 days).¹²⁰

4.5.1.4 Fair payment and welfare

CR Power provided statutory social insurance for employees on a monthly basis in addition to supplemental commercial insurance as an extra benefit to employees.¹²¹ Furthermore, it complied with relevant provisions of the Regulations of Paid Annual Leave of Employees, including legal holidays, annual leave, marriage leave, bereavement leave, family leave, maternity leave, nursing leave and other paid holidays. The company also improved its internal welfare system by handing out holiday entitlements, providing

¹¹⁹ 'Dual-Career Path Plan', see CR CSR Report 2011, *supra* note 111, 64.

¹²⁰ *Ibid.*

¹²¹ 'Employees' Welfare', see CR CSR Report 2011, *supra* note 111, 64.

on-duty meals and dormitories, and offering housing benefits to settle employees' dependents.¹²²

4.5.1.5 Employee engagement

The CR Power CSR Report 2011 mainly introduced the approach it followed to give employees access to knowledge on how the company worked and to express their opinion on corporate governance. At the end of 2011 the company invited high-performance employees to visit the CR Power Head Office in Hong Kong to experience first-hand how the policies and strategies were decided from top management. After learning about the decision-making process, employees directly presented the shortcomings in the workplace to the management at head office, and personally advised top management on how to improve the process of corporate governance and decision-making.¹²³

4.5.1.6 How the CR Power CSR Report 2011 works

In the report it is stated that CR Power had fulfilled its CSR performance in terms of SASAC CSR Guidelines and CASS CSR Guidelines. The CR Power CSR Report 2011 was edited under the GRI Guidelines and completed through the self-check free-charge service sustainability database.¹²⁴ Moreover, CR Power stated that the company had adopted the UN Global Compact Principles in its CSR report, so that the report would be accredited by the UN organization. Therefore, the validity and authenticity of the CR

¹²² Ibid.

¹²³ 'Employee Participation was included in the section on 'Care for Employees' Life'', see CR CSR Report 2011, *supra* note 111, 65.

¹²⁴ CR Power adopted GRI Guideline (3.0) into CSR Report and the GRI was revealed in the Report. See CR CSR Report 2011, *supra* note 111, 87–92.

CSR Report 2011 were ensured through various third-party monitoring and verification systems.¹²⁵

In addition, CR Power had implemented internal monitoring in specific departments and among employees, such as in the mentioned supervision of production safety at work, thus the reliability of information in the published information could be monitored by employees. The report also included comments from stakeholders, such as employees and local communities, and third-party organizations, such as magazines and CSR committees, which indirectly evaluated the truth and quality of CSR performance and information disclosure in CR Power.¹²⁶

4.5.2 Example of bad reporting

Shanxi Coal Import & Export Group Corporation

Shanxi Coal Import & Export Group Corporation (hereinafter 'Shanxi Coal') was founded in 1980 in Shanxi Province. With over 30 years' innovation and development, Shanxi Coal has grown into a large-sized enterprise, integrating coal production and sales, the high-end manufacturing industry, and financial investment. Since 2009, the group has integrated more than 50 local coal mines with total annual production capacity reaching 30 million tons within Shanxi Province.¹²⁷ By the end of 2012, Shanxi Coal owned 21

¹²⁵ The use of UN Global Compact Principles was reflected in CR Power CSR Report 2011. See CR CSR Report 2011, *supra* note 111, 93.

¹²⁶ CR Power CSR Report 2011 illustrated some of the stakeholder's (employees and external organizations, such as *Forbes Global Magazine*, *The Capital Magazine*, and China Securities Golden Bauhinia Award Committee) and commented on the company's CSR performance. See CR CSR Report 2011, *supra* note 111, 79–81.

¹²⁷ Overview of Shanxi Coal is presented on official website, available at: <http://www.shanxicol.cn/english/About%20SCIEG.aspx>, last accessed on 23 August 2013.

main pits, located in the cities of Da Tong, Xin Zhou, Jin Zhong, Lin Fen, Chang Zhi and Jin Cheng, and formed 4 large coal production bases (i.e., steam coal, coking coal, anthracite and semi-anthracite production base). It employs over 17,000 people in total. It is transforming from a traditional coal industry to a railway energy industry to produce the first world-class high-speed train wheel.¹²⁸

As a state-owned company, Shanxi Coal showed the poorest performance when it came to information disclosure among all the Chinese company CSR reports researched. Information on how it implemented CSR in employment occupied only one page in its report. Every aspect was introduced in the Shanxi Coal CSR Report 2012 but only in a couple of sentences or slogans, which stated that Shanxi Coal fully supported safety in the workplace, and dealt with employees' physical and psychological health in routine work.¹²⁹ Under the official labour contract law, the group ensured employees' legal salary and provided a series of social securities, such as endowment insurance, medical insurance and unemployment insurance. Shanxi Coal also focused on employees' career development and stimulated the function of employee representatives to achieve employee engagement in corporate governance.¹³⁰

According to the brief statement, it is not clear what the processes and actions are on how Shanxi Coal performs CSR towards its employees in respect of each issue. Furthermore, this simple CSR Report had not been accredited by broadly adopted reporting and monitoring systems, or a third-party audit. Therefore, both the content that did not contain substantial data or information and the published report that had not been subjected to an external audit reduce the reliability and authenticity of the report in the

¹²⁸ Ibid.

¹²⁹ Shanxi Coal CSR Report 2012, 5-8, available at:

<http://www.cninfo.com.cn/finalpage/2013-04-26/62431992.PDF>, last accessed on 25 August 2013.

¹³⁰ Ibid.

mind of public users, and leads to doubt and questions about the deficiencies in the Shanxi Coal CSR Report 2012.

4.6 Summary

The empirical research in this chapter is established on the basis of information disclosure in 77 Chinese companies. The examples and entire database in Table 2 show that all companies publish information about CSR in employment. Of these CSR reports or sustainability reports, 45% provided relatively precise statements to demonstrate their CSR performance to employees through corporate governance; while the reports of the rest of the companies lack descriptive statements on CSR implementation and merely contain brief introductory sentences. The legal requirement primarily compels companies to disclose information with respect to financial performance. However, except for Article 51 of the Law of the People's Republic of China on Work Safety which requires that health and safety hazards at work must be reported, there is little legislation that regulates information disclosure about social performance in employment.¹³¹ The Central Government of SASAC established guidelines to instruct centrally controlled state-owned companies on how to exercise and report on CSR in their companies. Most state-owned companies primarily comply with this regulation and in private companies it is complied with on a voluntary basis. Additionally, 38% of companies had adopted a voluntary reporting approach to present their CSR achievements in employment under the instruction of the GRI, the UN Global Compact and SA8000 to create standardized CSR reports.

Of the companies researched, 42% ensured the authenticity and quality of the published information through self-declared supervision, and external auditing and verification by

¹³¹ See Law on Work Safety, Article 15, *supra* note 12.

third parties, such as the free-charge GRI Sustainability Disclosure Database, the service of GRI Application Level Check and the third-party professional audit from assurance companies. The minority of companies applied internal employees' monitoring and third-party comments obtained from famous scholars, academic institutions and the media to evaluate the companies' performance in terms of the achievement of CSR.

The information disclosure among the 77 Chinese companies indicates that legislation has set up the legal basis for the CSR exercise in employment in which companies make decisions on corporate governance and external organizations create voluntary initiatives in respect of CSR. Beyond law, the Chinese government, industrial councils, securities markets and NGOs set up numerous guidelines to inform companies' CSR implementation in practice, namely stock markets' guidelines to listed companies, such as CSR, CASS CSR Guideline (2.0) and CSC9000T. Almost 75% of companies basically used the national voluntary initiatives to expand the scope and approach of their CSR exercise in practice, especially state-owned and listed companies.

According to the research, around 40% of the companies studied applied international guidelines and standards in corporate governance, particularly various ISO standards, such as ISO26000 and OHSAS18001, are largely adopted to protect employees with respect to health and safety in the workplace, and human rights. Among the companies using international standards, 30% preferred SA8000 as the instruction on CSR practice, and disclose information and third-party assurance under this guideline. As in the case of UK companies, the UN Global Compact is also broadly accepted among Chinese companies to provide guidelines to companies in the exercise of CSR and a framework for information disclosure.

From the database and case studies it is clear that over 60% of companies achieve

employee engagement through trade unions or the mechanism of employee representatives. Most of the companies that made information about employee engagement available had implemented an employee survey or anonymous ballot to track employees' satisfaction or attitude to corporate governance, and a few of the companies communicated with employees to exchange information and ideas. Individual CSR reports revealed that many companies' employee survey is the only route for employees to speak up about their complaints or ideas to employers, but they have no access to information and responses from top management.

Trade unions, in turn, organized entertainment activities, such as employee sports competitions or annual entertaining performances to gather employees together and to improve corporate cohesion to fulfil employee engagement. Companies also provided financial assistance or special care to employees' families in poor living conditions. Only two companies explicitly pointed out that employees' collective bargaining to negotiate and assert their rights with employers was achieved through trade union or employee representative delegation, whereas more than 45% of companies presented the performance of employees' collective bargaining or negotiation in blurred expression.

Compared with UK information disclosure, which mostly adopts exact numbers, statistics and precise statements to clarify the implementation of CSR to employees in corporate governance and which is accompanied by external auditing to ensure the reliability of reports, most Chinese companies prefer to use simple words or 'slogans' to demonstrate their CSR actions generally and briefly. The lack of statistics or detail confuses information users, and prevents them from exploring the real exercise and effect of companies' CSR performance, and decreases the quality and accuracy of published information in practice. More than half of the companies examined for the purposes of this research do not officially apply third-party audit or verification but, instead, use

internal monitoring and third-party comments made by magazines, other media or academic institutions. Different from third-party audit or verification, which is instructed through uniform and objective standards, internal monitoring by employees or senior managers might cause unfair or untruthful screening and reflection of companies' real performance in CSR. Third-party comments voluntarily elicited by any institution are implemented according to standards drafted by the institution, so that the validity of comments can ensure the objective evaluation of companies' CSR and information disclosure. The difference in the quality of CSR information disclosure and auditing between UK and Chinese companies will be compared in the next chapter.

Chapter 5: Comparison between and Analysis of United Kingdom and Chinese Companies' Exercise of Corporate Social Responsibility in Employment

In Chapters 3 and 4 the information disclosure on CSR in employment in UK and Chinese companies was analysed using the data contained in two databases to demonstrate the similarities and differences in the implementation of CSR in corporate governance between the two countries. More than 85% of companies that had provided complete reports had categorized their information into five factors: (i) health and safety; (ii) human rights; (iii) training and development; (iv) fair payment and welfare; and (v) employee engagement. CSR practices were published in the form of a written narrative accompanied by various numbers and graphs to clarify the statements made. However, the format of the written material regarding CSR in employment among UK companies was more varied. It was published in independent CSR reports, included in annual reports or even published on corporate websites; while all selected Chinese companies officially presented information on their CSR performance in a unified format, namely a CSR report which could be applied to the company website.

For this thesis, it was difficult to get access to the actual implementation of companies' CSR towards their employees, because it is impossible to observe the internal workings of each company. Therefore, all comparison and analysis in this thesis are dependent solely on information disclosure. As mentioned in Chapter 3, the standard to evaluate companies' performance of CSR in employment is the quality of their CSR report, taking into account valid audits to ensure the reliability of the information. Although many companies have

adopted applicable external auditing to verify the information disclosure, the authenticity of reports is still questionable, especially among companies without effective auditing.

In this circumstance, it is assumed that all information disclosure applied in this research is authentic and actually reflects companies' exercise of CSR in employment. In addition, it is impossible to compare the real effect and substance on corporate governance of every CSR action taken by the researched companies or countries using individual CSR reports, because any exercise implemented in a company was specific to its corporate governance decision-making and strategy. In this chapter the information disclosure will be used to compare the differences in CSR implementation among companies in the two countries and to analyse whether Chinese companies can adopt the experience of UK companies with respect to fulfilling their CSR in employment in the context of corporate governance.

5.1 Quality and accuracy of information disclosure

When the two tables of CSR reports of the UK and Chinese companies researched were compared (Tables 1 and 2), it was found that 89% of the selected Chinese companies that had completed their CSR reports fully in respect of all five aspects, had provided a statement in each category, as opposed to 81% of UK companies. However, UK companies had presented more precise information about their performance in each field by providing descriptions, statistics and graphs to demonstrate the facts, results and trends in their CSR performance in employment. These companies had mostly adopted a detailed statement with information on 'what', 'when', 'where', 'who' and 'how' in the process of exercising CSR.¹

¹ 'What' means the goal of each action; 'when' means the time of the action; 'where' means the place where the exercise is to be completed; 'who' means people or department organizing and participating in the exercise; and 'how' means the precise approach to, and process followed in, the exercise.

As an example of a UK company, Pentland Group presented the implementation of CSR in its Corporate Responsibility Review 2012, as follows:

[B]etween March 2011 and May 2012, we participated in a project that focused on the rights of children and young workers in China, led by the Centre for Child Rights and Corporate Social Responsibility (CCR CSR). Pentland was one of seven brands supporting the project, which ran workshops designed to help young workers under the age of 25 develop communication and teamwork skills, and to raise awareness of health issues and the importance of drug prevention. In total, 800 young workers at nine factories – including 100 working for a Boxfresh manufacturer – participated in the workshops. Complementary training for nearly 300 line managers focused on how to communicate better with a younger workforce. As part of the initiative, participating brands also worked together on the development of a practical underage worker remediation plan.²

In this description the company has cited exact statistics to state that between 2011 and 2012 it had undertaken a series of exercises to protect child labour and young workers in one of its manufacturing countries, namely China, through workshops involving young workers and training of line managers to improve young people's skills and awareness of health and safety, and enhance better communication between line managers and young employees. In the example, it adopted the numbers and detailed narrative statement to present the action of employee training and development in information disclosure.

Conversely, a large number of Chinese companies preferred 'slogans' or 'phrases' to enumerate their actions without providing details due to the Chinese language customs that

² 'Our People', Pentland Group Corporate Social Responsibility 2012, 33-34, available at: http://www.pentland.com/_resources/files/downloads/policies/pentland-group-cr-review-2012-ungc-cop.pdf, last accessed on 12 November 2013.

short phrases and Chinese idiom are generally applied in report writing in China;³ for instance, Taiyuan Iron and Steel Group (hereinafter 'TISCO') demonstrated its performance in protecting human rights in its CSR Report 2012 as: 'We firmly respect employees' human rights regardless of race, religion, and sex'; 'no child labour, no forced labour at work'; 'we specially safeguarded female employees' rights'; or 'more respect, better performance'.⁴ In this illustration, which contains no specific information, the company did not convey detail on how its employees' human rights had been largely respected in corporate governance, especially according to the protection of child labour and women employees.

The lack of information on the matter of the protection of health and safety as reported by some of the Chinese companies selected for the research is particularly critical. In the UK, companies that complied with the requirement of RIDDOR had not only to disclose the actions and processes they employed to protect employees' health and safety, but also the accurate number of injuries and accidents at work in their relevant reports. In the G4S CSR Report 2011, the company stated its performance in health and safety as follows:

In 2011, we began implementing the new health and safety standards and benchmarks which had been developed during the previous year. The new standards covered areas such as training, communication, reporting, risk assessments, KPIs and formal reviews. In 2011, we began our programme of

³ In China it is a common approach when editing reports or documents for editors to adopt 'four-character' or 'six-character' words or idioms to express or conclude the meaning of a couple of sentences in a whole paragraph. However, to some extent, this way omits exact and complete processes or meaning of the specific expression.

⁴ 'Social Responsibility in Employment', TISCO CSR Report 2012, 53-55, available at: <http://www.tisco.com.cn/zrbg2012/zrbg2012.html>, last accessed on 21 March 2014. TISCO was established in 1934 and is a giant iron and steel complex that integrates mining, iron and steel production, processing, delivery and trade. It is also the largest stainless steel producer in the world with the most advanced technologies and equipment, and a full range of products and specifications.

Critical Country Reviews (CCRs) which focused on those countries where more than two work-related fatalities had occurred during 2010.⁵

These reviews are conducted by internal health and safety experts who have worked with local management teams to review the fatalities that have occurred, to ensure that appropriate actions have been taken to prevent recurrence and to share best practice from their own business experiences. In total, 11 CCRs have been conducted and management feedback has been very positive.

One of the paragraphs in the report describes precisely the action the company had taken to improve its health and safety standards and communication. G4S also provided data and comparison of fatalities among employees at work:

There was a continued reduction in the number of fatalities related to attacks on our employees by third parties in 2011, reducing from 30 to 28. Sadly, the overall number of work-related fatalities increased from 59 to 76. This increase was due mainly to the high number of road traffic fatalities which rose from 14 in 2010 to 30 in 2011. Providing ideas and sharing internal best practices on road safety will be a major focus for 2012. In addition, the number of incidents in which there were multiple fatalities rose from one in 2010 to five in 2011 with a number of tragic events including a helicopter crash in Papua New Guinea and an insurgent attack on the British Council in Kabul leading to a total of five employee fatalities.⁶

G4S's information contained trends, and the number of injuries and accidents in the

⁵ 'Securing Our People, G4S CSR Report 2011', 16–18 and 30–31, available at:

http://www.g4s.com/~media/Files/CSR%20Reports/G4S_CSRR11.ashx, last accessed on 21 March 2014.

⁶ Ibid.

workplace in the form of bar charts and diagrams that explicitly presented accurate statistics. In addition, the company appeared to admit quite openly that there had been an increase in the number of tragic incidents. This was suggestive of a positive and honest attitude and willingness to take action to address the problem.

However, among the Chinese companies selected, many remained at the level of information disclosure through brief introductory or bulleted points when it came to health and safety implementation, such as health and safety policies, executives, training, and risk assessment. Companies seldom applied exact statistics to report the injuries and accidents on duty, and avoided revealing any negative trends or events in health and safety in corporate governance. Only a couple of central state-owned companies, such as SINOPEC, CNOOC and CHINAPETRO, had begun publishing annual data on occupational fatalities in employment. This phenomenon on information disclosure regarding health and safety is in line with the *Report on Fulfillment of the Social Responsibility of Central State-owned Enterprises 2012* that only 33% of researched central state-owned enterprises used the indexed approach to disclose health and safety-related mortality and accidents in their CSR performance in employment. The rest of the companies merely showed that they had exercised health and safety management, training and control in corporate governance, without a particular statement on the relevant exercises.⁷ In China the lack of exact statements and indicators in information disclosure largely reduces the persuasive impact of the institutional statement on practical performance. This prevents the public from directly monitoring how companies achieve CSR in employment in corporate governance and whether the published information about implementation is authentic in reality.

5.2 Third-party supervision of information disclosure

⁷ Zhao, Y. et al., *Report on Fulfillment of Social Responsibility of Central State-owned Enterprises 2012*, China Economic Publishing House (2012), 298–302 and 311–312.

In most of the selected UK companies, information disclosure is monitored following a varied approach. It may be through international standards verification, administrative audit and/or professional auditing organizations, as shown in Table 1 on UK CSR reports. First, many UK companies adopted international standards in the implementation of their CSR and information disclosure as formal external verification, such as the UN Global Compact and GRI Reporting System. When companies register as a member of the UN Global Compact, they report in accordance with ten principles evaluated and verified by this NGO. Some of the companies researched adopted the GRI in their CSR reports and participated in the Application Level Check and the GRI Application Level Check Statement that all GRI-checked reports receive. The statement should be included in the published report as formal confirmation of the application level of the report. Second, some administrative bodies played a role in supervising companies' performance in specific and critical aspects, especially in the field of health and safety. About ten companies specifically stated that their performance in employees' health and safety in the workplace had been critically audited under the enforcement of RIDDOR by the British Safety Council or UK Health and Safety Committee. Third, professional auditing organizations such as KPMG or Pricewaterhouse Cooper LLP were also approached to check the authenticity and reliability of published information by providing the service of deep investigation and supplying independent audit reports.

Among Chinese companies (Table 2), the UN Global Compact and GRI Reporting System had been broadly adopted as basis in the process of editing their CSR reports. However, few companies had officially registered with the UN Global Compact to receive independent accreditation, or applied the GRI Application Level Check to confirm the application of their report. In addition, third-party comment has been developed in China as a new way of measuring CSR performance or CSR reports. Evaluation is done by

various individuals or groups whereby entrepreneurs and experts are organized by local governments or institutions to observe and score companies' CSR performance and reports. The media, such as *Southern Weekly* and *First Finance*, hold CSR annual conferences to publish the ranking of CSR reports among a large number of companies.⁸ However, no matter what the experts' evaluation or media's ranking is, the process and benchmarking are voluntarily regulated by sponsors or powerful companies. The result is that comments are not uniform or very diverse, which makes the approach of third-party comment doubtful. Moreover, instead of third-party audits, employees' comments on CSR performance are always placed at the end of CSR reports and acted as internal inspection. Only a few employees' positive statements on how their employers accomplished CSR in employment were provided. However, the authenticity of employees' statements is doubtful, because it is not known whether employees willingly and honestly confirmed their companies' top management CSR performance. Given the complimentary nature of most of the comments, it may be the case that editors simply excluded negative comments regarding employers' performances from the CSR reports.

In the researched CSR reports, only two companies had applied the GRI Application Level Check, and 30 companies were independently audited by a third party, while the rest of them used third-party comment or internal comment in the process of monitoring, or had not adopted any approach at all to monitor information disclosure in their CSR reports.

5.3 Different exercises in employee engagement

⁸ *Southern Weekly* and *First Finance* are two famous magazines in China. The *Southern Weekly* is a popular social magazine, while *First Finance* is a professional financial publication that publishes analyses of financial markets, reports company news comments professionally on financial news. The two magazines both hold CSR annual conferences to rank companies' performance and information disclosure of CSR.

From the databases in Table 1 and 2 it is clear that both UK and Chinese companies used employee engagement in their CSR reports as the path for employees to communicate with their employers. Of the 90 UK companies CSR reports studied, not all had stated the implementation of employee engagement. However, reports that did refer to it indicated that the company encouraged employees to express their complaints, grievances and advice, and to safeguard their right to collective bargaining to get relief from their company. A series of exercises to ensure employee engagement were mostly carried out by the body of employee representatives or trade unions who worked with employees to negotiate common goals with employers, such as protecting the integrity of their trade, receiving higher pay, hiring more employees and creating better working conditions. In these reports companies introduced different approaches for employees to express their voice, such as a whistle-blowing system, face-to-face communication with directors and a grievance-reporting mechanism. For example, Bovis PLC described its employee engagement in detail in its CSR Report 2012 as follows:

Employee Liaison Groups, made up of elected representatives, continued to meet during 2012. These meetings provided regular two-way feedback sessions between employees and senior managers, with key messages from monthly Group Executive Committee meetings being disseminated. Regular departmental team meetings also took place and any issues arising at these meetings were taken back to Employee Liaison Groups for discussion . . . and Employees also attended briefings with the Chief Executive, Group Finance Director and other senior managers within the business, which included presentations on the financial results and reports on the Group's performance during the year.⁹

⁹ 'Supporting Our Staffs', Bovis PLC CSR Report 2012, available at: http://www.bovishomesgroup.co.uk/pdfs/CSR_2012.pdf, last accessed on 1 April 2014.

From the statement it appears that the company conferred on employees the right to knowledge about the corporate decision-making process and operation, and forced employee representatives to convey the workers' will through two-way communication with top management. Employee representatives are an effective group to use to negotiate collectively with employers and all employees engaged in labour protection, and impact on employer's decision-making in corporate governance.

In the Chinese CSR reports companies almost all referred to CSR performance in employee engagement through one of the vital corporate organs, namely trade unions. Trade unions are a crucial form of organization for employees to use to bargain collectively. The role of Chinese trade unions in the companies selected was different from the function of employee representatives or trade unions in UK companies. Some of the companies that had adopted the notion of a 'trade union' in their CSR reports had also implemented employee surveys, such as an employee poll, employee communication or employee complaints. This information is available in Table 2 in the column 'Employee Engagement'. However, from the precise statement in the reports it is clear that most of the employee communication was one way. Employees only expressed their opinion to top management without solution or further feedback from their employers. This means that trade unions in many Chinese companies are only regarded as a channel for workers to speak out, not to negotiate and broker efficient solutions from employers through collective bargaining. Additionally, among these Chinese companies, employee engagement is presented in the form of participation in a variety of employee activities that were mainly organized by trade unions, such as annual employee athletics and employee entertainment. Trade unions in a small number of companies involved employees in companies' special care programmes through extra help and assistance to employees who had difficulties in their

private life or a heavy family burden. This is shown in the column on 'Employee Payment and Welfare' in Table 2.¹⁰

5.4 Adoption of international conventions and standards in CSR Reports

Table 1 shows that UK companies largely applied international standards in their CSR practice, both in corporate governance and information disclosure. The UN Global Compact and GRI have both generally been adopted among companies as the basis for CSR implementation and information disclosure. Moreover, some specific international standards were also used, such as ISO9001 and ISO14001, which respectively control qualified and safe manufacturing of products to employees and customers, and ensure the environmental protection to public and in the workplace; and the OHSAS18001 is the professional international standard in health and safety at work. Human rights were referred to in like SA8000; and the OECD Principle on CSR was also adopted in a couple of companies' decision-making and CSR policies. In contrast to Chinese companies, many UK companies directly applied a series of ILO standards or conventions related to human rights in CSR in employment that are different from the ILO standards and conventions at national level, namely the ILO Child Labour Convention, UN Universal Declaration of Human Rights, and the Convention of the Rights of the Child, which are generally mandatory as legal enforcement. Their use at company level is voluntary and specific to individual companies, as they may be regarded as a reference in making precise policies and strategies in terms of particular needs.

¹⁰ *Employee engagement* refers to the process in which employees express their opinion, lodge complaints, obtain corporate information from top management and negotiate their legal rights with employers. This is the strategy used to involve employees in companies' decision-making and impacts on corporate governance through employees' unions. However, in China some trade unions neglect employees' collective bargaining, but provide extra financial help to employees in poor living conditions. This primarily misleads the real effect of employee engagement, and presents the companies' decision-making and actions without employees' real engagement in corporate governance.

The Chinese government has signed 22 ILO conventions. However, few companies in this research have directly adopted them as guidelines in CSR implementation.¹¹ Excluding the frequently mentioned UN Global Compact and GRI, only a small number of companies researched (Table 2) applied ISO26000 in their CSR process. This is a new guideline on how companies should operate CSR and is currently being introduced into the Chinese market. In addition, some companies in the manufacturing industry apply SA8000, which is the first auditable social certification standard for decent workplaces, and obtained third-party verification under this standard. Most of the other Chinese companies in Table 2, irrespective of whether they were state-owned companies or private companies, primarily preferred the domestic guidelines or standards in CSR, such as the Stated-owned Assets Supervision and Administration Commission Guidelines of Stated-owned Enterprises Directly under the Central Government on Fulfilling Corporate Social Responsibility (hereinafter 'SASAC Guidelines'); China Academy Social Science CSR Report Guidelines (hereinafter CASS CSR Guidelines); and two Stock Market CSR Information Disclosure Guidelines.¹²

5.5 Can Chinese Companies adopt the UK model of CSR in employment in Corporate Governance?

The comparison of CSR implementation in employment between UK companies and Chinese companies has shown some critical differences in the two countries as reflected by

¹¹ The 22 ILO Conventions include ILO Convention No. 7, 11, 14, 15, 16, 19, 22, 23, 26, 27, 32, 45, 59, 80, 100, 144, 159, 170, 122, 138, 150 and 167. The enumeration of ILO Conventions was ordered chronologically based on the date of signing.

¹² The China SASAC Guidelines are aimed at improving the fulfilment of CSR in stated-owned companies, so that it is compulsory for all centrally controlled state-owned companies to comply with the guidelines, while other state-owned companies and private companies were not enforced to adopt them, so that SASAC Guidelines are treated as the voluntary basis of CSR implementation in corporate governance.

all the CSR reports researched and listed in Tables 1 and 2. The dissimilarities in the disclosed information in each report were compared, but not the specific actions taken by individual companies. Every company had undertaken a particular CSR exercise that might not be suitable for other companies due to their different corporate backgrounds and needs. It would, therefore, not be accurate to compare the individual actions taken by companies or even between the two countries. In the following section the reason for the common differences between the UK and China concluded from the information disclosed in the reports will be analysed and the feasibility for Chinese companies to apply UK experiences in their corporate governance will be examined.

5.5.1 Mandatory requirement of information disclosure and audit

In the UK, company information disclosure, including social and environmental information, is strictly required in regulations, as the main legal obligation and standard to evaluate whether companies were qualified in corporate governance through the reported information. As discussed before, the UK Companies Act 2006 (Strategic Report and Directors' Report) Regulation 2013 regulates CSR information disclosure in Section 414C (7) as follows: 'In the case of a quoted company the business review must, to the extent necessary for an understanding of the development, performance or position of the company's business, include . . . information about—(i) environmental matters (including the impact of the company's business on the environment), (ii) the company's employees, and (iii) social and community issues, including information about any policies of the company in relation to those matters and the effectiveness of those policies' and '[t]he review must, to the extent necessary for an understanding of the development, performance or position of the company's business, include—(a) analysis using financial key performance indicators, and (b) where appropriate, analysis using other key performance

indicators, including information relating to environmental and employee matters.¹³

Following the requirement of information disclosure in directors' reports, Section 481 requires directors to provide a statement on the purpose of the audit; and Section 496 also requires auditors to confirm that directors' reports for the financial year are consistent with those accounts.¹⁴ The UK Companies Act 2006 basically regulates information disclosure in the form of the Annual Directors' Report, including environmental and employee matters in business reviews, and refers to the notion of an audit of published reports. Among researched UK companies, some of them provided independent CSR information disclosure that its audit is not enforceable under Companies Act 2006. However, as a part of directors' reports, business review which has to include the performance to environment and employees, would be audited as required. Moreover, from the selected reports, a large number of companies specifically presented the implementation of sustainability and CSR in directors' reports, so that the information disclosure of CSR in directors' report would be verified under legal requirement.

In particular, RIDDOR specifically enforces the duty of information disclosure regarding health and safety incidents in the workplace among employers, self-employers and people in control of work premises. RIDDOR covers the reported issues precisely: non-fatal

¹³ The UK Companies Act 2006 (Strategic Report and Directors' Report) Regulation 2013, Section 414C (7). The requirement of information disclosure about environmental issues and employee matters, in relation to CSR, is the precise content of companies' annual business review, which is a part of the directors' report, but different from the general information regulated in Article 416 of the UK Companies Act 2006.

¹⁴ See UK Companies Act 2006, *supra* note 13, Section 481 (2) and Section 496. In these articles *relevant audit information* is defined as 'information needed by the company's auditor in connection with preparing his report'. Articles on the directors' report, do not explain the exact definition of *company auditor*, *internal or external audit*. In the researcher's opinion, it should be regarded as the general notion, both corporate audit and third-party audit, because in some companies, the position of auditors may not be a corporate component.

injuries to workers and non-workers; work-related fatalities; dangerous occurrences; occupational diseases; exposure to carcinogens, mutagens and biological agents; offshore diseases; gas-related injuries and hazard; and mines, quarries and offshore site disturbance.¹⁵ In respect of the published information about health and safety incidents at work, the report need not be audited by third-party auditors. Instead, the information should be reported through companies' website, telephone and in paper form to the UK Health and Safety Executive, which is one of the governmental organs that mainly monitor the accuracy and authenticity of reported incidents. This would be regarded as external auditing of employer's information disclosure with respect to health and safety.

Moreover, among the UK regulations researched, UK Stakeholder Pension Schemes Regulations 2000 refer to information disclosure of concerns related to the socially responsible investment of pension schemes. The Article on the Requirement for Statement of Investment Principles for Scheme not Established Under Trust regulates that the statement must cover the manager's policy about 'the extent (if at all) to which social, environmental or ethical considerations are taken into account in the selection, retention and realization of investments'.¹⁶ It emphasizes employers' duties to publish information to stakeholders about how CSR had been taken into consideration in decision-making in corporate governance when employers made investments in stakeholder pension schemes.

Research on UK legislation on CSR information disclosure and monitoring is limited. However, the analysis above shows that it is valuable to publish information about environmental and social matters in the process of decision-making and implementation in

¹⁵ The Reporting of Injuries, Diseases and Dangerous Occurrences Regulation 2013/1471.

¹⁶ Stakeholder Pension Schemes Regulations 2000/1403, Article 9 of the Requirement for Statement of Investment Principles for Scheme not Established under Trust. Stakeholder Pension Schemes Regulations 2000 came into force in the UK on 6 April 2001 as a result of the Welfare Reform and Pensions Act 1999 which is aimed at encouraging longer-term saving for retirement, particularly among those with low to moderate earnings.

corporate governance. The UK has established the complete legal requirements related to information disclosure in companies' reports that are not only limited to the regulations of financial reporting or business review in the UK Companies Act, but have also been categorized into different areas, such as health and safety, human rights, and the environment, through particular regulations.

In China it seems that information disclosure accompanied by a valid audit is still a new concept that is being developed both in legislation and voluntary corporate governance among Chinese domestic companies. Among the researched company CSR reports, only a few companies had shown relatively complete performance with respect to information disclosure and monitoring. In practice most of the others had adopted an attitude of wait and see. In Chinese Company Law 2005, Article 175 requires a company, after the end of each fiscal year, to formulate a financial report that includes information on its balance sheet, profit and loss record, financial change, financial statement and allocation of profit.¹⁷ It only regulates companies that disclose financial information through their Annual Financial Report without the further requirement of reporting in other fields, such as social or environmental issues, and relevant monitoring of reports.

After the 17th CPC National Congress, the SASAC Guidelines were aimed at accomplishing sustainable development with respect to society and the environment within centrally controlled state-owned companies. Article 18 of the SASAC Guidelines requires information disclosure about the fulfilment of CSR in corporate governance, as follows:

Enterprises having experienced in CSR work, should establish an information releasing mechanism, providing updated and regular information about CSR performance and sustainable development, plans and measures in carrying out

¹⁷ Chinese Company Law 2005, Article 175 in Chapter 6 of Corporate Finance and Accounting.

CSR. Meanwhile, a regular communication and dialogue mechanism concerning CSR should be established, so that the enterprise can have feedback from its stakeholders and give its response quickly. All the information and feedback should be publicized to receive supervision from stakeholders and society.¹⁸

This article regulates that centrally controlled enterprises release detailed information about CSR decision-making and implementation in corporate governance. However, the authenticity of the reported information would only be supervised by stakeholders, but not third-party auditors or through professional external verification of CSR reports. As one of the main central administrative regulations, the authority of the SASAC Guidelines is equal to legislation that is mandatory for state-owned companies directly under the central government and not enforceable on common state-owned companies and private companies. Companies would voluntarily adopt the standards and requirements of CSR implementation and information disclosure in their CSR policies and decision-making.

The China Securities Regulatory Commission promulgated the Administrative Measures for the Disclosure of Information of Listed Companies (hereinafter 'CSRC Measures') that would regulate listed companies' information disclosure acts and strengthen the administration of the reportable information to their publics. Articles 2 and 5 require an information disclosure obligor to disclose its information completely and accurately to all investors, and ensure simultaneous information publishing in the overseas and domestic markets if the listed company issues securities and derivatives thereof in both markets. The disclosed information mainly includes stock prospectuses, bond prospectuses, listing announcements, periodic reports and temporary reports.¹⁹ Article 37(7) mentions the

¹⁸ SASAC Guidelines, Rule 18, available at: <http://www.sasac.gov.cn/n2963340/n2964712/4891623.html>, last accessed on 21 May 2014.

¹⁹ Administrative Measures for the Disclosure of Information of Listed Companies, China Securities Regulatory Commission, Articles 2 and 5, available at:

internal control and supervision mechanism in financial affairs and accounting calculation. Article 53 regulates the external audit of reported information that a qualified public accountant shall strictly perform the risk-oriented audit in accordance with the practising rules and relevant provisions applicable to certified public accountants, and scientifically select the authentication methods and technologies to obtain adequate and appropriate proof so as to issue authentic conclusions.²⁰ Although the CSRC Measures only require financial information disclosure from listed companies, and internal and external audits of published reports by internal control and public accountants, it basically creates the Chinese standard of financial information disclosure of listed companies, and would gradually lead to the emergence of socially responsible investment and relevant information disclosure. The Guidelines of Environmental Information Disclosure in Listed Companies is a further step that requires listed companies to publish information on the issue of the environment, namely action taken in respect of environmental protection or on critical environmental accidents. However, the guidelines have not come into force and are still in the process of revision and obtaining feedback and advice from the public.²¹

Besides the SASAC Guidelines, the Law of the People's Republic of China on Work Safety firmly regulates the reporting of injuries and accidents on duty. In terms of the provisions,

<http://wenku.baidu.com/view/0523c1232f60ddccda38a076.html>, last accessed on 22 May 2014. CSRC Measures are the administrative regulation of information disclosure in listed companies: enforcement on listed companies is the same as legislation, formulated in accordance with the Company Law, the Securities Law and other laws and administrative regulations. It was promulgated on 16 December 2006 and came into force on the same day.

²⁰ See Stakeholder Pension Schemes Regulations 2000, *supra* note 16, Articles 37(7) and 53. An audit by qualified public accountants can be regarded as the third-party audit of financial information disclosure by UK companies referred to before.

²¹ The Guidelines of Environmental Information Disclosure in Listed Companies, available at: <http://www.hbepb.gov.cn/gzhd/yjzj/201009/P020100915381138573491.pdf>, last accessed on 23 March 2014. It was created by the Ministry of Environmental Protection of China in November 2010, and is aimed at strengthening the responsibility of listed companies to protect the environment. The guidelines are applied to both Shanghai and Shenzhen Stock Exchange Market.

the principal who leads members of production and business units are charged with the following responsibilities for work safety in their own units: 'submitting to higher authorities timely and truthful report on accidents due to lack of work safety.'²² The Disposal of Information Disclosure of Production Safety Accidents (hereinafter 'the Disposal') also precisely regulates the procedure and requirement of reporting health and safety injuries and accidents to the local, as well as higher, authority, the Bureau of Safety Supervision.²³ The Disposal only requires the Bureau of Safety Supervision at all levels to disclose information on safety accidents to the public in a timely manner, but does not enforce employers' duty to directly reveal information about accidents to the public.

The analysis of the legal requirement of information disclosure in China shows that employers' reporting responsibility is largely limited to financial information disclosure to public investors, so that reporting on relevant CSR issues, especially in employment, is seldom regulated through legislation. This makes employers reluctant to report information about CSR implementation in corporate governance. The lack of legal requirement and standard mainly leads to an incomplete reporting system in corporate information disclosure, namely less use of indicators or exact statistics in CSR reports. Additionally, the third-party auditing is only widely used to control the quality and authenticity of financial reporting in listed companies, but not applied to monitor company's information disclosure in other issues; rather, the information would be supervised by internal control or administrative departments. Employers failed to apply independent third-party audit or verification as a common approach to certify the quality and authenticity of reported information in CSR reports.

²² The Law on Work Safety, Article 17(6).

²³ Disposal of Information Disclosure of Production Safety Accidents is the administrative regulation, in accordance with the Safety Laws, administrative regulations and other bylaws, decreed by the General Bureau of Safety Supervision on 27 May 2009 and came into force on 1 July 2009, available at: http://www.gov.cn/flfg/2009-06/19/content_1345127.htm, last accessed on 11 June 2014.

As discussed in Chapter 2, China is increasingly on the way to achieving CSR at both national and corporate levels, with the result that government played a key role in encouraging the development of CSR among companies. Especially in state-owned companies, the state, as the main shareholder, largely affects the extent of companies' CSR performance in corporate governance in areas such as CSR policymaking, CSR operations, CSR information disclosure and auditing. In China the implementation of CSR in companies is primarily supervised and controlled by government departments and industrial committees such as the Departments of Environmental Protection, Bureau of Safety Supervisions, or certain national or provincial industrial committee.²⁴ SASAC particularly established the CSR Commission to instruct and monitor the achievement and performance of CSR among Chinese and overseas companies in China.

Compared with the UK, in China the requirement of information disclosure and auditing in CSR in employment is still at an elementary and state-instructed step. However, CSR is exercised on the basis of minimum legal standards and is voluntarily exercised by companies in corporate governance, so that although the Chinese legal requirement of CSR information disclosure is not complete and as strict as UK legislation, Chinese companies could still voluntarily develop the performance of information disclosure as do UK companies, through the use of accurate statistics in reports, or reporting comprehensively on negative information to the public. In addition, instead of administrative supervision, the third-party audit and verification, which was mostly adopted in the UK companies researched, made CSR reports persuasive and reliable to report users and public investors. The adoption of the UK experience of CSR information disclosure and auditing is not a

²⁴ See SASAC, *supra* note 18. The report states that Chinese provincial governments had established CSR offices to supervise CSR implementation by companies in provinces. The government newspaper also monitors companies' CSR performance and publishes information on the abuse of social and environmental matters in corporate governance.

legal requirement and may be freely applied in corporate governance by each Chinese company. Therefore, the level of information disclosure on CSR and auditing in corporate governance, to some extent, could avoid the limited legal regulation at national level and be voluntarily enhanced through an effective strategy in corporate governance.

5.5.2 Achievement of employee engagement through effective corporate organs

Of the UK companies' CSR reports researched, not all the companies had provided information on employee engagement or stated the organization of trade unions or employee representatives. However, most of the employee engagement was aimed at achieving labour's collective bargaining whereby employees had access to expressing their grievances and complaints, and received feedback and effective solutions from their employers. According to the reports of the companies researched that had ensured employee engagement, if the company had a trade union or employee representatives, the prime task of the two organizations was to strive for better treatment of employees and to safeguard employees' legal rights at work through negotiation between employee leaders on behalf of the employees and employers. If the company did not refer to the actions of trade unions or employee representatives, in order to get employees' opinion and solve labour problems, the exercise of employee engagement would also be achieved through other means between employees and top management, such as grievance reporting, director meetings, whistle-blowing policy and employee communication.

From the research conducted among UK companies (Table 1) it is clear that the extent of employee engagement to satisfy employees' legal rights at work is not dependent on the existence of trade unions or employee representatives, but an effective corporate organ to implement employee engagement on the basis of their needs and negotiation in practice. In

the UK employee engagement mainly means that workers have access to becoming involved in corporate governance through communication with employers to express their complaints and ideas, and to get efficient feedback from their company, irrespective of whether the communication is achieved in the form of delegated negotiation by trade unions or individuals talking to their employer. In this analysis of employee engagement in UK companies, reference is only made to the form of implementation to ensure employees' rights and interest at work, whether through a trade union or other corporate department, and not the precise actions taken in each company about employee engagement (Table 1).

As regards the research on Chinese companies, most of the companies disclosed information about trade unions in terms of implementing employee engagement in CSR; the minority carried out their actions through employee representatives. Different from UK companies, employee engagement was largely in the form of employees' activities as mentioned before, such as athletics for workers, employee entertainment or even employee assistance for poor families. A corporate trade union is an independent organ that ensures employees' interests through particular treatment, which is specific to an individual company. However, in terms of the explicit information obtained from some of the company reports researched, employee activities are, to some extent, not required by employees, and cannot really meet labour's need and collective bargaining for better treatment.

The Constitution of Chinese Trade Unions and in the Trade Union Law of China both stress that the main duty of trade unions is to safeguard the legal rights and interests of employees through 'liais[ing] closely with employees, listen[ing] to and reflect[ing] their views and requirements, car[ing] for their livelihood, assist[ing] them in overcoming difficulties and serv[ing] them wholeheartedly', and to organize employees to participate in trade union activities aimed at 'the construction and reform' and stimulation of economic, political,

social and cultural development.²⁵ The CCP states that the main goal of trade unions has been to protect the working class's interest and rights since the mid-1990s, so that the operation of all-level trade unions reflects and complies with the principle of the CCP; and the Trade Union Law of China regulates that 'trade union organizations at the higher level shall lead the trade union organizations at the lower level'. The ACFTU is the national-level headquarters of trade unions.²⁶ In the top-down model, the responsibility and function of trade unions are an integral part of the CCP that stimulates trade unions' development through the CCP's principle.²⁷ As the initiator of Chinese trade unions, the CCP's requirement and attitude had been integrated into trade unions' implementation at all levels. For example, among the companies researched, most of their employee activities, such as athletics or employee assistance, were not particularly designed for employee engagement in an individual company, but due to the requirement of the higher-level trade union that accurately reflected the party's principle and needs to gather employees and enhance collective cohesion through various group activities.²⁸

Additionally, the notion of a *trade union* in China is conceptually defined as 'an organization voluntarily comprised of the working class under the CCP's leadership'. In

²⁵ Two main duties are concluded from Trade Union Law of China, Articles 6 and 7, and the Constitution of China Trade Unions. Trade unions primarily take responsibility for democratic management of employees' legal rights and for the organization of various employee activities for collective cohesion of the further development in companies and in the state.

²⁶ See Trade Union Law of China, *supra* note 25, Articles 8 and 9.

²⁷ Clarke, S., 'Post-socialist Trade Unions in China and Russia,' *Industrial Relations Journal* (2005), Volume 36, Issue 1, 4–5. In this article Clark summarized some scholars' saying and described trade union in socialism state as the 'Party–state apparatus', because trade unions do not to fight for employees' interest, but encouraged workers to support the policies of the Party–state and implemented a series of state social welfare programmes.

²⁸ Sun, Z., 'The Nature and Independence of Trade Union', *Magazine of Managerialist*, December 2011, available at: <http://doc.mbalib.com/view/cfaca5bbb121b90cbcd19c5c78ce5b99.html>, last accessed on 12 November 2013. Employee activity had been the traditional action in employee engagement in accordance with the CCP's goal to strengthen collective cohesion in the working class at the level of company, region and state.

the Constitution of the CCP, the first sentence describes the CCP as 'the vanguard of the Chinese working class and of the Chinese people and nation', so that the CCP members are all included in the working class.²⁹ In the employment relationship, the working class is the opposite body to the employers. Therefore, employers do not belong to trade unions. According to the definition in the Constitution of the CCP, all CCP members in the working class should be associated with trade unions. Nevertheless, the meaning of *working class* under the CCP's lead and *working class* in relation to employment is different.³⁰ All CCP members are conceptually located in the working class. However, the *conceptual working class* is divided into employers and employees who are the *real working class* within companies and some of the CCP members in companies, especially state-owned companies, play the role of employer or top management in the employment structure. Therefore, trade unions are not only comprised of employees in the working class, but also employers or top managers of companies. Trade unions are established voluntarily by employees to assert their interests and requirements. However, when corporate employers or managers participate in this group, employees' rights would not be completely represented by the trade unions. Owing to the CCP's leadership in trade unions, CCP members are even appointed as trade union leaders by the party, so that trade unions cannot independently serve to accomplish employees' collective rights.

In China, as regulated, the funds of trade unions come from membership fees and 2% of all employees' income from their company. In practice, a large part of the funds are allocated from corporate finance by the company, so that the development of trade unions would financially depend on corporate support. At the local level, the funds of local trade unions are largely controlled by local government. In view of the high cost involved in supporting trade unions, local governments, to some extent, do not support ACFTU's policies and

²⁹ 'General Programme', The Constitution of Communist Party of China, available at: <http://wenku.baidu.com/view/d639be2658fb770bf78a557c.html>, last accessed on 23 November 2013.

³⁰ See Trade Union Law of China, *supra* note 25, Articles 1 and 2.

principles of developing local trade unions, so that governments would reduce the financial support to trade unions.³¹ Owing to the lack of independence, the function of trade unions has been changed from protecting employees' collective interest to balancing the profit between employee and company or state. To be specific, trade unions should be the organization for employee representatives and employers to fight for employees' interests. Trade unions are, in fact, the body that mediates with employees, in order to reduce the harm to companies' profits or stated interests. As a result, the model of 'employee and employer in trade union' had become the model of 'trade union for employer and government', which means the employees' collective bargaining had been replaced with collective consultation.³² Owing to the economic dependence of companies on government, the leadership position of the trade unions in some companies and local governments have respectively been taken over by corporate managers or directors and governmental officers and leaders. In the hierarchical mechanism, trade unions at company level would be governed by trade unions at a local level who obtain financial support from local government. Thus, local government would indirectly supervise workers' attitude to government policy and respond immediately to eliminate a negative effect among labourers through feedback from trade unions at company level.³³

In China, owing to typically Chinese problems in trade unions as analysed above, the

³¹ Research Centre of General Trade Union in Hebei Province, 'Trade Union Should Urgently Improve the Achievement of CSR', *Journal of Beijing Federation of Trade Unions Cadre College* (2007), Volume 22, Issue 4, 8. In this article it is said that although the funds of trade unions are regulated by the Law of Trade Unions in China, by the mandatory formula mode, companies or local governments will still allocate a part of their funds as the administrative budget for the maintenance of trade unions.

³² See Trade Union Law of China, *supra* note 25, Articles 1 and 2. The model of 'employee and employer in trade union' means that employees achieve collective bargaining through trade unions' negotiation with employers; while the model of 'trade union for company and government' means that trade unions mediate with employees to protect corporate and governmental interest.

³³ Fang, L., 'Ownership Change and Reshaping of Employment Relations in China: A Study of Two Manufacturing Companies', *The Journal of Industrial Relations* (2002), Volume 44, Issue 1, 31–33; see also Trade Union Law of China, *supra* note 25, Articles 1 and 2.

responsibility of trade unions cannot be exercised in the way that it is in the UK. It is not a problem specific to individual companies, but rather a general phenomenon at all levels of trade union organisation in China. It is currently not possible to improve the capacity of trade unions, but the efficiency of employee engagement to ensure the collective bargaining of employees' interests and rights can be achieved through employee representatives' participation in boards of directors. Different from the composition of boards of directors in UK companies, boards of directors in Chinese companies are two-tier with an executive board and supervisory board.³⁴ Chinese Company Law regulates that the number of employee representatives shall be above 1/3 of supervisory directors and elected by all employees.³⁵ Especially in state-owned companies, the executive board shall include some of employee representatives who are chosen by employees. Although trade unions in some of Chinese companies cannot achieve collective bargaining to ensure employees' interest, employee engagement of corporate governance can still be ensured through effective employee representatives' participation in supervisory board to inspect employers' misbehaviour to employees and represent employees' opinion to executive boards.

In addition, in order to move employee engagement from the stage of participating in employee activities to ensuring employees' interests at work, Chinese companies should

³⁴ Chinese two-tier board is so called 'parallel' boards that include executive board and supervisory board. Under this circumstance, executive board is in charge of making decision and corporate operation in the comprehensive corporate governance; while supervisory board is to inspect company's financial situation, supervise executive board of directors' acts in corporate governance and provide advice to directors' decision-making and act. Chinese 'parallel' model is different from German 'vertical' two-tier model. In German companies, directors in supervisory boards are appointed by shareholders and in charge of supervising and instructing executive boards' decision-making and behaviour in corporate governance that the members in latter are all elected by former. See Sina Financial, Type and Composition of Boards [董事会的类型与结构, *dongshihuideleixingyujiegou*], available at: <http://finance.sina.com.cn/leadership/mzzjg/20071217/16584301221.shtml>, last accessed on July 2, 2014; see also Chinese Company Law, Article 54, *supra* note 17.

³⁵ See Chinese Company Law, Article 51 and 71, *supra* note 17.

not only limit themselves to the function of trade unions to negotiate with employers, but should absorb UK experiences to spread the auxiliary exercise of employee engagement to other corporate organs, such as the department of human resources or even top management that they would provide varied opportunities for employees to communicate with companies.³⁶

5.5.3 Use of international standards in CSR implementation in employment

Table 1 shows that most of the UK companies researched had directly applied international conventions and standards in the exercise of CSR in employment as the basis of decision-making of corporate governance.³⁷ International standards were used in CSR actions and relevant approaches to information disclosure, so that the instruction would improve CSR performance and the efficiency of corporate governance in companies. For example, within the 90 companies studied, some of them had complied with the UN Universal Declaration of Human rights and had directly adopted it as guideline in their decision-making about employee human rights in CSR. Some companies had applied international standards, such as SA8000, OASHS18001 or ISO26000 as the measure in their individual CSR mechanism to standardize implementation in various aspects of CSR. Moreover, international standards also directed the way in which information should be

³⁶ In the UK companies researched, the communication with, and feedback to, employee engagement is still not only achieved by trade unions, but also other corporate departments. Employee engagement in CSR in employment had been implemented through varied approaches among companies. The common goal of employee engagement is to get any information from employees, no matter whether or not they are grievances or advice, and to ensure employees' interests, both in CSR in employment and improvement of corporate governance.

³⁷ In this part of the analysis, *international convention* means the global convention which is mandatory to member states, such as ILO Conventions; while, *international standards* includes the standards in the ISO system, such as ISO9001, and other globally used standards and principles, which would be voluntarily applied in states or companies, namely the UN Global Compact, SA8000, and so forth.

disclosed and reports audited, such as the GRI Reporting System and UN Global Compact.³⁸ The general use of international standards of corporate governance and CSR in employment has largely enhanced the strength and quality of CSR exercise at the global level.

In China the government had signed international conventions as the mandatory regulation at national level or regarded them as primary principles when drafting national legislation. The adoption of international standards is still at an early stage but the Chinese government has strongly urged that they be used among state-owned companies in order to meet the international requirement of CSR implementation. Many companies, especially private companies, are at the stage where they are waiting to see the result of using international standards in corporate governance. Many Chinese companies are in a transformational process, developing from profit-focused businesses to sustainability-focused businesses and the notion of CSR had been popularly absorbed into their decision-making on corporate governance. However, most Chinese companies could only comply with the domestic standards or guidelines of CSR, because the local standards are typical and appropriate to Chinese companies' capacity for CSR development. As discussed in Chapter 2, numerous companies in China still treat economic growth and profit as the prime task in business, so that the use of international standards, which are, to some extent, higher than local standards, might increase the cost of corporate governance and reduce the financial profit in companies.

In reality, it is a critical requirement for many Chinese companies, which have just started

³⁸ International standards not only outline the principles and basis for companies to establish a CSR strategy in employment, but also demonstrate the general structure and focal points when companies edited their reports and disclosed information on their CSR. Some of the international standards also provide a service to verify corporate information disclosure or would be the social auditable certification standards, such as SA8000.

focusing and implementing CSR in corporate governance, and a voluntary method for companies to practise CSR. The experiences of UK companies show that it is possible for companies, which had relatively complete CSR exercises, to largely adopt international standards in decision-making in order to improve their performance and competitiveness in the global market. If companies had taken steps in CSR, they can incorporate international standards properly into their CSR policy and standard as reference, so that the strict global guidelines would enhance individual companies' CSR criteria and develop their capacity to achieve CSR. However, for companies who still focused on economic profit as the sole goal of corporate governance and paid little attention to social matters, it would be too expensive and rigorous to comply with international CSR standards in decision-making on corporate governance.

5.6 Summary

The comparative studies between UK and Chinese companies on the differences in the information they disclosed directly reflect the evident gap between the two countries. First, in Chinese companies the system of information disclosure is incomplete in that most of the CSR reports applied brief statements or short sentences to illustrate their exercise of CSR, rather than adopting exact numbers, statistics or detailed descriptions in their information disclosure, especially with respect to reporting on the issue of health and safety. Employers also neglected third-party audits or verification of information disclosure as effective accreditation of reported information. The shortcoming is mainly due to the shortage of regulation and public recognition of information disclosure and the relevant audit or verification. Second, because of the lack of independence in trade unions, which are the main organizations used to harness employees and are typically led by the CCP, employee engagement in many Chinese companies remained at the stage of providing different employee activities or providing welfare or employee assistance, and could not

ensure employees' collective bargaining for the safeguarding of their interests and legal rights. Third, numerous Chinese companies are at the start of including CSR in decision-making on corporate governance and some of them have only just begun to appreciate the notion of CSR, so that the adoption of international CSR standards would be difficult for some companies and, to some extent, increase the cost of CSR in corporate governance.

The analysis of the obvious differences directly demonstrated by the information revealed by the reports researched shows that the UK experience of CSR practice in the issues of information disclosure and audit, employee engagement and use of international standards can be completely or partly adopted into Chinese CSR exercises. First, according to the information disclosure, although few pieces of legislation require that precise CSR information be published and audits conducted, companies could reveal accurate statistics, make detailed statements, and disclose both positive and negative incidents in their CSR report to ensure the specification and authenticity of disclosed information, and apply external audit or third-party verification to prove the reliability of information to the public. Second, employee engagement in Chinese trade unions was partly limited to organizing recreational and sports activities or 'collective consultation' with employees. It is difficult to overcome trade unions' current dilemma of protecting employees' right of collective negotiation in their interests. However, employees' collective bargaining for their legal rights and interests could be achieved by other corporate departments and the approach can be varied as in UK companies, but it has to ensure that employees' conditions are being met by employers. Third, in the UK, international conventions are not only applied at the national level as mandatory regulation, but are also directly used by companies as basic instruction on CSR in strategies of corporate governance, and even more broadly adopted as the guideline for CSR implementation and outline of information disclosure. The empirical analysis of UK companies, using international conventions and standards,

showed that the adoption had largely improved companies' CSR performance, which put the UK CSR exercise at an international level. At national-level adoption, international conventions and standards could be voluntarily and directly applied within Chinese companies as the corporate guidelines to enhance the quality of CSR implementation and corporate governance. However, the extent to which international standards are used would primarily depend on the degree of companies' economic development and CSR performance.

Chapter 6: Conclusion

This thesis, firstly, provided a theoretical discussion of corporate governance and CSR in respect of their emergence and function, shareholder protection, stakeholders' interests, relevant decision-making, and the positive correlation between the two concepts. The thesis presented an analysis of the approaches and mechanisms used in CSR in respect of the rationale for its emergence and general voluntary initiatives widely used worldwide. Specifically, it introduced the approaches to CSR in the UK, which is experienced and has a long history in this regard, and the methods developed in China under particular situations and against a certain background of a developing country labouring under the CCP's monopoly.

According to the analysis of stakeholders, employee interests and rights are a main issue and should be taken seriously in corporate governance and CSR, because employee–employer relations in employment, to some extent, do affect companies' destiny. Therefore, the thesis conducted empirical and comparative research on CSR in respect of employees in corporate governance between UK and Chinese companies. The research relied on information disclosure, such as that contained in various corporate reports. The comparison made in the thesis was used to finally analyse the feasibility of Chinese companies adopting UK models of CSR towards employees in corporate governance.

The thesis argues that corporate governance is a central component in a company for shareholders, board of directors and management to coordinate the relations among the corporate constituents, such as employees, consumers and suppliers, and reduces transaction costs that may arise due to the firm specificity and uncertainty of transaction.

When firms' property is separated into ownership and control between shareholders and the board of directors, the latter becomes the former's agent in decision-making to ensure maximization of shareholders' interest. In corporate governance, contractual participants who are so-called stakeholders, largely affect companies' success, with the result that stakeholder theory is adopted in corporate governance whereby the board of directors concerns itself with stakeholders' profit, which is in the shareholders' interest, when making decisions.

CSR is the outcome of stakeholder theory, which concerns stakeholders' interests in the social and environmental issues in transactions. Therefore, it improves the efficiency of corporate governance in reducing transaction costs, stimulates team production, maximizes shareholders' profit and meets more stakeholders' needs to achieve company success. CSR is a strategic and voluntary approach to corporate governance that goes beyond the legal requirement to optimize relationships with stakeholders. It is also the standard used to evaluate the quality of corporate governance through whether the board of directors makes decisions on shareholder profit maximization, and companies' success with respect to financial, social and environmental issues relating to all stakeholders.

With increased concerns about social and environmental benefits in business, CSR emerged from public need and market pressure, especially due to the legal and public requirement of information disclosure of companies' performance. Comprehensive disclosure to the public on the implementation of CSR in corporate governance improves companies' corporate image and competitiveness in the marketplace. It is adopted voluntarily on the basis of legal regulation, which affects its concept, scope and approach. A series of voluntary initiatives was developed as codes of conducts, such as international guidelines and national standards, and contractual parties can voluntarily set up CSR clauses in contracts. However, the contractual duty is enforced under law. Moreover,

information disclosure and monitoring are both effective tools to use to ensure the achievement of CSR and credibility of companies' performance, and have been widely applied in corporate governance worldwide.

With respect to the general initiatives, the UK is an experienced country and for decades has implemented CSR effectively on the basis of comprehensive legal regulations. In this country stakeholder engagement is strongly recommended as a strategy to meet shareholders' needs, and to ensure companies' success as a whole by means of standardized voluntary guidelines and information disclosure among numerous companies, especially FTSE-listed companies on the London Stock Exchange. Additionally, governments and SRI also drive the way and stimulate companies to exercise CSR in corporate governance, in order to enjoy governmental abatement of duty or preferential policy and attract social investment from institutional investors.

Contrary to the UK, China introduced CSR in the late twentieth century, because Deng Xiaoping's 'Open Policy' had led to unbalanced economic development and lack of sustainable development. With the rapid economic growth that took place among Chinese companies, a social and environmental crisis occurred, so that CSR was urgently needed to optimize the domestic market and to seek international business partners. In the beginning, when CSR was first exercised, there were various mistaken notions and barriers in the economic, social and political aspects. However, CSR is still being developed through the Chinese government's drive, innovation in the legal basis, voluntary initiatives, SRI in business, and relevant CSR assessment and verification.

In order to catch up with the global pace of CSR development, Chinese companies have to learn from countries such as the UK, with its abundant experience in CSR in various aspects. Employees are vital constituents in corporate governance, and positive relations

in employment will enhance team production and improve companies' performance. CSR towards employees is a critical issue when boards of directors make decisions. Against this background, empirical research was conducted and comparative studies made for this thesis. Data on information disclosure of companies' CSR towards their employees in corporate governance were collected from UK and Chinese companies and analysed, and the feasibility of Chinese companies adopting UK models of CSR towards their employees in corporate governance assessed.

According to the case studies and database, most of the UK companies had published corporate information through precise description in the form of CSR reports, annual reports or sustainability reports, accompanied by third-party audits or verification to ensure the quality and reliability of information disclosure. In contrast, some Chinese companies' reports only provided brief and general statements on CSR achievement, and less than one third of companies applied efficient third-party monitoring to control the authenticity of their information disclosure. Additionally, international standards, such as ILO standards and the UN Global Compact, are broadly and directly used in corporate governance among UK companies to instruct the implementation of CSR, and its reporting and audit; whereas most of the Chinese companies preferred domestic CSR guidelines from their government, academic institutions, securities markets and so forth, although international guidelines are also adopted in a few Chinese companies. Moreover, most of the UK companies researched had achieved employee engagement in CSR through the process of stakeholder engagement, which involves stakeholders totally in corporate governance by reflecting their opinion and communicating with top management. Trade unions, labour unions or employee representatives also work efficiently in more than half of companies to achieve employees' collective bargaining and protect employees' legal rights in the workplace. However, employee engagement in many Chinese companies is one way: here, employees would express their opinion

without receiving feedback from top management. Trade unions are more likely to organize employee activities rather than collective bargaining to ensure employees' interests at work.

Based on the comparison, this research comes to the conclusion that Chinese companies can either entirely or partly adopt UK approaches to their CSR towards their employees directly in corporate governance, without external economic, legal and political influences. First, Chinese companies can increase the internal standard of information disclosure completely to provide precise and authentic statements in CSR reports, and adopt third-party audit or verification to control the reliability of information disclosure to the public. Second, international standards as the guideline can be voluntarily referred to in companies' codes of conduct or directly applied to CSR practices in corporate governance, regardless of whether the international conventions or agreements have been ratified at national level. However, the extent to which international standards are adopted depends on companies' economic capacity: the cost of such implementation might be over-budget in individual companies that do not perform strongly economically. Third, compared with the function of trade unions in UK companies, Chinese trade unions are not able to achieve employees' collective bargaining wholly, because of the dilemma in the national operational mechanism. However, the approaches of employee engagement to express opinion and complaints, and to communicate with employers can be used through the supervisory board in corporate governance to strengthen the connection between employees and employers. Employees' collective bargaining can also be achieved in companies' other departments, and not only through trade unions, to ensure employees' rights of negotiation with top management.

Although UK and Chinese companies both voluntarily implement CSR with regard to employees in corporate governance, differences still largely exist in the two countries due

to the difference in the extent of CSR development. First, under the comprehensive regulations, UK companies will comply with the minimum legal standard and voluntarily adopt applicable initiatives to report information in public. In reality, if companies are only dependent on the legal requirement of social and environmental information disclosure, the quality and reliability of their reports are still at a higher level than that of Chinese companies. In China little legislation regulates the exercise of social and environmental information disclosure. Although selected Chinese companies voluntarily provide CSR reports, there is still lack of instruction and a minimum legal basis to direct the approach and standard of information disclosure and verification, so that the scale of using voluntary reports to reflect the CSR performance to employees will only be decided by companies' consideration of the importance of information disclosure.

Second, in the UK, a developed country with full experience of CSR, companies have moved from the stage of profit-seeking to social and sustainable development. Therefore, the voluntary adoption of international standards will be the effective approach to enhance the CSR performance and establish positive corporate reputation in public. In China, most companies are still in the transitional period from profit-seeking to sustainability. That is to say that companies are implementing CSR and take social burdens in corporate governance. However, the cost of a CSR exercise is a critical issue that Chinese companies should consider when deciding whether to implement it. Applying international standards will bring higher cost in practice, with the result that many Chinese companies choose national initiatives or industrial guidelines as the voluntary approach to implement CSR in corporate governance in the early stages of achieving CSR. It is clear from observation in the empirical research conducted among Chinese companies who had adopted international standards that most of them are state-owned companies or famous companies because they have the strong financial capacity to support the implementation of CSR at the global level.

Third, in UK companies employees do not sit on the board of directors and cannot directly affect the decision-making, so that the efficiency of trade unions and employee representatives is the most functional way in which to make employees' voices heard, and to ensure collective bargaining and workers' interests with the employer. Employees organize trade unions voluntarily and their representatives are democratically elected from among the ranks of the employees. Therefore, trade unions and employee representatives ensure employee engagement in corporate governance without external influence from the board of directors or the government. Whereas in Chinese companies employee representatives have a position on the supervisory board in order to monitor and participate in corporate governance. In reality, the chairperson or employee members on the supervisory board are always dominated by Party members or government officials, especially in state-owned companies. Trade unions in Chinese companies are hierarchically controlled by the CCP, and work on behalf of the Party and State, so that in many companies the leaders of trade unions nominated by the Party are still the members of top management. Under these circumstances, it is not possible to guarantee that employees' opinion and collective bargaining would be achieved by trade unions and the supervisory board. This highlights the negative performance of employee engagement through employee representatives and trade unions in Chinese companies.

From the comparison in reporting performance between UK and Chinese companies, it is evident that the exercise of information disclosure in selected UK companies is generally better than in Chinese companies. As discussed, CSR information reporting is a voluntary action in corporate governance to make the public aware of the real performance in social and environmental matters, so that the extent and scale of CSR information disclosure and monitoring are dependent on companies' decision-making. However, CSR reports do not tell stories or are not window-dressing. The board of directors should ensure the

comprehensiveness and authenticity of published information. The UK has provided good examples of companies who have adopted a precise approach to reporting, by including numbers, charts and an index in their reports, and honestly revealing the negative aspects in the workplace. The reliability of information disclosure is ensured through third-party audit or verification by assurance companies or qualified NGOs. Compared with the UK, information disclosure in many Chinese companies is in the form of an overview or blurred information couched in short sentences or 'slogans' to demonstrate the performance of CSR in employment. Chinese companies seldom mention negative incidents in their reports. This thesis discusses the respective UK and Chinese experience of information disclosure on CSR in corporate governance by examining the UK initiatives of publishing CSR information as precisely and reliably as possible, instead of the 'Chinese special' third-party comment or internal monitoring, using effective external auditing and verification to enhance public credibility of companies' CSR performance and information disclosure.

This research on the implementation of CSR to protect employees concludes that the most important element to improve CSR performance in employment is to strengthen employees' rights to know and engage in corporate governance. To be specific, when employees are conferred the right to know, they will focus on corporate information disclosure to monitor the substantial performance of CSR in corporate governance. The important need for published information and monitoring from employees compels companies to reveal high-quality and reliable information. In this way, employees' internal supervision will be effective and will ensure the authenticity of companies' CSR performance. Top management will also be stimulated to achieve employee protection of higher standards. In addition, when employees are able to express their opinion and participate in corporate governance through collective bargaining and employee engagement, CSR towards employees will be taken seriously in decision-making and the

abuse of employees' interests will be avoided in corporate governance. Therefore, employees should have the freedom to elect their representatives on supervisory boards and the leaders of trade unions, in order to safeguard their interests by ensuring that the labour unions serve on their behalf.

At the macro-level, the development of CSR in China is delayed and different from the UK due to its social communism economy, which is largely dominated by state-owned companies and controlled by CCP and governments. However, it is essential and possible to improve CSR and its information disclosure in corporate governance. In China's economic reform, both state-owned companies and private companies face the same market competition as UK companies; in other words, provided that laws require social performance; consumers buy goods or service from companies with clear CSR; institutional investors make SRI; assurance or auditing companies provide authentic monitoring; and the market mechanism works, market participants will directly stimulate companies to make decision in respect of social and environmental issues, and disclose CSR information to provide stakeholders with knowledge of the CSR achieved in corporate governance.

For this thesis, the data were directly collected from validated corporate information disclosure and, to some extent, external audit, so that the empirical research provides a comparison between UK and Chinese companies' exercise of CSR towards their respective employees in corporate governance. In the Chinese emerging market, many companies' goals are changing from economic benefit to sustainable development, so that legislators, governments and markets have begun to develop and research CSR through legislation and governmental regulation; academic and industrial associations; NGOs; and even local governments have established different voluntary standards and guidelines of CSR towards employees. However, many companies merely observe approaches to

CSR, and do not actively engage in CSR in corporate governance because some of them do not have the practical basis for implementation. The broad database and analysis in this research were used to suggest that companies should adopt experience from UK companies to perform CSR in corporate governance without external influence.

China has a large number of labour-intensive industries comprising both domestic companies and MNEs. Many of them have adopted the attitude to employees of ‘paying and gaining, no more concerns’, that is, employees are only paid for their work without extra protection and interest in achieving CSR. In some small enterprises the ‘sweat shop’ still exists where employees are over-exploited and their legal rights in the workplace are not safeguarded. Therefore, this research provides a broad overview and cautions companies’ top management to emphasize employee protection at work through the effective exercise of CSR in corporate governance.

Furthermore, this research provides implications for UK MNEs about how to implement CSR towards employees in corporate governance in China; in other words, although the UK has established a complete mechanism of CSR towards employees, UK MNEs still need to learn from typical Chinese situations when they invest in the Chinese market. For example, as mentioned in Chapter 2 on the economic barriers in China, in order to absorb overseas investment, some Chinese companies have reduced the standards of CSR to MNEs, especially in respect of protecting employees in ‘sweat shops’ and even illegal forced labour that exists in overseas companies. In these circumstances, UK MNEs in China should strictly comply with the same standards of CSR towards employees, both in the domestic and overseas market. If UK companies applied international standards to home employees, they have to equally protect employees in Chinese companies. They cannot degrade the standards of CSR protection to employees in developing countries and cause the abuse of workers’ human rights. It is an effective approach to urge boards of

directors in Chinese branches to make decisions on stakeholders' interests on the basis of higher standards. In the meantime, the implementation of CSR among MNEs in China will also set positive examples to local companies and directly present instruction to domestic employers on how to meet the international level to achieve CSR towards employees in the Chinese market.

The comparison shows that there is a visible difference in the function of trade unions between UK and Chinese companies. In UK companies a trade union is an organization voluntarily gathered by employees to express their opinion and negotiate with employers for their own interests at work; whereas in Chinese companies, some trade unions are groups convened to organize employee activities, such as athletics, and to assist employees in poor living conditions. It seems that those trade unions deviate from the proper function to achieve employee engagement and collective bargaining as in the case of UK companies. However, many Chinese companies, particularly state-owned ones, were transferred from the collective economy, so that the notion of 'collectivism' still exists in current corporate governance. When UK MNEs invest in Chinese market, the top management will coordinate the relationship with Chinese local managers and staff. It is an indigenous approach for overseas companies in China to associate with Chinese circumstance in corporate governance and strengthen the function of trade unions to convene employees through traditional collective activities in order to establish companies' cohesion with Chinese workers. The typical Chinese approach can even be introduced in UK companies' trade unions to implement CSR in employment, because such employees gathering would diversify the function of trade unions, and would largely improve the connection between employees and companies.

Bibliography

AccountAbility, AA1000 Stakeholder Engagement Standard 2011: Final Exposure Draft, available at:

<http://www.accountability.org/images/content/3/6/362/AA1000SES%202010%20PRINT.PDF>.

Accounting in Ministry of Finance, Code of Accounting in Ministry of Finance, available at: <http://www.casc.gov.cn/wjk/200608/P020060810538543620145.pdf>.

Adams, C. A., 'A Critique of Reporting on Ethical, Social and Environmental Issues: The Case of ICI', *Internet Proceedings of Third APRIA Conference* (2001), available at: <http://www.commerce.adelaide.edu.au/apira/papers/default.htm>.

Adams, R. B., Licht, A. N. and Sagiv, L., Shareholders and Stakeholders: How Do Directors Decide?, *ECGI Finance Working Paper* No. 276/2010 (March 2010) available at: <http://ssrn.com/abstract=1549482>.

Adina, P. and Ion, P., Aspects Regarding Corporate Mandatory and Voluntary Disclosure, *Working Paper Series in University of Oradea* (May, 2008), 1407-1411, available at: <http://steconomice.uoradea.ro/anale/volume/2008/v3-finances-banks-accountancy/256.pdf>.

Admati, A. R. and Pfleiderer, P., 'Forcing Firms to Talk: Financial Disclosure Regulation and Externalities', *Stanford Graduate School of Business Working Paper Series* (April 1998), available at: http://papers.ssrn.com/sol3/papers.cfm?abstract_id=103968.

ACAS *see* Advisory, Conciliation and Arbitration Service

Advisory, Conciliation and Arbitration Service, 'Delivering Equality and Diversity' Booklet (April 2012), available at:
[http://www.acas.org.uk/media/pdf/l/e/Acas_Delivering_Equality_and_Diversity_\(Nov_11\)-accessible-version-Apr-2012.pdf](http://www.acas.org.uk/media/pdf/l/e/Acas_Delivering_Equality_and_Diversity_(Nov_11)-accessible-version-Apr-2012.pdf).

Advisory, Conciliation and Arbitration Service, ACAS Code of Practice on Discipline and Grievance (April 2009), available at:
http://www.acas.org.uk/media/pdf/k/b/Acas_Code_of_Practice_1_on_disciplinary_and_grievance_procedures-accessible-version-Jul-2012.pdf.

Aguilera, R. V. *et al.*, 'Corporate Governance and Social Responsibility: A Comparative Analysis of the UK and the US', *Corporate Governance: An International Review* (May 2006), Volume 14, Number 3, 147–158, available at:
<http://www.business.illinois.edu/aguilera/pdf/CGIR%202006.pdf>.

Albareda, L. *et al.*, 'The Government's Role in Promoting Corporate Responsibility: A Comparative analysis of Italy and UK from the Relational State Perspective', *Corporate Governance* (2006), Volume 6, Issue 4, 386–400.

Alchian, A. A. and Demsetz, H., 'Production, Information Costs, and Economic Organization', *American Economic Review* (1972), Volume 62, Issue 5, 777–795.

Allen, T. W., 'Our Schizophrenic Concept of the Business Corporation', 14 *Cardozo Law Review* (1993), 261–281.

Bibliography

Alliance Boots, *Corporate Social Responsibility Report 2009/2010*, available at:
<http://www.allianceboots.com/CorporateSocialResponsibilityReport2009-10/our-approach/our-csr-framework.html>.

ABF *see* Associated British Food.

Associated British Food, About US, available at:
http://www.abf.co.uk/about_us/our_group/overview.

Associated British Food, *Annual Report 2012*, available at:
<http://www.abf.co.uk/documents/pdfs/ar2012/abf-annual-report-2012.pdf>.

Bai, C. and et al., 'Corporate Governance and Market Valuation in China', 32 *Journal of Comparative Economics* (2004), 599-616.

Bainbridge, S. M., *The New Corporate Governance in Theory and Practice*, Oxford University Press (2008).

Bainbridge, S. M., 'Redirecting State Takeover Laws at Proxy Contexts', *Wisconsin Law Review* (1992), 1071–1146.

Balakrishnam, K. *et al.*, 'Mandatory Financial Reporting and Voluntary Disclosure: Evidence from Mandatory IFRS Adoption', *Wharton University of Pennsylvania Working Paper Series* (November 7, 2012), available at:
http://papers.ssrn.com/sol3/papers.cfm?abstract_id=2172014.

Bibliography

Balzarova, M. A. and Castka, P., 'Stakeholders' Influence and Contribution to Social Standards Development: The Case of Multiple Stakeholder Approach to ISO26000 Development', *Journal of Business Ethics* (December 2012), Volume 111, Issue 2, 265–279.

Bank Track, *The Green Evolution: Environmental Policies and Practice in China's Banking Sector* (2008), available at:
http://www.banktrack.org/download/the_green_evolution_environmental_policies_and_practice_in_the_chinese_banking_sector/green_evolution_2008_foe_final.pdf.

Barnett, M. L., 'Stakeholder Influence Capacity and the Variability of Financial Returns to Corporate Social Responsibility', *Academy of Management Review* (2007), Volume 32, Issue 3, 794–816.

Barratt Developments PLC, *About US*, website, available at:
<http://www.buildingcareerstogether.co.uk/About-us/>;

Barratt Developments PLC, *Sustainability Report 2012*, available at:
http://www.barrattdevelopments.co.uk/barratt/uploads/csr/41648_Barratt_SR_WEB_READY.pdf.

Barrett, A. *et al.*, *Corporate Governance Ratings*, available at:
http://www.directorsforum.com/resources/related_articles/corp_gov_ratings3-05.pdf.

Baumunk, J., 'Law and Policy of Corporate Sustainability Disclosure', *Position Paper ACCTG No. 660* (11 May 2010), available at:
http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1620538.

Baysinger, B. D. and Hoskisson, R. E., 'The Composition of Boards of Directors and Strategic Control: Effects on Corporate Strategy', *Academy of Management Review* (1990), Volume 15, Issue 1, 72–87.

Baysinger, B. D. and Butler, H. N., 'Corporate Governance and the Board of Directors: Performance Effects of Changes in Board Composition', 1 *Journal of Law, Economics and Organization* (1985), 101–124.

Belal, A. R., 'Stakeholder Accountability or Stakeholder Management: A Review of UK Firm's Social and Ethical Accounting, Auditing and Reporting (SEAAR) Practice', *Corporate Social Responsibility and Environment Management* (2009), Volume 9, Issue 1, 2002, 8–25.

Berkeley Group Holdings PLC, About Berkeley Group Holdings PLC, available at: <http://www.berkeleygroup.co.uk/about-berkeley/careers>.

Berkeley Group Holdings PLC, *Sustainability Report 2011*, available at: http://www.berkeleygroup.co.uk/media/pdf/4/n/Berkeley_Sustainability_Report_2011.pdf.

Berle, A. A. and Means, G. C., 'From *The Modern Corporation and Private Property*', in Kroszner, R. S. and Putterman L. (eds), *The Economic Nature of the Firm: A Reader*, 3rd Edition, originally published 1986, Cambridge University Press (2009), 58–62.

Berle, A. A. and Means, G. C., *The Modern Corporation and Private Property*, This Edition, originally published in 1932, Transaction Publishers (1991).

Bibliography

Black, B. S., Corporate Law and Residual Claimants, *John M. Olin Program in Law and Economics Working Paper No. 217* (May 1, 2001), available at: <http://ssrn.com/abstract=1528437>.

Blair, M. M. and Stout, L. A., 'A Team Production Theory of Corporate Law,' *Virginia Law Review* (March 1999), Volume 85, Issue 2, 247-328.

Blair, M. M., 'Ownership and Control: Rethinking Corporate Governance for the Twenty-First Century', in Clark, T., *Theories of Corporate Governance, the Philosophical Foundations of Corporate Governance*, (ed.), Routledge (1995), 174-188.

Blair, M. M., Firm-specific Human Capital and Theories of the Firm, *Business, Economics and Regulatory Policy Working Paper No. 167848* (September 12, 2003), available at: <http://papers.ssrn.com/abstract=167848>.

Bondy, K. *et al.*, 'An Institution of Corporate Social Responsibility (CSR) in Multi-National Corporations (MNCs): Form and Implications', *Journal of Business Ethics* (January 24, 2012), 281-299, available at: <http://www.springerlink.com/content/t31047531qr27346/>.

Boot, A. W. A. and Thankor, A. V., 'The Many Faces of Information Disclosure', *The Review of Financial Studies* (2001), Volume 14, Issue 4, 1021-1057.

Bottomley, S. and Forsyth, A., 'The New Corporate Law: Employee's Interests', in McBarnet, D. *et al.*, *The New Corporate Accountability*, (ed.), Cambridge University Press (2007), 307-335.

Bibliography

Bovis, Brief Overview of Bovis Homes Group, available at:

<http://www.bovishomesgroup.co.uk/about-us/understanding-bovis-homes/at-a-glance/>.

Bovis, *CSR Report 2012*, available at:

http://www.bovishomesgroup.co.uk/pdfs/CSR_2012.pdf.

Bovis, *CSR Report 2011*, available at:

http://www.bovishomesgroup.co.uk/pdfs/CSR_2011.pdf.

Branson, M. D., 'Corporate Governance "Reform" and the New Corporate Social Responsibility', 61 *University of Pittsburgh Law Review* (2001), 605-647.

Bratton, W. W. and Wachter, M. L., 'Shareholder Primacy's Corporatist Origins: Adolf Berle and The Modern Corporation', 34 *Journal of Corporation Law* (2008), 99-152.

Brian, B., *European Labour Law*, 3rd Edition, Oxford University Press (2007).

British Standard Institution, OHSAS18001, available at:

<http://www.bsigroup.co.uk/en-GB/ohsas-18001-occupational-health-and-safety/>.

Britsch, A. and Nette, A., *Revealing China's ESG Issues 2011: A Study of Chinese News About Companies in Connection with Environmental, Social and Governmental Issues*, available at: http://www.syntao.com/SyntaoReport_Show_CN.asp?ID=23&FID=18.

Bibliography

Brown, L. D. and Caylor, M. L., 'Corporate Governance Study: The Correlation between Corporate Governance and Company Performance', *Research Study commissioned by: ISS*, available at: <http://www.stybelpeabody.com/isscoresandshareholdervalue.pdf>.

Cai, Z. and Wheale, P., 'Creating Sustainable Corporate Value: A Case Study of Stakeholder Relationship Management in China', *Business and Society Review* (2004), Volume 109, Issue 4, 507-547.

Cambridge Silicon Radio Limited's, Terms of Supply, available at: <http://www.csr.com/salesterms>.

Campbell, D. *et al.*, 'Voluntary Social Reporting in Three FTSE Sectors: A Comment on Perception and Legitimacy', *Accounting, Auditing and Accountability Journal* (2003), Volume 14, Issue 4, 558-581.

Campbell, J. L., 'Why Would Corporations Behave in Socially Responsible Ways? An Institutional Theory of Corporate Social Responsibility', *Academy of Management Review* (2007), Volume 32, Issue 2, 946-967.

Campbell, K. and Vick, D., 'Disclosure Law and the Market for Corporate Social Responsibility', in McBarnet, D. *et al.*, *The New Corporate Accountability*, (ed.), Cambridge University Press (2007), 241-278.

Campbell, T., 'Normative Grounding: A Human Rights Approach', in McBarnet, D. *et al.*, *The New Corporate Accountability*, (ed.), Cambridge University Press (2007), 529-564.

Bibliography

Cape, *Annual Review 2011*, available at:

http://www.capeplc.com/media/207436/cape_annual_report_2011.pdf.

Cape, Cape at a glance, available at:

<http://www.capeplc.com/about-cape/cape-at-a-glance.aspx>.

Cape, Health and Safety Management in Section of Corporate Responsibility, available at:

<http://www.capeplc.com/corporate-responsibility/health-and-safety/capesafe.aspx>.

Carnival Corporation & PLC, Comprehensive Audit and Review of Safety and

Emergency Response, available at: <http://www.carnival.co.uk/legal/safety-security.aspx>.

Carnival Corporation & PLC, *Sustainability Report 2011*, available at:

http://www.carnival.co.uk/cms/environment/reports/default.aspx?icid=CC_Footer_846.

Carnival, Carnival Compliance, available at: www.carnivalcompliance.com.

Carnival, Corporate Information, available at:

<http://phx.corporate-ir.net/phoenix.zhtml?c=200767&p=irol-prlanding>.

Carrol, A. B., The Pyramid of Corporate Social Responsibility: Toward the Moral Management of Organizational Stakeholders, available at:

<http://www-rohan.sdsu.edu/faculty/dunnweb/rprnts.pyramidofcsr.pdf>.

Case, D. W., 'The Law and Economics of Environmental Information as Regulation', 31 *Environmental Law Reporter* (2001), 10773-10790.

China Academy of Social Science, Chinese CSR Reporting Guide: CASS-CSR, available at: <http://wenku.baidu.com/view/332d131e6bd97f192279e92f.html>.

China Construction, *China Construction CSR Report 2012*, available at: <http://www.sustainabilityreport.cn/ReportShow.asp?ReportId=5243>.

China Industrial Association, China Industrial CSR Instruction and Guideline (GSRI-CHINA 2.0) [中国工业协会及工业企业社会责任指南, zhongguogongyexiehuijigongyeqiyeshehuizerenzhinan], Second Edition, available at: http://wenku.baidu.com/link?url=go-uriX5XR0P82S2f5NIOsL-VX5xH_cx_tc3V1z-0J0ShK3lA0_-NU1MWKDnN0AJOcZocmy3zZ7DJd6JAeOtpUNebkq6IxrsGaGqQsEtiZa.

China North Railway, *CSR Report 2012*, available at: <http://www.chinacnr.com/Page/221/language/zh-CN/default.aspx>.

China North Railway Corporation, Overview and history of China North Railway Corporation, available at: <http://www.chinacnr.com/Page/195/language/zh-CN/default.aspx>

China Resource Power Holdings Company, *CR CSR Report 2011* (English Edition), available at: http://www.cr-power.com/download/CPS1210014_E.pdf.

China Resource Power Holdings Company, Overview of China Resource Power Holdings Company, available at: <http://www.cr-power.com/en/article.asp?cid=95&nav=1>

China Securities Regulatory Commission, *Code of Corporate Governance of Listed Companies in China*, available at: http://www.ecgi.org/codes/documents/code_en.pdf.

Bibliography

China Shenhua Energy Company, *CSR Report 2012*, available at:
<http://www.sustainabilityreport.cn/ReportShow.asp?ReportId=5497>.

China Shenhua Group, Introduction to China Shenhua Energy Company, available at:
<http://www.shenhuaigroup.com.cn/english/about0us/profile0of0shenhua/index.shtml>.

China Southern Air Holding Corporation, *CSR Report 2012* (English Edition), available at: <http://www.csair.com/cn/about/static/shehuizerenbaogao/2012.pdf>.

China Southern Air Holding Corporation, Overview and information of China Southern Air Holding Corporation profile, available at:
<http://www.csair.cn/en/pages/company.aspx>

China State Construction Engineering Construction Corporation, Introduction to China State Construction Engineering Construction Corporation, available at:
http://english.cscec.com/art/2012/11/6/art_134_227.html.

Chinese Industrial Association, Guideline of CSR in Chinese Industrial Companies and Industrial Association, available at:
<http://www.siccsr.org/WebSite/crs/Upload/File/201211/20121119073915312500.PDF>

Clark, T., *International Corporate Governance: A Comparative Approach*, Routledge (2007).

Bibliography

Clark, T., 'The Stakeholder Corporation: A Business Philosophy for the Information Age', *Theories of Corporate Governance, the Philosophical Foundations of Corporate Governance*, Routledge (1995), 189-202.

Clarke, J. and Sweet, M. G., 'The Use of Corporate Social Disclosure in the Management of Reputation and Legitimacy: A Cross Sectoral Analysis of UK Top 100 Companies', *Business Ethics: A European Review* (January 1999), Volume 8, Issue 1, 5-13.

Clarkson, M. B. E., *A Risk Based Model of Stakeholder Theory*, Toronto University Press (1994).

CNOOC *see* China National Offshore Oil Corporation

China National Offshore Oil Corporation, *CSR Report 2012*, available at:
<http://www.cnooc.com.cn/data/kcxfzbg/2012en/online.htm>.

China National Offshore Oil Corporation, Overview of CNOOC, available at:
http://en.cnooc.com.cn/data/html/english/channel_110.html

Coase, R., 'The Nature of the Firm', in Kroszner, R.S. and Putterman, L., *The Economic Nature of the Firm: A Reader*, 3rd Edition, (ed.), originally published in 1986, Cambridge University Press (2009), 79–95.

Coats PLC, Equal Opportunity Statement, available at:
[http://www.coats.com/assets/files/cms/Coats_EqualOpps_web\(1\).pdf](http://www.coats.com/assets/files/cms/Coats_EqualOpps_web(1).pdf).

Bibliography

Coats PLC, Introduction to Coats PLC, available at:

<http://www.coats.com/index.asp?pageid=18>.

Coats PLC, Statement in Our People, available at:

<http://www.coats.com/index.asp?pageid=131>.

Colle, S. D. and Gonella, C., 'Corporate Social Responsibility: The Need for an Integrated Management Framework', *International Journal of Business Performance Management* (2003), Volume 5, Issue 2/3, 199-212.

Commercial Value Magazine, 'Chinese Companies CSR Performance Election 2012', *Commercial Value Magazine*, available at: <http://www.cfi.net.cn/p20130227001080.html>.

Committee on Corporate Governance, The Combined Code Principles of Good Governance and Code of Best Practice, available at:

http://www.ecgi.org/codes/documents/combined_code.pdf.

Company Law Review Steering Committee, Modern Company Law for a Competitive Economy: The Strategic Framework (1999).

Confederation of British Industry, 'Company Responses to Unemployment: A Report by the Social Affairs Directorate', CSB (1981), available at:

<http://www.cbi.org.uk/about-the-cbi/>.

CCS *see* Considerate Constructor Scheme

Bibliography

Considerate Constructor Scheme, Code of Considerate Practice, available at:

<http://www.ccscheme.org.uk/index.php/company-registration/how-to-be-very-considerate/company-code-of-considerate-practice>.

Considerate Constructors Scheme, Overview of CCS, available at:

<http://www.ccscheme.org.uk/index.php/ccs-ltd>.

CSCS *see* Construction Skills Certification Service

Construction Skills Certification Service, CSCS Training Scheme, available at:

<http://www.cscs.uk.com>.

Cooper, S. M. and Owen, D. L., 'Corporate Social Reporting and Stakeholder Accountability: The Missing Link', 32 *Accounting, Organizations and Society* (2007), 649-667.

Cornes, R. and Sandler, T., *The Theory of Externalities, Public Goods and Club Goods*, Cambridge University Press (1986).

Croquet, N. et al., 'Corporate Social Responsibility Soft Law Development in the European Union', University of Oxford (30 July 2009), available at: <http://www.reports-and-materials.org/CSR-soft-law-in-EU-Oxford-Pro-Bono-Publico-for-Ruggie-30-Jul-2009.pdf>.

CSR China, CSC9000T, available at: <http://www.csrchina.net/page-566.html>.

Bibliography

Cunard, *Sustainability Report 2010*, available at:

<http://www.cunard.com/Documents/Legal%20Docs/2010%20Sustainability%20Report.pdf>.

Dai, L., 'The Judicial Application of the Causation Test on the False Statement Doctrine in Securities Litigation in China', *Pacific Rim Law & Policy Journal* (2006), Volume 15, Issue 3, 733-764.

Davis, G.F. and Useem, M., 'Top Management, Company Directors and Corporate Control', in Pettigrew, A. *et al.*, *Handbook of Strategy and Management* (ed.), SAGE Publication (2002), 232-260.

Department of Business, Innovation and Skills, Draft Regulations on the Operating and Financial Review and Directors Report: A Consultative Document, May 5, 2004.

Department of Business, Innovation and Skills, Giving Everybody the Rights to Flexible Working, available at:
<https://www.gov.uk/government/publications/giving-everybody-the-right-to-flexible-working>.

Department of Trade and Industry, 'Companies Act 2006—Duties of Company Directors', *Ministerial Statements* (2007), available at: www.berr.gov.uk/.

Derwall, J. and Koedijk, K., 'Socially Responsible Fixed-Income Funds', 36 *Journal of Business Finance and Accounting* (January/March 2009), 210-229.

Bibliography

Dodd (Junior), E. M., 'For Whom Corporate Managers are Trustees', *Harvard Law Review* (1932), Volume 45, Issue 7, 1145-1163.

Donaldson, T. and Preston, L. E., 'The Stakeholder Theory of the Corporation: Concepts, Evidence, and Implications', *Academy of Management Review* (1995), Volume 20, Issue 1, 65-91.

Dooley, M. P., Two Models of Corporate Governance, 47 *Business Lawyer* (1991-1992), 461-527.

Downey, P. R., The Essential Stakeholder Dialogue, 9 *Corporate Social Responsibility and Environmental Management* (2002), 37-45.

Du, Z., 'Corporate Social Responsibility and its Implementation' [企业社会责任与其实 施, qiyeshehuizerenyuqishishi], 4 *Journal of Renmin University of China* (2005), 42-51.

Duan, L., Analysis of Confucian Morality and Contemporary Effect, [论孔子伦理道德思 想内涵及当代意义, lunkongzilunlidaodesixiangnei hanjidangdaiyi], available at: http://wenku.baidu.com/link?url=460SaBj0UDA6rDFxFy57MVBggd6DqjiSjS2u2hx2EN4wqAKdZyAjUEh7-SZPhI1gscQ4CO6U7k94wcq_J_pvkdUTKu4iyNMgzQla3uP32ua.

Dunfee, T. W., 'Stakeholder Theory: Managing Corporate Social Responsibility in a Multiple Actor Context', in Crane, A. *et al.*, *The Oxford Handbook of Corporate Social Responsibility* (ed.), Oxford University Press (2008), 346-362.

Easterbrook, F. H. and Fischel, D. R., *The Economics Structure of Corporate Law*, Harvard University Press (1996).

Edmans, A., 'Does the Stock Market Fully Value Intangibles? Employee Satisfaction and Equity Prices', 101 *Journal of Financial Economics* (2011), 621-640.

Eng, L. L., and Mak, Y. T., 'Corporate Governance and Voluntary Disclosure', *Journal of Accounting and Public Policy* (2003), Volume 22, Issue 4, 325-345.

Epstein, E. J., *Who Owns the Corporations? Management vs. Shareholders*, 20th Century Fund-Priority Press Publications, New York (1986).

Epstein, E. M., 'Societal, Managerial, and Legal Perspectives on Corporate Social Responsibility: Product and Process', 30 *Hastings Law Journal* (1978-1979), 1287-1320.

European Commission, 'Communication from the Commission to the European Parliament, the Council, 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, available at:
<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2011:0681:FIN:EN:PDF>.

European Commission, Promoting a European Framework for Corporate Social Responsibility, Green Paper, Brussels (18/7/2001).

European Union, EU Standards on European Enterprises Operating in Developing Countries: Towards a European Code of Conduct, available at:
<http://www.europarl.europa.eu/sides/getDoc.do?type=REPORT&mode=XML&reference=A4-1998-508&language=EN>.

Bibliography

Fama, E. F. and Jensen, M. C., 'Separation of Ownership and Control', *Journal of Law and Economics* (1983), Volume 26, Issue 2, 301-325.

Ferran, E., 'The Role of the Shareholder in Internal Corporate Governance: Enabling Shareholders to Make Better-Informed Decision', 4 *European Business Organization Law Review* (2003), 491-516.

Financial Reporting Council, Exposure Draft: Guidance on the Strategic Report, August 2013, available at:

<http://www.frc.org.uk/Our-Work/Publications/Accounting-and-Reporting-Policy/Exposure-Draft-Guidance-on-the-Strategic-Report-File.pdf>.

Financial Service Authority, Treating Customers Fairly: Progress and Next Steps, available at: http://www.fsa.gov.uk/pubs/other/tcf_27072004.pdf.

FirstGroup, *CR Report 2012*, available at:

<http://www.firstgroup.com/assets/pdfs/cr/2012/cr-2012-corporate-responsibility-report.pdf>.

Fong, A., Practicing Corporate Governance through Corporate Disclosure?, *Working Paper Series in Chinese University of Hong Kong* (October 19, 2013), available at: http://papers.ssrn.com/sol3/papers.cfm?abstract_id=2342480.

Ford, Investing in Renewable Energy Generation on Its Operational Site, Reducing Greenhouse Gas Emissions, available at:

<http://corporate.ford.com/microsites/sustainability-report-2012-13/environment-operations-emissions>.

Bibliography

Ford, W. C. and Mulally, A., *Blueprint for Sustainability: the Future at Work*, February 18, 2011, available at: <http://www.corporate.ford.com/about-ford/>.

Forker, J. J., 'Corporate Governance and Disclosure Quality', 22 *Accounting and Business Research* (1992), 111-124.

Fortuna, M. *et al.*, *Sustainability and Corporate Social Responsibility Trends: An Empirical Analysis of Drivers, Success Measures and Competitive Value for Multi-National Corporations Within the Information and Communications Technology Industry*, *Working Paper Series* (June 2, 2011), available at: <http://ssrn.com/abstract=1839825>.

Freeman, R. E., *Strategic Management: A Stakeholder Approach*, Cambridge University Press (2010).

Freeman, R. E. and McVea, J., *A Stakeholder Approach to Strategic Management*, Darden Graduate School of Business Administration, University of Virginia, *Working Paper* No. 01-02 (March 16, 2001), available at: http://papers.ssrn.com/paper.taf?abstract_id=263511.

Freeman, R. E. *et al.*, *Company Stakeholder Responsibility: A New Approach to CSR*, available at: <http://www.corporate-ethics.org/pdf/csr.pdf>.

Friedman, M., 'Social Responsibility of Business is to Increase its Profits', *The New York Times Magazine* (September 13, 1970), available at:

Bibliography

<http://www.colorado.edu/studentgroups/libertarians/issues/friedman-soc-resp-business.html>.

G4S, *CSR report 2011*, available at:

http://www.g4s.com/~media/Files/CSR%20Reports/G4S_CSRR11.ashx.

G4S, Introduction to G4S, available at: <http://www.g4s.com/en/Who%20we%20are/>.

Ghose, A., Information Disclosure and Regulatory Compliance: Economic Issues and Research Directions, *Working Paper Series in New York University* (July, 2006), available at: http://papers.ssrn.com/sol3/papers.cfm?abstract_id=921770.

Gilber, D. U. and Rasche, A., 'Opportunities and Problems of Standardized Ethics Initiatives: A Stakeholder Theory Perspective', 82 *Journal of Business Ethics* (2008), 755-773.

Glinski, C., 'Corporate Codes of Conduct: Moral or Legal Obligation', in McBarnet, D. *et al.*, *The New Corporate Accountability*, (ed.), Cambridge University Press (2007), 119-147.

Global Community, The GCAC Evaluation of Social Indicators and Indices, available at: <http://globalcommunitywebnet.com/globalcommunity/societalsustainability.htm>

GRI *see* Global Reporting Initiative

Global Reporting Initiative, Disclosures on Management Approach (DMAs), available at: <https://www.globalreporting.org/resourcelibrary/G3.1-Application-Levels.pdf>.

Bibliography

Global Reporting Initiative, GRI (G4), available at:

<https://www.globalreporting.org/resourcelibrary/GRIG4-Part1-Reporting-Principles-and-Standard-Disclosures.pdf>.

Global Reporting Initiative, GRI Application Levels: All You Need to Know, available at:

<https://www.globalreporting.org/information/news-and-press-center/Pages/Application-Levels-all-you-need-to-know.aspx>.

Global Reporting Initiative, GRI Guideline, available at:

<https://www.globalreporting.org/Pages/default.aspx>.

Global Reporting Initiative, GRI Report Service of External Assurance and Level-check, available at:

<https://www.globalreporting.org/reporting/report-services/external-assurance/Pages/default.aspx>.

Global Reporting Initiative, Overview of GRI, available at:

<https://www.globalreporting.org/Pages/default.aspx>.

Go Ahead PLC, *CSR Report 2011*, available at:

<http://www.go-ahead.com/~media/Files/G/Go-Ahead/storage/pdf/cr-2011.pdf>.

Go Ahead PLC, *CSR Report 2012*, available at:

http://www.go-ahead.com/~media/Files/G/Go-Ahead/storage/pdf/sr2012/GO045_report_121219.pdf.

Bibliography

Go Ahead PLC, Information of Go Ahead PLC, available at:

<http://www.go-ahead.com/aboutus.aspx>.

Godfrey, P. C. *et al.*, 'The Relationship between Corporate Social Responsibility and Shareholder Value: an Empirical Test of the Risk Management Hypothesis', *Strategic Management Journal* (2009), Volume 30, Issue 4, 425-445.

Gov. UK, International Safety Management Code for the Safe Operation of Ships and for Pollution Prevention, available at: http://www.dft.gov.uk/mca/ism_i2s_2009.05.pdf.

Gov. UK, The Minimum Wage Rate, available at:

<https://www.gov.uk/national-minimum-wage-rates>.

Gray, R. *et al.*, *Accounting and Accountability: Changes and Challenges in Corporate Social and Environmental Reporting*, Prentice-Hall (1996).

Great Poland Estate, Health and Safety Policy, available at:

http://www.gpe.co.uk/media/215490/health_and_safety_policy_2012.pdf.

Great Portland Estate, Introduction to Great Portland Estates PLC, available at:

<http://www.gpe.co.uk/about-us.aspx>.

Group of Eight, Communication of the OECD Council Meeting at Ministerial Level on 27–28 April 1998, available at: <http://www.g8.utoronto.ca/oecd/oecd98.htm>.

Guttentag, M. D., 'Accuracy Enhancement, Agency Costs, and Disclosure Regulation', *Review of Law and Economics* (2007), Volume 3, Issue 2, 611-642.

Bibliography

Haier Group, *CSR Report 2012*, available at:

http://www.sustainabilityreport.cn/Uploads/Reports/%7BF6A74CA6-E155-4BCA-BD15-A9746DB4C112%7D_qingdaohaier.pdf.

Haier Group, Introduction to Haier, available at:

http://www.haier.net/en/about_haier/haier_strategy/.

Hart, S. M., 'Self-regulation, Corporate Social Responsibility, and the Business Case: Do They Work in Achieving Workplace Equality and Safety?', 92 *Journal of Business Ethics* (2010), 585-600.

Health and Safety Executive, Delivery Safely, Preventing Slips, Trips and Falls from Vehicles and etc., available at: <http://www.hse.gov.uk/pubns/tranindx.htm>.

Health and Safety Executive, Reporting Accidents and Incidents at Work: A Brief Guide to the Reporting of Injuries, Diseases and Dangerous Occurrences Regulations (RIDDOR), available at: <http://www.hse.gov.uk/pubns/indg453.pdf>.

Health and Safety Executive, The Manual Handling Assessment Chart, available at: <http://www.hse.gov.uk/msd/backpain/employers/mhor.htm>.

Health and Safety Executive, Workplace Health, Safety and Welfare: A Short Guide for Managers, available at: <http://www.hse.gov.uk/pubns/indg244.htm>.

Healy, P. M. and Palepu, K. G., 'Information Asymmetry, Corporate Disclosure, and the Capital Markets: A Review of the Empirical Disclosure Literature', 31 *Journal of Accounting and Economics* (2001), 405-440.

Bibliography

Henry Boot, *Annual Report and Financial Statements 2011*, available at:

<http://www.henryboot.co.uk/pdf/2011/annual-report-2011.pdf>.

Henry Boot, Overview of Henry Boot, available at: <http://www.henryboot.co.uk>.

Hermalin, B. E. and Weisbach, M. S., Information Disclosure and Corporate Governance, *Working Paper Series in Fisher College of Business* (January 30, 2011), available at:

<http://www.ssrn.com/abstract=1082513>.

Hillman, A. J. and Keim, G. D., 'Shareholder Value, Stakeholder Management, and Social Issues: What's the Bottom Line?', *Strategic Management Journal* (2001), Volume 22, Issue 2, 125-139.

Ho, S. M. and Wong, K. S., 'A Study of the Relationship between Corporate Governance Structures and the Extent of Voluntary Disclosure', *Journal of International Accounting, Auditing & Taxation* (2001), Volume 10, Issue 2, 139-156.

Hohnen, P., 'Government and CSR: Three Simple Steps to Improvement', *Climate News for Business* (30 July 2012), available at:

<http://www.climatechangecorp.com/content.asp?ContentID=3657>.

Holland, J., 'Private Voluntary Disclosure, Financial Intermediation and Market Efficiency', *Journal of Business Finance and Accounting* (1998), Volume 25, Issue 1, 29-68.

Holmstrom, B. and Kaplan, S. N., The State of U.S. Corporate Governance: What's Right

and What's Wrong?, *Finance Working Paper No. 23/2003*, European Corporate Governance Institute (September 2003), available at: http://ssrn.com/abstract_id=441100.

Home Builders Federation, Health and Safety Charter, available at: http://www.hbf.co.uk/policy-activities/news/browse/1/view/health-and-safety-charter/?encryptionKey=&tx_ttnews%5BbackPid%5D=2265&cHash=89b8cb43cc.

Huayu Automotive System Corporation, *CSR Report 2012*, available at: <http://www.sustainabilityreport.cn/ReportShow.asp?ReportId=5001>.

Huayu Automotive System Corporation, Introduction to Huayu Automotive System Corporation, available at: <http://www.huayu-auto.com/english/gsgk/gsjj/index.shtml>.

Hunt, E. K. and D'Arge, R. C., 'On Lemmings and Other Acquisitive Animals: Propositions on Consumption', *Journal of Economic Issues* (1973), Volume 7, Issue 2, 337-353.

Idowu, S. O. and Towler, B. A., 'A Comparative Study of the Contents of Corporate Social Responsibility Report of UK Companies', *Management of Environmental Quality: An International Journal*(2004), Volume 15, Issue 4, 420-437.

International Financial Reporting Standards (IFRS), The Conceptual Framework for Financial Reporting 2011 (1 January 2012), available at: <http://www.ifrs.org/IFRSs/Documents/English%20Web%20summaries/Conceptual%20Framework.pdf>.

Bibliography

International Labour Organization, International Instruments and Corporate Social Responsibility: A Booklet to Accompany Training, the Labour Dimension of CSR; From Principles to Practice, available at:

http://www.ilo.org/empent/Publications/WCMS_101247/lang--en/index.htm.

International Labour Organization, Tripartite Declaration of Principles Concerning Multinational Enterprises and Social Policy (MNE Declaration), March 2006, 4th Edition, available at: http://www.ilo.org/empent/Publications/WCMS_094386/lang--en/index.htm.

ISO *see* International Standards Organization

International Standards Organization, ISO26000, available at:

<http://www.iso.org/iso/home/standards/iso26000.htm>.

Ip, P. K., 'The Challenge of Developing a Business Ethics in China', *Journal of Business Ethics* (2009), Supplement 88, 211-224.

Ireland, P., 'Company Law and the Myth of Shareholder Ownership', 62 *Modern Law Review* (1999), 32-57.

ISS Group, ISS Corporate Services, available at:

<http://www.isscorporateservices.com/sustainability>.

Jensen, M. C., 'Value Maximization, Stakeholder Theory, and the Corporate Objective Function', *Journal of Applied Corporate Finance* (2001), Volume 14, Issue 3, 8-21.

Jensen, M. C. and Meckling, W., 'Theory of the Firm: Managerial Behavior, Agency Cost

Bibliography

and Ownership Structure', *Journal of Financial Economics* (1976), Volume 3, Issue 4, 305-360.

Jiu Gang Steel Corporation, Overview of Jiu Gang Steel Corporation, available at: <http://www.jiugang.com/structure/ywlm/ezjjg/gp>.

Jiu Gang Steel Corporation, *Sustainability Report 2012*, available at: <http://www.sustainabilityreport.cn/ReportShow.asp?ReportId=5144>.

Jones, M. *et al.*, 'Company's Directors' Views Regarding Stakeholders', *Melbourne University Legal Studies Research Paper No. 270* (October 24, 2007), available at: <http://ssrn.com/abstract=1023259>.

Jones, T. M., 'Instrumental Stakeholder Theory: A Synthesis of Ethics and Economics', *20 Academy of Management Review* (1995), 404-437.

Juniper, T. and Tyack, S., Friends of the Earth, Capital Punishment: UK Insurance Companies and the Global Environment; A report prepared by FM Research for Friends of the Earth, available at: http://www.foe.co.uk/resource/reports/capital_punishment.pdf.

Keay, A., Moving towards Stakeholderism? Constituency Statutes, Enlightened Shareholder Value, and All That: Much Ado About Little?, *Working Paper Series* (January 4, 2010), available at: <http://ssrn.com/abstract=1530990>.

Keay, A., Should Shareholder Primacy in Corporate Law: Can it Survive? Should it Survive?, *Working Paper Series* (November 1, 2009), available at: <http://ssrn.com/abstract=1498065>.

Bibliography

Kershaw, D., *Company Law in Context: Text and Materials*, 2nd Edition, Oxford University Press (2012).

Kier PLC, Introduction to Kier PLC, available at:
<http://www.kier.co.uk/about/default.asp>.

Kier PLC, Kier PLC's CSR, available at:
<http://www.kier.co.uk/responsibility/section.asp?Id=3>.

Kinzel, S. A., Ford Motor Company and Corporate Social Responsibility, available at:
<http://cowgirlkitty.com/2011/04/17/ford-motor-company-and-corporate-social-responsibility>.

Knill, C. and Lehmkuhl, D., 'Private Actors and the State: Internationalization and Changing Patterns of Governance', *Governance: An International Journal of Policy, Administration, and Institutions* (January 2001), Volume 15, Issue 1, 41-63.

Kolk, A. *et al.*, 'Corporate Social Responsibility in China: An Analysis of Domestic and Foreign Retailers' Sustainability Dimensions, Business Strategy and the Environment', *Business Strategy and the Environment* (2010), Volume 19, Issue 5, 289-303.

KPMG, 'Corporate Responsibility Reporting Hits All-time High but Lacks Financial Reporting Rigour', *KPMG Press*, available at:
<http://www.kpmg.com/Global/en/IssuesAndInsights/ArticlesPublications/Press-releases/Lists/Expired/corporate-responsibility-reporting.aspx>.

Bibliography

KPMG, International Corporate Responsibility Report Survey 2011, available at:
<http://www.kpmg.com/Global/en/IssuesAndInsights/ArticlesPublications/corporate-responsibility/Documents/2011-survey.pdf>.

Kroszner, R. S. and Putterman, L., *The Economic Nature of the Firm: A Reader*, 3rd Edition, (ed.), originally published 1986, Cambridge University Press (2009).

Kurtz, L., 'Socially Responsible Investment and Shareholder Activism', in Crane, A. *et al.*, *The Oxford Handbook of Corporate Social Responsibility* (ed.), Oxford University Press (2008), 249-280.

Lai, Q., Corporate Social Responsibility of SMEs in China: Challenges and Outlooks, available at: <http://www.iwim.uni-bremen.de/publikationen/pdf/c018.pdf>.

Lawson, V., Stakeholder Engagement at British American Tobacco, CSR 360 Global Partner Network, available at:
<http://www.csr360gpn.org/magazine/feature/stakeholder-engagement-at-british-american-tobacco>.

Lee, S. Y., 'Fortune China CSR Ranking 2011 Report', *Fortune China*, March 15, 2011, available at: http://www.fortunechina.com/rankings/c/2011-03/15/content_51879.htm.

Li & Fung Company, Sustainability in Li & Fung Company, available at:
<http://www.lifung.com/eng/csr/csr5.php>.

Lin, J. Y. *et al.*, 'Fair Competition and China's State-owned Enterprises Reform', *MOST: Economic Policy in Transitional Economies* (1998), Volume 9, Issue 1, 61-74.

Bibliography

Lin, L., 'Corporate Social Responsibility in China: Window Dressing or Structural Change?', *Berkeley Journal of International Law* (2010), Volume 28, Issue 1, 64-100.

Liu, Q., 'Corporate Governance in China: Current Practices, Economic Effects, and Institutional Determinants', *CESinfo Economic Studies* (2006), Volume 52, Issue 2, 415-453.

Liu, Y., The Analysis of SA8000: Impact of International CSR on China, 6 *World of Management* (2006), 159-160.

Liu, Z. *et al.*, 'Does Relationship Quality Matter in Consumer Ethical Decision Making? Evidence from China', 88 *Journal of Business Ethics* (2009), 483-496.

Lowenstein, L., 'Financial Transparency and Corporate Governance: You Manage What You Measure', 96 *Columbia Law Review* (1996), 1335-1362.

LRN, LRN News, 30 January 2006, available at: www.lrn.com/news/releases.

Lucas, L., 'ABF Food Brands Fail Living Wage Test', *Financial Times*, Tuesday February 26, 2013.

Lungu, C. I. *et al.*, Corporate Social and Environmental Reporting: Another Dimension for Accounting Information, *Working Paper Series* (August 11, 2009), available at: http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1447247.

Bibliography

Macey, J. R., 'An Economic Analysis of the Various Rationales for Making Shareholders the Exclusive Beneficiaries of Corporate Fiduciary Duties', 21 *Stetson Law Review* (1992), 23-44.

Mackenzie, C., 'Boards, Incentives and Corporate Social Responsibility: the Case for a Change of Emphasis', *Corporate Governance: An International Review* (September 2007), Volume 15, Issue 5, 935-943.

MacNeil, I., 'Adaption and Convergence in Corporate Governance: The Case of Chinese Listed Companies', 2 *Journal of Corporate Law Studies* (2002), 289-344.

MacNeil, I., 'Corporate Governance: Overview and Evolution', *An introduction to the Law on Financial Investment*, 2nd Edition, Hart Publishing (2012), 307-329.

Marks & Spencer, *Annual Report 2012*, available at:

http://corporate.marksandspencer.com/documents/publications/2012/annual_report_2012.

Marks & Spencer, Corporate Information of Marks & Spencer, available at:

http://corporate.marksandspencer.com/aboutus/company_overview.

McBarnet, D. and Kurkchiyan, M., 'Corporate Social Responsibility Through Contractual Control? Global Supply Chains and 'Other-regulation'', in McBarnet, D. *et al.*, *The New Corporate Accountability*, (ed.), Cambridge University Press (2007), 59-92.

McBarnet, D., 'Corporate Social Responsibility Beyond Law, Through Law, for Law: The New Corporate Accountability', in McBarnet, D. *et al.*, *The New Corporate Accountability*, (ed.), Cambridge University Press (2007), 8-58.

McMullen, D. A., 'Audit Committee Performance: An investigation of the Consequences Associated with Audit Committee', *Auditing: A Journal of Theory and Practice* (1996), Volume 15, Issue 1, 87-93.

McWilliams, A. and Siegel, D., 'Corporate Social Responsibility: A Theory of the Firm Perspective', *Academy of Management Review* (2001), Volume 26, No. 1, 117-127.

Meek, G. K. *et al.*, 'Factors Influencing Voluntary Annual Report Disclosures by US, UK and Continental European Multinational Corporations', *Journal of International Business Studies* (1995), Volume 26, Issue 3, 555-572.

Melé, D., 'Corporate Social Responsibility Theories', in Crane, A. *et al.*, *The Oxford Handbook of Corporate Social Responsibility* (ed.), Oxford University Press (2008), 47-82;

Ministry of Environmental Protection in China, Guide on Listed Companies Environmental Information Disclosure (Opinion) [上市公司环境信息披露指南（意见征求意见稿）], shangshigongssihuanjingxixipiluzhinan (yijianzhengqiugao)], available at: <http://wfs.mep.gov.cn/gywrfz/hbhc/zcfg/201009/W020100914403449464600.pdf>.

Ministry of Environmental Protection, The Blacklist on SEPA, available at: <http://hj.mep.gov.cn/zdhy/>.

Mitchell, R. K. *et al.*, 'Toward a Theory of Stakeholder Identification and Salience: Defining the Principle of Whom and What Really Counts', *Academy of Management Review* (1997), Volume 22, Issue 4, 853-886.

Moon J., Government as a Driver of Corporate Social Responsibility, available at:
http://www.google.co.uk/url?sa=t&rct=j&q=&esrc=s&frm=1&source=web&cd=1&ved=0CCgQFjAA&url=http%3A%2F%2Fciteseerx.ist.psu.edu%2Fviewdoc%2Fdownload%3Fdoi%3D10.1.1.198.8346%26rep%3Drep1%26type%3Dpdf&ei=hTM1UJDTHabB0gWZwIGgBg&usg=AFQjCNE8PGCfszkeQzjMgaJUKdZ7dPjWdg&sig2=Y_XvoaCQ8zP-63cXYKz-7w.

Moon, J. and Vogel, D., 'Corporate Social Responsibility, Government and Civil Society', in Crane, A. *et al.*, *The Oxford Handbook of Corporate Social Responsibility*, (ed.), Oxford University Press (2008), 303-326.

Morimoto, R. *et al.*, 'Corporate Social Responsibility Audit: From Theory to Practice', *Journal of Business Ethics* (2005), Volume 62, Issue 4, 315-325.

Morimoto, R. and Hope, C., 'Corporate Social Responsibility Audit: From Theory to Practice', *Research Papers in Management Studies*, University of Cambridge (2004).

Morsing, M. and Schultz, M., 'Corporate Social Responsibility Communication: Stakeholder information, response and involvement strategies', *Business Ethics: A European Review* (2006), Volume 15, Issue 4, 323-338.

Morsing, M., 'Strategic CSR Communication: Telling Others How Good You Are', in Jonker, J. and Witte, M. D., *Management Models for Corporate Social Responsibility*, (ed.), Springer Berlin (2006), available at:
<http://www.springerlink.com/content/q812223277248214/>.

Bibliography

Murray, A. *et al.*, 'Do Financial Markets Care About Social and Environmental Disclosure? : Further Evidence and Exploration from the UK', *Accounting, Auditing and Accountability Journal* (2006), Volume 19, Issue 2, 228-255.

Newberg, J. A., 'Corporate Codes of Ethics, Mandatory Disclosure, and the Market for Ethical Conduct', *29 Vermont Law Review* (2004-2005), 253-296.

Newman, P., *The New Palgrave Dictionary of Economics and the Law*, Palgrave Macmillan (2002).

News Week, Green Ranking 2012: US Companies, available at:
<http://www.newsweek.com/2012/10/22/newsweek-green-rankings-2012-u-s-500-list.html>

New York Securities Exchange, *New York Securities Exchange Listed Company Manual*, available at:

http://nysemanual.nyse.com/LCMTTools/PlatformViewer.asp?selectednode=chp_1_4_3&manual=%2F1cm%2Fsections%2F1cm-sections%2F1

O'Riordan, L. and Fairbrass, J., Managing CSR Stakeholder Engagement: A New Conceptual Framework, *Working Paper Series* (May 2012), available at:
http://www.brad.ac.uk/acad/management/external/pdf/workingpapers/2012/Booklet_12-04.pdf.

O'Riordan, L. and Fairbrass, J., 'Corporate Social Responsibility (CSR): Models and Theories in Stakeholder Dialogue', *Journal of Business Ethics* (2008), Volume 83, Issue 4, 745-758.

Bibliography

Olsen, B. E., and Sorensen, K. E., 'Strengthening the Enforcement of CSR through Mediation and Conflict Resolution by National Contact Point: Finding a New Balance Between Hard Law and Soft Law', *Nordic & European Company Law Working Paper Series* 10-38 (May 24, 2013), available at:
http://papers.ssrn.com/sol3/papers.cfm?abstract_id=2269555.

Orascom, *Annual Report 2011*, available at:
<http://www.orascomci.com/index.php?id=annualreport2009>.

Orascom, Introduction to Orascom, available at:
<http://www.orascomci.com/index.php?id=aboutus>.

OECD *see* Organization of Economic Co-operation and Development

Organization of Economic Co-operation and Development, Corporate Responsibility Practice in the Area of Employment and Industrial Relations, OECD–ILO Conference on Corporate Social Responsibility: Employment and Industrial Relations; Promoting Responsible Business Conduct in a Globalizing Economy, 23–24 June 2008, OECD Conference Centre, Paris, France.

Organization of Economic Co-operation and Development, OECD Codes of Corporate Conduct: Expanded Review of Their Contents, Working Papers on International Investment. OECD Directorate for Financial, Fiscal and Enterprise Affairs No. 2001/6 (May 2001), available at:
<http://www.oecd.org/industry/internationalinvestment/corporateresponsibility/1922656.pdf>.

Bibliography

Organization of Economic Co-operation and Development, OECD Principles of Corporate Governance 2004, available at:

<http://www.oecd.org/corporate/ca/corporategovernanceprinciples/31557724.pdf>.

Organization of Economic Co-operation and Development, Overview of Corporate Governance of State-owned Listed Companies in China, DRC/ERI-OECD 2005 Policy Dialogue on Corporate Governance in China, May 19, 2005, available at:

<http://www.oecd.org/corporate/corporateaffairs/corporategovernanceofstate-ownedenterprises/34974067.pdf>.

Orlitzky, M. *et al.*, Strategic Corporate Social Responsibility and Environmental Sustainability, *Working Paper Series* (January 9, 2011), available at:

<http://ssrn.com/abstract=1737465>.

Parkinson, J. E., *Corporate Power and Responsibility*, Oxford University Press (1993).

Parkinson, J., 'The Legal Context of Corporate Social Responsibility', *Business Ethics* (January 1994), Volume 3, Issue 1, 16-22.

Pentland PLC, *CR Review 2009*, available at:

http://www.pentland.com/_resources/files/downloads/communications/2009-corporate-responsibility-review.pdf.

Pentland PLC, *CR Review 2011*, available at:

http://www.pentland.com/_resources/files/downloads/pentland-cr-review-2011-ungc-cop.pdf.

Bibliography

Pentland PLC, An introduction to Pentland PLC, available at:

<http://www.pentland.com/about-us/history.aspx>.

Peter Black, The History and Development of Peter Black Footwear and Accessories,

available at: <http://www.pbfa.co.uk/about-us.html>.

Protiviti, Corporate Governance Assessment Report of the Top 100 Listed Companies

[中国上市公司 100 强公司企业治理评价报告,

zhongguoshangshigongsiyibaiqianggongsiqiyezhilpingjiabaogao], available at:

<http://www.protiviti.com/zh-CN/Documents/CN-Headline/CN-2012-Corporate-Governance-Survey-Report.pdf>.

Ramasamy, B. and Yeung, M., 'Chinese Consumer's Perception of Corporate Social Responsibility (CSR)', 88 *Journal of Business Ethics* (2009), 119-132.

Redrow PLC, *Health & Safety Annual Report 2011*, available at:

[http://www.redrowplc.co.uk/images/file/HS%20Report%202010-11\(2\).pdf](http://www.redrowplc.co.uk/images/file/HS%20Report%202010-11(2).pdf).

Redrow PLC, Introduction to Redrow PLC, available at:

<http://www.redrowplc.co.uk/About-Redrow/Company-Activities/>.

Renneboog, L. *et al.*, 'Socially Responsible Investment: Methodology, Risk Exposure and Performance', *European Corporate Governance Institute Working Paper* No.

175/2007 (May 10, 2007), available at: http://ssrn.com/abstract_id=985267.

Bibliography

Reynolds, S. J. *et al.*, 'Stakeholder Theory and Managerial Decision Making: Constraints and Implications of Balancing Stakeholder Interests', 64 *Journal of Business Ethics* (2006), 285-301.

Robertson, D.H., *Control of Industry*, Nisbet and Co (1930).

Rolls-Royce, Overview of Rolls-Royce, available at:
<http://www.rolls-royce.com/about/whatwedo/>.

Rolls-Royce, The Rolls-Royce HSE Policy, available at:
http://www.rolls-royce.com/Images/PolicyStatement_UK_tcm92-56979.pdf.

Royal Society of Arts, *Tomorrow's Company Inquiry Final Report*, Royal Society of Arts (1995).

Ruskola, T., 'Conceptualizing Corporation and Kinship: Comparative Law and Development Theory in a Chinese Perspective', 52 *Stanford Law Review* (2000), 1599-1729.

Sacconi, L., 'Corporate Social Responsibility (CSR) as a Model of "Extended" Corporate Governance. An Explanation Based on the Economic Theories of Social Contract', *Reputation and Reciprocal Conformism*, Liuc Papers No. 142, Serie Etica, Diritto ed Economia 10, suppl. A Febbraio (2004).

Sealy, L. S., 'Directors' "Wider" Responsibilities—Problems Conceptual, Practical and Procedural', 13 *Monash University Law Review* (1987), 164-188.

Bibliography

Severstal' OAO, CSR Goal, available at:

[http://www.severstal.com/eng/csr/issues/people/.](http://www.severstal.com/eng/csr/issues/people/)

Sevestal' OAO, *Corporate Annual Report 2011*, available at:

http://www.severstal.com/files/12164/Severstal_SocialReport_2012_eng.pdf.

Shanxi Coal, *CSR Report 2012*, available at:

<http://www.cninfo.com.cn/finalpage/2013-04-26/62431992.PDF>.

Shanxi Coal, Overview of Shanxi Coal, available at:

<http://www.shanxicoal.cn/english/About%20SCIEG.aspx>

Shenzhen Stock Exchange, Guide on Listed Companies' Social Responsibility in

Shenzhen Stock Exchange [深圳证券交易所上市公司社会责任指引,

shenzhenzhengquanjiaoyisuoshangshigongsishehuizerenzhiyin], available at:

<http://www.szse.cn/main/disclosure/bsgg/200609259299.shtml>.

Shi, T., 'Trade Union in China: History, Current Situation and Relevant Issues' [中国工会的历史、现状及有关问题探讨,

zhongguogonghuidelishixianzhuangjiyouguanwentitantao], *Global Law Review* (2002),

Volume 24, Issue 2, 31-37.

Smith, A., 'From The Wealth of Nations', in Kroszner, R.S. and Putterman, L., *The Economic Nature of the Firm: A Reader*, 3rd Edition, (ed.), originally published in 1986, Cambridge University Press (2009), 35-45.

Bibliography

Smith, N. C., 'Consumers as Drivers of Corporate Social Responsibility', in Crane, A. *et al.*, *The Oxford Handbook of Corporate Social Responsibility*, (ed.), Oxford University Press (2008), 281-302.

Social Accountability International, SA8000 Standard, available at:
http://www.sa-intl.org/_data/n_0001/resources/live/2008StdEnglishFinal.pdf.

Standards Development, Standards Australia, available at:
<http://www.standards.org.au/StandardsDevelopment/Sectors/Pages/default.aspx>.

Standing, G., Decent Workplaces, Self-regulation and CSR: From Puff to Stuff?, *DESA Working Paper* No. 62 (November 2007), available at:
http://www.un.org/esa/desa/papers/2007/wp62_2007.pdf

State-owned Asset Supervision and Administration Commission, The Guide Opinion on the Social Responsibility Implementation for the State-owned Enterprises Controlled by the Central Government, available at:
<http://www.sasac.gov.cn/n2963340/n2964712/4891623.html>.

Su, C. and Littlefield, J. E., 'Entering Guanxi: A Business Ethical Dilemma in Mainland in China', 33 *Journal of Business Ethics* (2001), 199-210.

Swanson, D. L., 'Top Managers as Drivers for Corporate Social Responsibility', in Crane, A. *et al.*, *The Oxford Handbook of Corporate Social Responsibility* (ed.), Oxford University Press (2008), 227-248.

Bibliography

Tam, O. K., 'Ethical Issues in the Evolution of Corporate Governance in China', 37 *Journal of Business Ethics* (2002), 303-320.

Tam, O. K., 'Models of Corporate Governance for Chinese Companies', *Corporate Governance: Empirical Research-Based and Theory-Building Papers* (2000), Volume 8, Issue 1, 53-64.

Tan, J., 'Institutional Structure and Firm Social Performance in Transitional Economies: Evidence of Multinational Corporations in China', *Journal of Business Ethics* (2009), Volume 86, 171-189.

Tax Justice Network, Overview of Tax Justice Network, available at:
http://www.taxjustice.net/cms/front_content.php?idcatart=2&lang=1.

Taylor, C., 'New York Stock Exchange Listing Standards and Corporate Social Responsibility', *University of Oslo Faculty of Law Legal Studies Research Paper Series* No. 2011-11, University of Oslo (March 2, 2011), available at:
<http://ssrn.com/abstract=1774754>.

TCL Group, Introduction to TCL Group, available at:
<http://www.tcl.com/en.php/news/about/id/143.html>.

TCL Group, *CSR Report 2012*, available at:
<http://www.sustainabilityreport.cn/ReportShow.asp?ReportId=4861>.

The NASDAQ Stock Market, Inc. Marketplace Rules, April 15, 2004, available at:
<http://www.nasdaq.com/about/marketplacrules.pdf>.

Bibliography

Thomson, M., British Insurers Demand Corporate Social Responsibility, available at:
<http://www.socialfunds.com/news/print.cgi?sfArticleId=697>.

Tongling Nonferrous Metals Group Holding Corporation, Overview of Tongling Nonferrous Metals Group Holding Corporation, available at:
http://www.tnmg.com.cn/iaboutus/gywm-dszzc_E.aspx?classid=577&classname=企业简介&page=1

Tongling Nonferrous Metals Group Holding Corporation, *CSR Report 2012*, available at:
<http://www.sustainabilityreport.cn/ReportShow.asp?ReportId=4809>.

Tricker, B., *Corporate Governance-Principles, Policies and Practices*, Oxford University Press (2009).

Turban, D. B. and Greening, D. W., 'Corporate Social Performance and Organizational Attractiveness to Prospective Employees', *Academy of Management Journal* (1997), Volume 40, Issue 3, 658-672.

Turnbull, S., Enhancing Organizational Performance and Social Responsibility with Self-regulation, Conference Working Paper, available at:
<http://www.aprim.net/associates/turnbull.htm>.

UK Mail, *Annual Report 2012*, available at:
https://www.ukmail.com/media/docs/annual_report_2012.pdf.

Bibliography

UK Mail, Introduction to UK Mail, available at:
https://www.ukmail.com/about_us/default.aspx.

UN *see* United Nations

United Nations Global Compact, Business Participation of UN Global Compact, available at:
http://www.unglobalcompact.org/HowToParticipate/Business_Participation/index.html.

United Nations, International Covenant on Economic, Social and Cultural Rights (ICESCR), available at: <http://www2.ohchr.org/english/law/cescr.htm>.

United Nations Global Compact, Overview of UN Global Compact, available at:
<http://www.unglobalcompact.org/AboutTheGC/index.html>.

United Nations Global Compact, Sample Letter to Participate into UN Global Compact, available at:
http://www.unglobalcompact.org/docs/how_to_participate_doc/Business_Commitment_Letter.pdf.

United Nations, Kyoto Protocol, United Nations Framework Convention on Climate Change, available at: http://unfccc.int/kyoto_protocol/items/2830.php/.

United Nations, Overview of WSSD, available at: <http://www.un.org/jsummit/>.

Utting, P., 'Rethinking Business Regulation: From Self-regulation to Social Control', *Technology, Business and Society Programme*, Paper Number 15 (September 2005),

Bibliography

available at:

[http://www.unrisd.org/unrisd/website/document.nsf/ab82a6805797760f80256b4f005da1ab/f02ac3db0ed406e0c12570a10029bec8/\\$FILE/utting.pdf](http://www.unrisd.org/unrisd/website/document.nsf/ab82a6805797760f80256b4f005da1ab/f02ac3db0ed406e0c12570a10029bec8/$FILE/utting.pdf).

Verriest, A. *et al.*, The Impact of Corporate Governance on IFRS Adoption Choices, *Working Paper Series* (November 6, 2011), available at:

http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1266698.

Villers, C., 'Corporate Reporting and Company Law', in *Cambridge Studies in Corporate Law*, Volume 5, Cambridge University Press (2006).

Vinkovic, M., The Role of Soft Law Methods (CSR) in Labour Law, available at:

http://mta-pte.ajk.pte.hu/downloads/mario_vinkovic.pdf.

Visser, W., 'Corporate Social Responsibility in Developing Countries', in Crane, A. *et al.*, *The Oxford Handbook of Corporate Social Responsibility*, (ed.), Oxford University Press (2008), 473-502.

Waddock, S. A. and Graves, S. B., 'The Corporate Social Performance—Financial Performance Link', *Strategic Management Journal* (1997), Volume 18, Issue 4, 303-319.

Wang, H. and Song, T., 'Corporate Economic Performance and Corporate Social Responsibility—Empirical Research on Chinese Listed Companies [我国上市公司社会责任与企业绩效的实证研究, woguoshangshigongsishehuizerenyuqiyejixiaodeshizhengyanjiu]', 2 *Journal of Nanjing Normal University* (2007), 58-75.

Wang, J. and He, J., 'Corporate Governance, Corporate Economic Performance and CSR—Empirical Research of Chinese Listed Companies in the Industry of Manufacturing [公司治理、企业经济效益与企业社会责任—基于中国制造业上市公司数据的经验研究, gongsizhiliqiyejixiaoyuqiyeshihuizeren—jiyuzhonggongzhizaoyeshangshigongsishujudej ingyanyanjiu]', 2 *Economic Survey* (2009), 83-86.

Wang, M. *et al.*, 'Corporate Social Responsibility, Investor Behaviors, and Stock Market Returns: Evidence from a Natural Experiment in China', 101 *Journal of Business Ethics* (2011), 127-141.

Weil, D., The Benefits and Costs of Transparency: A Model of Disclosure Based Regulation, *Working Paper Series in Harvard University* (June 2002), available at: http://papers.ssrn.com/sol3/papers.cfm?abstract_id=316145.

Wise, V. and Ali, M. M., 'Case Studies on Corporate Governance and Corporate Social Responsibility', *South Asian Journal of Management* (2008), Volume 15, Issue 3, 136-149.

Wood, D. J., 'Corporate Social Performance Revisited', *Academy of Management Review* (1991), Volume 16, Issue 4, 691-718.

Woodward, D. G. *et al.*, 'Organizational Legitimacy and Stakeholder Information Provision', *British Journal of Management* (1996), Volume 7, Issue 4, 329-347.

Xinhua Net, The News about 29 Banks Sign Agreement of Green Loan Programme [29 家银行签订绿色信贷协议, 29 jiayinhangqiandinglvsexindaixieyi], 4 November 2013, available at: http://news.xinhuanet.com/fortune/2013-11/04/c_118000494.htm.

Xu, S. and Yang, R., 'Indigenous Characteristics of Chinese Corporate Social Responsibility Conceptual Paradigm', 93 *Journal of Business Ethics* (2010), 321-333.

Xu, X. and Wang, Y., 'Ownership Structure and Corporate Governance in Chinese Stock Companies', 10 *China Economic Review* (1999), 75-98.

Yang, C. *et al.*, 'Analysis on the Chinese CSR Dilemma', 41 *Sci-Technology and Management* (2007), 54-59.

Yang, R. and Zhou, Y., 'Company's Collective Governance under Stakeholder Theory [论利益相关者合作逻辑下的企业共同治理机制, lunliyixiangguanzhehezuoluojixiadeqiyegongtongzhilijizhi]', 1 *Chinese Industrial Economy* (1998), 38-46.

Yu, J., The Interaction of Voluntary and Mandatory Disclosure: Evidence from the SEC's Elimination of the IFRS-U.S. GAAP Reconciliation, February 2011, available at: http://www3.nd.edu/~carecob/Workshops/10-11%20Recruiting/Julia%20Yu%20Road%20Paper_Feb%201.pdf.

Zhang, H. and Li, S., 'Theory and Practice of Corporate Social Responsibility in China', 5 *Journal of Beijing Normal University* (2009), Social Science Edition, 94-102.

Zhang, J. *et al.*, 'Decision-Making Process of Internal Whistleblowing Behaviour in

China: Empirical Evidence and Implications', 88 *Journal of Business Ethics* (2009), 25-41.

Zhao, J. and Wen, S., 'Promoting Stakeholders' Interests in the Unique Chinese Corporate Governance Model: More Socially Responsible Corporations?', 11 *International Company and Commercial Law Review* (2010),

Zhao, M., Chinese Enterprise Survey [中国企业调查, zhongguoqiye diaocha], available at: http://d.wanfangdata.com.cn/Periodical_rlzy200305007.aspx.

Zhao, S., 'The Survey and Analysis of Consumer's Conception of Corporate Social Responsibility' [调查与分析消费者对企业社会责任的概念, diaochayufenxixiaofeizheduiqiyeshehuizerendegainian], *Modern Business* (2011), 283-287.

Zhao, Y., *Research on Confucianism and Cultural Effect*, [孔子文学思想研究, kongziwenxuesixiangyanjiu], Peking University (2010).

Zu, L. and Song, L., Determinants of Managerial Values on Corporate Social Responsibility: Evidence from China, April 2008, available at: http://www.csr-weltweit.de/uploads/tx_jpdwnloads/Determinants_managerial_Values_CSR_dp3449.pdf.

Appendix

Table 1: UK Companies' CSR Practices in Employment (First 21 companies present in the sequence of examples followed alphabetically by rest of companies.)

| Company | Law | Codes of conduct | Health and Safety | Human rights | Training and development | Payment and welfare | Employee engagement | Monitoring and reporting |
|----------------------------|--|---|---|--|--|--|--|------------------------------|
| Redrow PLC | Equity Act 2010, Health and Safety at Work etc Act 1974, RIDDOR, Work at Height Regulations 2007 | ACAS Booklet, OECD Guideline, Health and Safety Charter of the Home Builders Federation | HSEs, HS harm alert, Safety training | No discrimination, Right to trade union | Apprentice training, Graduates training | Pension Scheme, Annual appraisal | Talk initiatives(HS), Whistleblowing policy | HS monitoring, HS auditing |
| G4S PLC | | OHSAS18001, Security Industry Authority Licences | Safety, health and environmental awareness, Alcohol and drug clamp-down | | Learning & Developing BTEC LEVEL2 | | Whistleblowing for wrongdoing, Tapping in employee opinion | British Safety Council audit |
| Rolls-Royce | | | HS Management, HSE Weeks | Ethical human rights, Female promotion | Support employee development, Apprenticeship | | Employee engagement | KPMG Audit |
| Great Portland Estates PLC | | | Corporate HS policy, HS manual | No discrimination | All level development, external degree | 24 hrs legal and financial advice to minimum payment | Appraisal process, employee communication, Whistleblowing policy | Supervision |
| Pentland PLC | | | Safe handling of workplace chemicals | Human rights, Children labour Migrant worker | Employee training | Benefit and rewards, National minimum payment | Grievance mechanisms, Worker interviews | Third-party audit |
| Coats PLC | | Ethical Trading Initiative ('ETI') Base Code | HS management, USA Occupational Safety and Health Administration | Diversity, Collective representation | Learning and rewarding | Coats pension plan | Whistle-blowing policy, Employee engagement survey | HS audit |

| Company | Law | Codes of conduct | Health and Safety | Human rights | Training and development | Payment and welfare | Employee engagement | Monitoring and reporting |
|----------------|--|--|--|-------------------------------------|--|--|---|---|
| | | | (OSHA) | | | | | |
| Firstgroup PLC | | | Work-life health management | No discrimination, Diversity policy | Rigorous training programmes | Recognition and rewards | Various survey | Third-party audit |
| Kier PLC | Equity Act 2010, Health and Safety at Work etc Act 1974, Work at Height Regulations 2007 | ACAS Booklet, CCS | HS management system, occupational safe, HS policy | No discrimination, Diversity policy | Apprenticeship | Pension Scheme, Welfare, Minimum wage | Whistleblowing policy, Anti-bribery report | SSSTS supervision, GRI Reporting and verification |
| Barratt PLC | Work at Height Regulations 2007 | Injury Incidence Rate (IIR), ISO14001, OHSAS18001, CSCS Constructing KPIs, CCS | Executive H&S | No discrimination | Formal training, Barratt Academy, Graduate develop, Apprenticeship(NVQ) Annual award for self-study | Long-term relationship with employees, Flexible working hour | Whistleblowing policy, Annual engagement survey to employees (Get recognised program) | Monitoring visiting |
| Orascomci PLC | | ISO9001 ISO14001 | HSE policy | | Training for local employees in developing countries, OCI EDU. Foundation | Share-based payment | | Employee's supervision |
| Berkeley PLC | | CCS | Good work program H&S standards | | CGETI training Initiatives, CSCS training | | | |
| Go Ahead PLC | Equality Act 2010, RIDDOR | ISO9001, ISO14001, OSHAS18001 | HS policy and occupational health | Diversity of human rights | PCV Training, Driver Certificate of Professional Competence | Long-term incentive share, Increased pension scheme | Grievance, Employee review | |
| UK Mail PLC | | UN Global Compact | Occupational health service | No discrimination | Apprentice training (NVQ), | Competitive pay, Employee share, | Employee consulting group, Employee suggest | HS audit |

| Company | Law | Codes of conduct | Health and Safety | Human rights | Training and development | Payment and welfare | Employee engagement | Monitoring and reporting |
|--------------------------------------|-----------------------------------|-------------------------------|--|---|--|---|---|--|
| | | | | | First line manager | Pension scheme | programme | |
| Severstal'OAO | | | HS management, Labour Safety Project, medical programme | No discrimination, Freedom to trade union | Training program, Higher education, Graduate training | Housing program, Pension and retiree support | Benchmarking survey | Safe inspection |
| Marks & Spencer PLC | Mini-mum Age Convention | ACAS Booklet | Occupational health, safety and fire, Health and Safety Committee's Terms | Equality | M&S Career Path | Sharesave | 'Investing in You' employee engagement | GRI Level-check, External Review Committee |
| AB Food | RIDDOR, Employment Right Act 1996 | | Risk management, Reducing injury, Reporting accidents, Transportation, safety, healthy workplace | Disable Employees, No discrimination | Sustainable training, Apprenticeship | | | Third-party audit |
| Henry Boot PLC | | | Reduce accidents, Constructing KPIs | No discrimination | Internal training 927 day, External training, Manager training | Long-term relationship with employees, Pension Scheme | Bespoke Health&Safety Audit System, Survey of employees, Bribery suspicions | |
| Bovis PLC | RIDDOR, CDM 2007 | NHBC ALL Builder Average | Reduce accidents Health and Safety Management | | Time off to study, training plan, NVQ study | | Employee representation Talking with group, Anti-bribery report, One to one talking | HSECC, CDM auditing |
| Cape PLC | | ISO9001, ISO14001, OSHAS18001 | H&S quality management system, HS KPI, 0 injuries | | International development and management training | Welfare KPI | Unsafe reporting | Working place control by third-party |
| Peter Black Footwear and Accessories | | ACAS Booklet | HSE initiatives | Equal and diversity policy, Disability | Learning and developing | | Employee engagement survey | Third-party audit |

| Company | Law | Codes of conduct | Health and Safety | Human rights | Training and development | Payment and welfare | Employee engagement | Monitoring and reporting |
|---------------|-----|---|---|---|--|---|---|---|
| Carnival | | | HESS Policy, HS Training, Safety management, HS Committee | No discrimination, No forced labour | Standard training, Training of anti-corruption and bribery, Career development, Annual competition | Reasonal pay for extra work hour, Pay and benefit package, British Merchant Navy Ratings Pension Fund, Pension scheme | Trade union collective bargaining, Employee communication | Deloitte LLP third-party audit |
| Anglo America | | | Safety control, Safety management, Health incidents control, Health reporting, Occupational health management | Diversity, Female protection | Formal training and practice, Personal education way, Basic education | Social welfare, Flexible working hour and Child care | | Pricewaterhouse Coopers LLP third-party audit |
| Aggreko | | UN Global compact, UN universal declaration | HS Management, Best practice, Higher standard, Safety reporting | Diversity and equal opportunities to employees, Employment of disable employees | | Pension fund, Sharesave | Whistle blowing policy, Employee grievance hotline | DNV third-party audit |
| AMEC | | UN Global Compact | Going beyond zero, HSE Management system, Security management, Occupational health, Trackwise | Diversity, Diversity of thought | AMEC Academy, Professional training, Career development, Graduates and Apprenticeship training | Equal pay | Global Survey, "My Opinion" survey, Collective bargaining by employee representatives | GRI Reporting, BV third-party audit |
| Antofagasta | | OHSAS18001 | HS Management, Zero harm Division-wide HS policies | No discrimination, Female promotion | Professional training Skill competence | | Employee consultation Trade Union Group Face-to-face negotiation | GRI Reporting Pricewaterhouse Coopers LLP |
| ARM Holdings | | | EHS Management | Equal | Graduates | Fair benefit | Whistle blowing | Deloitte LLP |

| Company | Law | Codes of conduct | Health and Safety | Human rights | Training and development | Payment and welfare | Employee engagement | Monitoring and reporting |
|-----------------------|-------------------------------------|---|---|--|--|---------------------------------------|--|--|
| | | | | opportunity | connection, Professional training, Feedback and development programme | | procedure, Open door to employees, Global survey, Employee communication | third-party audit |
| Augean PLC | RIDDOR | ILO Standards SA8000 | HS protection, HSE, British Safety Council, COMAH | | Learning, Developing at various level | Employee pension fund, Employee share | Internal communication, Public consultation | GRI Reporting and Level-Check, HS Monitoring |
| Babcock International | RIDDOR, Companies Act 2006 | ISO 9001 ISO 14001 OHSAS18001 | Work safely, Safety Lens, Challenging safety | Diversity, Female workforce | Babcock MBA, Professional training, Apprenticeship, Babcock University | Employee benefit, Pension fund | Whistle-blowing policy, Employee communication | Third-party verification |
| BAE Systems | | UN Universal Declaration of human rights, UN Global Compact | HS management to employees, Safety teams | Diversity, Leadership diversity | Early career programme, Primary education and training | Share incentive plan | Ethic helpline, Listening to employees | GRI Reporting, LRQA third-party audit |
| Balfour Beatty | Employment Right Act 1996, CDM 2007 | UN Universal Declaration of Human rights, ILO standard | Zero harm, provide safety tests resources, free health check | Respect human rights, Women managers recruited | Graduate develop, Management develop, International job | Pension Fund | Traction(risk report), Ethics helpline | GRI Index and verification |
| BG Group | | ILO Health and Safety in Mines Convention 1995, | HS Employee assistance, 24-hours HS counselling, Occupational illness reporting | Diversity, equal treatment | Practical guide of professional skill, E-learning, | | Employee speak-up | KPMG Audit |
| BHP Billiton | Companies Act 2006, RIDDOR | | Safety risk management, Air safety, Risk report, Identifying health risk, | No discrimination, Care for female | Leadership Development Programme, Training session, Professional | Pension scheme | | Ernst&Young LLP third-party audit |

| Company | Law | Codes of conduct | Health and Safety | Human rights | Training and development | Payment and welfare | Employee engagement | Monitoring and reporting |
|--------------------------|---|--|--|--|--|---|--|---|
| | | | Occupational exposure, Protecting occupational illness | | development | | | |
| Big Yellow PLC | Equity Act 2010, Health and Safety at Work etc Act 1974, RIDDOR | UN Global compact, ILO, UN Universal Declaration | HS policy | Diversity, Leadship diversity | Career training | Employee benefit pension fund, Employee benefit trust, 'Flexitime, staggered hours, home working and sabbaticals' | Employee communication, Whistleblowing policy, Employee attitude survey | HS audit |
| BP | | ISO9001 | Safety management, Personal HS Control, Prevention of accidents of oil spill | Diversity and inclusive, Female leaders | Graduates programme, Management development, Talent management, Expertise programme | Rewarding to employees, Competitive salary, Minimal standard | Employee satisfaction index, Employee annual survey, Discussion with employers | |
| BT | | | HS scorecard, Physical health, Mental wellbeing | Inclusive management, Human dignity | E-learning, Development action plan, Route to learn, Professional learning | Flexible work, Reward and benefit to work | Two-way conversation, Survey, Trade union for collective bargaining | Pricewaterhouse Coopers LLP third-party audit |
| British American Tobacco | | UN Global Compact | 'Close the gap to zero' Risk assessment, HS Management, Prevention of fatalities, Prevention of AIDS | Diversity | Long-term development, Leadership and employee capability training, Executive training | Better treatment to employees for good value | Global employee survey, Feedback to employee's opinion | GRI Reporting, Ernst&Young LLP third-party audit |
| Bunzl | | ILO Conventions, OHSAS18001 | HS Management, Accidents control | Diversity | E-Learning programme, Professional development | | | GRI Index (3.1) and Verification, LQRA Assurance |

| Company | Law | Codes of conduct | Health and Safety | Human rights | Training and development | Payment and welfare | Employee engagement | Monitoring and reporting |
|-----------------|--------------------|--|---|---|---|--|---|--|
| | | | | | | | | third-party audit |
| Centrica | | UN Guiding Principles on business and human rights | HS Commitment, HS Management, Healthy and wellbeing | | 'Extraordinary You!', Training and development, Leader's journey, Supporting early career | Fair-reward, Mixed payment and benefits | Open communication, Engagement and feedback, Employee consultation in Trade Union | GRI Level-check, External Review Committee |
| Compass Group | | | HS Control Safely Everyday HSE Team | Equal opportunity to all employees, | Young people in decent workplace Job training Apprenticeship Graduates training | | Employee survey Listening Panel, Labour Union | GRI Reporting, Pricewaterhouse Coopers LLP |
| CRH | RIDDOR | OHSAS18001 | HS Policies, Fatalities elimination, Safety training, Safety record, Annual review, Employee health check | Diversity, Female promotion at administrative positions | Professional training, Best practice sharing, Management development | Improvement of employee welfare, Sharesave, Competitive pay, Social and pension fund | Trade union for bargaining about any dispute | |
| Croda Int'l PLC | | | Best practice in occupational health promotion and Monitoring | Human rights safeguard | Employee development | Remuneration and benefits packages | Employee engagement survey, Whistleblowing | |
| Coca Cola HBC | | UN Global Compact | HS management, Healthy wellbeing | | Talent training, Career plan, Leadership development | Personal cost ownership | | GRI Reporting, KPMG third-party audit |
| Dawson Ltd | Companies Act 2006 | | HS management | | Training programm, especially for disabled staff | Employee benefit pension fund | Information spread | Internal audit |
| Diageo | | | Zero harm, Health control and wellbeing, | Diversity, Women empowerment | Functional training, Leadership | Executive reward, Base pay, | Whistle blowing, Tradeunion open dialogue about | GRI Reporting, ERM Certification |

| Company | Law | Codes of conduct | Health and Safety | Human rights | Training and development | Payment and welfare | Employee engagement | Monitoring and reporting |
|----------------------------|---------------------|---|--|--|--|---|--|---|
| | | | Occupational health, Combat with AIDS | | training, Graduates training | Benefit package, Intensive pay | collective bargaining | |
| EasyJet | Compa-nies Act 2006 | UN Global Compact, ILO Standards | Safety First Action, Risk management, Composite Risk Value | No discrimination, Free to election | Right people on right position Graduate Project Professional training | Employee gift, Extra welfare, Save as You Earn, Buy as You Earn, National insurance | CEO weekly meeting employee representatives to collective rights, European employee union | Independent audit |
| Falkland PLC | | | HS commitment, Employee control | Freedom of association, | | Pension arrangement, Employee benefit | | |
| Ferrexpo PLC | | Universal Human Rights, ILO Standards, OSHAS18001 | Organizational HS standard | No discrimination | Technical traing, Higher training | Retirement and pension benefit | Employee engagement Trade union collective bargaining | Internal reporting and auditing |
| First Quantum Minerals LTD | | UN Universal Declaration of Human rights, ILO Standards | HSEs, HS Committee, hygiene and medical checks | Equal opportunity, Gender diversity | Advance employee's skills, Apprenticeship | | | |
| Fresnillo | | ISO14001 OHSAS18001 | Safety control, Occupational illness prevention, Safety programme, Hazardour materials control | 'Play Fair', No child-labour | Next generation skill training, Professional development, Graduates skills | Competitive salary and benefit | Employee survey, Collective bargaining | GRI Reporting, Internal audit External audit HS audit |
| GSK | | ISO14001, OHSAS18001 | Zero harm, health promotion, Disease prevention, Healthy and resilient workforce | High inclusive, Women employees engagment, Disable employees | Leaders and manager development, 'Future Strategy Group' Project, Early Career, Graduate | High executive pay, Putting value at the heart of pay, Pension schemes, Long-term | Employee survey, Employee consultation forums | Pricewaterhouse Coopers LLP third-party audit |

| Company | Law | Codes of conduct | Health and Safety | Human rights | Training and development | Payment and welfare | Employee engagement | Monitoring and reporting |
|------------------|---------------------------------------|--|---|--|--|-------------------------------------|--|---|
| | | | | | programme | Incentive Share | | |
| Hallmark | | | HS policy | No discrimination, No child-labour, No forced labour | Career development | | Individual disclosure, Whistleblowing policy | A day-and-A-half audit |
| Henkel PLC | | BSI18001 | Occupational safety, HSE | Focus on female employees | Training and education | Performance-based compensation | Reporting violation, Open dialogue | |
| IMI | | ILO Conventions | Track and report harm, HS Management, Safety training | | | | Employee engagement and communication | Pricewaterhouse Coopers LLP third-party audit |
| Imperial Tobacco | | OECD Guideline | Zero harm, 'Our people' to ensure employee's life and health, Safety inspection | Equality | Our people workshop, Enhance employee's value | Fair pay, Employee benefit trust | Employee council to discuss any dispute | GRI Reporting, KPMG third-party audit |
| Intertek | Local,national, international laws | | Safe working environment, HS Audit and report | Diversity project | Professional conduct, Training to personal development, Global leader training | Fair reward | Employee survey, Satisfaction responding | Pricewaterhouse Coopers LLP third-party audit |
| JD Sports | | UN Global Compact, ILO Child Labour Conventions, ACAS Booklet, Ethical Trading Initiative ('ETI') Base Code | HS management | Equal opportunity, No harass | Employee training | Employee pension fund | Employee communication, HS employee representatives | Diversity monitoring of human rights, screening agency |
| John Lewis | | | Occupational health | Respect of human rights | Career development, Apprentice programme | Annual bonus | The partner survey, Grievance and appeal | HS Committee audit |
| Johnson Matthey | | UN Global Compact | Health scorecard, Healthy illness | Equal opportunity, | Attracting potential | Shareholding among | Employee communication, | KPMG Audit |

| Company | Law | Codes of conduct | Health and Safety | Human rights | Training and development | Payment and welfare | Employee engagement | Monitoring and reporting |
|-----------------|--|---|---|---|--|--|--|---|
| | | OHSAS18001 | prevention, Annual health review, Zero accident | Gender diversity | people, Graduates training, Challenging jobs | employees | Trade union representative, Employee bargaining | |
| J Sainsbury | | UN Guiding Principles on business and human rights | HS Executive, Zero harm | Diversity to all | Investing the training, Food college and bakery college, 'Youth Can' to promote career | 'Best All Employee Share Plan', Sharesave | | GRI Reporting, Ernst&Young LLP third-party audit |
| Kingfisher | | | HS policy, Making safety priority | Equal and diversity policy, Disability | Employee training and support, One Team Academy | | Employee survey, Collective bargaining in labour unions | GRI Reporting, Ernst&Young LLP third-party audit |
| Low & Bonar PLC | | UN Global Compact, SA8000, OECD Guideline, ILO Standards | HS management, Zero accidents, Global HS policy, EU manufacturing sector's accident rate | Equal opportunity | Career development, international opportunity | Employee share, Pension fund | Bespoke policy, Bribery report | GRI Reporting |
| May Gurney PLC | Health and Safety at Work etc Act 1974 | OHSAS18001 | HS management, make a difference Occupational health | No forced labour | Training and development | Sharesave, Share incentive plan | Employee forum, Have your say survey | Audit Ranking Supervision |
| MISC | | | HS policy, HS emergency | Respect of human rights, | Learning orientation | | | |
| Mondi | | | Occupational health, Zero harm, Safety management | Equal opportunity, No harassment | Leadership development, Educating employees | | | KPMG third-party audit |
| NEXT | RIDDOR | | HS executives, Accidents report, Safety control, Target zero | | Job training and support, Management development programmes, Life long | Automatic pension enrolment, UK pension schemes, Payroll giving, | | |

| Company | Law | Codes of conduct | Health and Safety | Human rights | Training and development | Payment and welfare | Employee engagement | Monitoring and reporting |
|-------------------|---------------------------|--|--|--|--|---|---|--|
| | | | | | learning, E-learning, Succession plan | Childcare voucher, Sharesave | | |
| Persimmon PLC | Equality Act 2010, RIDDOR | C2E Standard (company), CCS, CSCS | HS Executives, Long-term HS training | Equality | BTEC qualification HS management training | Various pension and benefit scheme, Employee Share Scheme, | | Internal HS monitoring& auditing |
| Petrofac | | UN Universal Declaration of Human rights, ILO Standards, OECD Guidelines for MNEs, UN Global Compact, OHSAS18001 | Safety Control, 24 hours safety support | Diversity and inclusive policy, Local employment | Talent management, Leadership excellence, Partnership with LSE | | PetroVoice Employee Survey, Employee communication, Breach Report | GRI Reporting, AA1000 Assurance, Third-party audit |
| Randgold | | OHSAS18001 SA8000 | HE Management, HS training and communication, Medical support, Occupational health | High respect to human rights, Specific human rights policy | Skilled workforce | Exceed the minimum wage to local labour, Better working environment, Retirement funding, Health insurance | Employee representatives, Whistle blowing, Collective bargaining | GRI Reporting, Ernst&Young LLP third-party audit |
| Reckitt Benckiser | | | Zero fatality, Reduce lost workday accident rate, HS management, Fighting Disease | Diverse culture | Competitive training and development, Experience-based development, Performance development review | Competitive remuneration, Annual bonus, Benefit | Whistle blowing, Internal audit of breach of employee's rights | GRI Index (3.1) and verification |
| Rexam | | UN Universal Declaration of Human rights, | HS Metrics, Accident report and record, | Fairness and respect to all employees | 'Winning Organization' of right development | | Employee representatives to report,negotiate, and audit, Open Channel for | Pricewaterhouse Coopers LLP third-party audit |

| Company | Law | Codes of conduct | Health and Safety | Human rights | Training and development | Payment and welfare | Employee engagement | Monitoring and reporting |
|--------------|---|---|---|--|--|--|---|--|
| | | UN Global Compact | HS management | | and training, Rexam Business School, Crossknowledge online course | | communication | |
| Rio Tinto | Compa-nies Act 2006, Equity Act 2010 | | HS eduction Health wellbeing, Health check, Personal safety check | No discrimination, Female representation | Learning roadmap, Graduates training, Formal classroom | Ensuring employee's interest | Whistle blowing policy, Employee grievance | Ernst&Young LLP third-party audit |
| SABMiller | | | Safety workplace, Fight for AIDS, Prevention and test | Valuing diversity and equality, Full respect, Female promotion | Functional training, Graduates training, Individual development plan | | | |
| Severn Trent | | UN Universal Declaration | Employee HS operation, Off-site safety | No child labour, No force labour | Specific training, Manager development, Apprenticeship | | Annual employee meeting, Board discussion | Independent audit |
| Shell | Equity Act 2010, Health and Safety at Work etc Act 1974, RIDDOR | ISO14001, OHSAS18001, UN Global Compact, AA1000 | HS Framework, Annual safety days, Road safety | Diversity of human rights | Flexible working practice, Training, Leadership skills | Better welfare to employees around world | Staff council, Trade Union for bargaining | GRI Reporting and self-check, AA1000 Assurance |
| Shire | | | Healthy working environment, Healthy lifestyle, Health programme | Equal opportunity | E-learning, 'On-the-job' experience, Leader future development, Traditional training of technical skills | Sharesave benefit | One-on-one meeting between manager and employee, Views exchange | |
| SportsDirect | | | HS standard, Safety management, | | | Bonus share scheme, Performance- | Employee satisfaction Survey, Employee chatting | |

| Company | Law | Codes of conduct | Health and Safety | Human rights | Training and development | Payment and welfare | Employee engagement | Monitoring and reporting |
|-----------------|--|--|--|---|---|---|--|---|
| | | | Accident report | | | based reward | | |
| Sirius Minerals | | Universal Declaration, ILO Standard, UN Global Compact | Zero harm risk assessment | No discrimination | Staff training and learning | Share based payment | | GRI reporting and Verification |
| Smiths Group | Equality Act 2010, RIDDOR | | EHS management system, EHS auditing, HS training and inspection | Diversity and inclusive | Career progression, Top-management development, Talented development, Succession management | Personal reward for competition | Employee survey, Employee discussion with employers | GRI Index and verification Deloitte LLP third-party audit |
| SSE | Equality Act 2010, Equality Regulations 2006, Companies Act 2006 | | Prevention accidents, HS policy, HS management | Diversity | Professional training, Youth skill training | Long-term incentive share, Pension scheme, Discount on gas and electricity supply | Internal survey, Joint Negotiating and Consultative Committee of employees | |
| Syngenta AG | | GRI Index, OSHAS18001, ISO31000 | HSE management | Labour rights | Career development for professionals and graduates | Share based payment | Employee meeting with manager frequently | Safety Committee audit |
| Talviaaran | | OSHAS18001 | Safe and healthy workplace, Systematic risk assessments and hazard and operability (HAZOP) studies | Male-dominated due to the heavy work burden | | Share incentive plan | | GRI, AA1000 Assurance |
| Tullow Oil | | OHSAS18001, AA1000 | Land transport safety, Occupational health, Risk control | Localisation, Equal opportunity | Functional development, Competitive development, Career promotion | Compensation package, Reward to local employees | | AA1000 Assurance |
| Unilever | | | Occupational safety, | Respect to human rights | | Fair treatment and living | | GRI Reporting, KPMG third- |

| Company | Law | Codes of conduct | Health and Safety | Human rights | Training and development | Payment and welfare | Employee engagement | Monitoring and reporting |
|------------------|-----|---|--|--|---|--|--|---|
| | | | Travel safety, Living Plan | | | | | party audit |
| United Utilities | | OHSAS18001, UN Universal Declaration of Human Rights, UN Global Compact, SA8000 | Healthy wellbeing, Ensuring safe workplace, Get fit and health, Rigorous reporting | | E-learning, New training centre, Smoothy workshop, Female talent | Competitive reward and benefit | Employee engagement and communication, Feedback to employees | GRI Reporting, DNV third-party audit, URS Report |
| Vedanta | | OHSAS18001 | HS framework, Zero harm, Fight for AIDS, Risk mitigation, Safety management, Occupational safety | No discrimination, No child labour, No forced labour | Talent development, 'Star to business' professional competence, Expert study | Benefit for resettlement, Remuneration, Allowance, Welfare package including health support | Employee reporting system | |
| Victoria PLC | | UN Universal Declaration, The Convention of the Rights of the Child | Omission, Health and safety ranking | | Various training program, Aprrentice training | Employee share, Pension fund | | GRI Reporting and level-check |
| Vodafone | | | HS management, Risk management, Occupational HS, Reportable incidents | Diversity, Inclusive leadership | Formal training, Potential employee plans, Vodafone academy, Leader development | Long-term incentive share, Vodafone share to employees, Competitive benefit to employees, Medical insurance, Retirement fund | Vodafone survey and communication, Employee consultation council | GRI Reporting |
| Weir | | ILO Standards Principles and Standards | HS Policy, Accident-free workplace, EHS duty of care, Risk assessment | | Apprentice training, Personal Development Plan, Individual plan, Management project | Employee earning share | Ethics Hotline, Collective bargaining | GRI Index and verification, DNV Assurance third-party audit |

| Company | Law | Codes of conduct | Health and Safety | Human rights | Training and development | Payment and welfare | Employee engagement | Monitoring and reporting |
|----------------|------------|--|---|---------------------|---|---|--|---------------------------------|
| Wolseley | RIDDOR | UN Universal Declaration of human rights | HS steering group, Ten safety commitment, Safety alert, Risk assessment, HS leadership, Fleet safety, Occupational health | | Team member development and training, Management training, E-learning | | Employee communication, Bi-annual meeting between top management and employee representatives | GRI Reporting |
| WS Atkins PLC | | OHSAS18001 CSCS, CCS | HSE, Industry involvement (Consulting engineer safety committee) | No discrimination | Personal and career development | Employee pension plan, Long-term share, Executive bonus | Employee engagement survey | |

Table 2: Chinese Companies' CSR Practice in Employment (First 12 companies present in sequence of examples followed alphabetically by rest of companies.)

| Company | Law | Code of Conduct | Health and Safety | Human Rights | Training and Development | Payment and Welfare | Employee Engagement | Monitoring and Reporting |
|---------------------------|---|---|---|--|--|---|--|-------------------------------------|
| CNOOC | Law of Occupational Disease Prevention and Treatment of P. R. C | CASS CSR Guidelines, SASAC Guidelines, Industrial Guidelines | Offshore safety work, Occupational health at work, H&S management, Safety equipment, Health Management for Offshore workers | Respect for human rights | Overseas training, Position development | Medical insurance, Legal holiday | Trade union, Employee communication | GRI reporting, Third-party audit |
| Huayu Auto | Labour Contract Law | Shanghai Stock Exchange Market CSR Guidelines, OHSAS18001 | H&S management, H&S training | | Career path, Professional development | Social securities retirement welfare | Trade union, Employee survey, Employee assistance | |
| Shenhua Group | Labour Contract Law, Trade union Law | Shanghai Stock Exchange Market CSR Guidelines | 0 harm safety mechanism, Annual H&S control, H&S safety, Health care | Care for special employees, Care for disability, Equal opportunities | Developing career platform,, Network college Internal competence, Future career plan | Performance-based salary, Medical insurance Social securities | Employee survey, Trade union, Director's mailbox | GRI reporting, Third-party audit |
| Southern Airline | | SASAC Guidelines, Shanghai Stock Exchange Market CSR Guidelines | Safety management, Safety control, Aircrew H&S management, Catering health | | Competitive employment, Career development at management levels, Steady progress of staff training | Basic and performance-based salary, Endowment insurance, Medical and injury insurance, Housing fund | Care about contract employees, Listen to frontline workers, Exchange of ideas and interactions | GRI reporting, BV third-party audit |
| Tongling Nonferrous Metal | | | H&S education, Professional health training, H&S evaluation | | Technique improvement | Stimulate employee's salary | | |

| Company | Law | Code of Conduct | Health and Safety | Human Rights | Training and Development | Payment and Welfare | Employee Engagement | Monitoring and Reporting |
|---------------------|---|--|--|--|---|--|---|----------------------------------|
| Haier | | CASS CSR Guidelines | Health exam, Psychological care Safety crisis management, H&S education | | Apprentice training, Career plan, Skill enhancement | Share-based incentive, Employee financial assistance, Competitive salary, Complete welfare | 1001 employee consult, Employee communication | GRI reporting, Third-party audit |
| China North Railway | Labour Contract Law | SASAC Guideline, CASS CSR Guidelines, ISO26000 | H&S control, H&S education, H&S standardize, Emergency solution, Professional health | Fair treatment, No forced labour | Apprentice development, Employee training | Employee assistance | Employee representative information conference | GRI reporting, Third-party audit |
| TCL | Law of Occupational Disease Prevention and Treatment of P.R.C | SZ Stock Exchange Market CSR Guidelines | A series of regulation of H&S at work, Annual meeting of H&S, H&S evaluation, H&S training, Professional H&S | | Apprenticeship, Post-work training, Overseas graduates training | | Employee entertainments, Employee survey, Trade union | Third-party audit |
| Jiugang Steel | Labour Contract Law | | H&S management, Health control | Care for women employees | Employee after-work training | | Employee activities | |
| CR Power | Labour Contract Law | SASAC Guideline, CASS CSR Guidelines, NOSA | H&S mechanism, H&S crisis evaluation, Accident management, H&S training | Equality rights to holidays | Career development, Manager programme, Professional training | Commercial insurance, Housing fund, Social securities | | GRI reporting |
| Shanxi Coal | Labour Contract Law | Shanghai Stock Exchange Market CSR Guidelines | Production safety, Protection of professional health | Equal respect on all employees | Competitive professional training, Career plan | Floating payment, Performance-based salary, Welfare package | Democratic governance, Employee representatives | |
| China Construction | | | Occupational health | Equal employment, Care for women employees | Staff training, Career development | Social securities, Medical insurance, Overseas workers care | | |

| Company | Law | Code of Conduct | Health and Safety | Human Rights | Training and Development | Payment and Welfare | Employee Engagement | Monitoring and Reporting |
|-------------------------------------|--|---|---|--|---|--|--|------------------------------------|
| Baoshan Steel | Labour Contract Law, Trade union Law, Social Securities Act | UN Global Compact, SASAC Guideline, Industrial Guidelines | H&S training, H&S education, Improve H&S construction | Respect varied sex, age, nationality and religion, Special care of women employees | Professional globalization, Training of 'Complete Engineer' Enhance, Employees' skill | Competitive salary, Competitive bonus, Social welfare, Shift subsidies | Employee's right to be informed, Employee activities | GRI reporting, Third-party comment |
| Beauty Yaurient Cosmetics Accessory | | SA8000, CSC9000T | Health care, Health exam | No discrimination | | Varied mechanism of payment | Employee entertainment | SGS third-party verification |
| Beijing Smart Garment | | SA8000, CSC9000T | Health Fund, Health care | Human rights safety | Employee training, Spiritual development | Special care to employees, Help to poor employees, Social welfare | Trade union, Employee assistance, Employee activities | BV third-party audit |
| Black Peony | Labour Contract Law, Trade union Law, Social Securities Act, Law of Occupational Disease Prevention and Treatment of P.R.C | SA8000, CSC9000T | HSE management | No forced labour, Freedom of association | Employee development | Employee bonus, Social welfare, No dismissal | Trade union, Employee activities, Employee family help | BV third-party audit |
| Bosideng Garment | | CSC9000T SA8000 | Health management, Safety care | No discrimination | Employee progress, Skills training, Daily professional check | | | |
| CCCC | Social Securities Act | SASAC Guideline, CASS CSR Guidelines, ISO26000 | H&S mechanism, H&S audit, Health exam | Protection of migrant workers, Equal opportunities | Professional competition, Internal training Professional college | Medical and social insurance | Employee activities | |

| Company | Law | Code of Conduct | Health and Safety | Human Rights | Training and Development | Payment and Welfare | Employee Engagement | Monitoring and Reporting |
|--|---|--|---|---|---|--|--|-------------------------------------|
| Champion Union Sticker Products | | ISO9001, SA8000 | Health and safety executive, Health exam | Respect for human rights, No discrimination | Skill training, Employee development | Social welfare, Fair payment | Trade union, Employee representative gathering | TUV Rheinland third-party audit |
| Chang Hong Group | | | H&S protection, Health treatment | | Professional training, Career plan | Social insurance, Professional subsidies | | |
| China Airline | Labour Contract Law | SASAC Guideline, Industrial Guidelines, Shanghai Stock Exchange Market CSR Guidelines, CASS CSR Guidelines | SMS safety crisis management, Improve safety capacity, Safety skill and facilities, H&S Manuals | No forced labour, No child labour | Professional training mechanism | Employee medical charity | Employee representative, Employee survey Mobile survey | GRI reporting, BV third-party audit |
| CHINA-CDC | Labour Contract Law, Company Law | Shanghai Stock Exchange Market CSR Guidelines | H&S management, H&S training | Equality | Apprentice training, Internal development | Fair payment, Welfare package | | |
| China National Building Material Company | Law of Occupational Disease Prevention and Treatment of P. R. C | CASS CSR Guidelines | Safety production, Health management | | | | Employee activities | |
| China Railway | Labour Contract Law | UN Global Compact, Industrial Guidelines | Safeguard measures, Safety education, Occupational health | Human rights protection, Equality | Leadership training, Specialists award | Performance-based salary, Medical insurance, Social securities | Employee representative, Secret ballot, Employee supervision | GRI reporting |
| China Railway Erju | | UN Global Compact, Industrial Guidelines | Health care, Health exam | | English Course, Internal training | Position salary | | GRI reporting |
| China Railway Construc- | Law of Occupational Disease | ISO26000, CASS CSR Guideline | Production safety, H&S control, Emergency | Equal employment, Care for migrant | Employee development, Encouraging | Based salary, Welfare package | Trade union, Collective bargaining, | |

| Company | Law | Code of Conduct | Health and Safety | Human Rights | Training and Development | Payment and Welfare | Employee Engagement | Monitoring and Reporting |
|--------------------------------------|--|---|--|---|---|---|---|------------------------------------|
| tion Group | Prevention and Treatment of P. R. C, Labour Contract Law | | management, Professional health | workers and women employees | incentive, Employee training | | Employee representative, Employee complaint | |
| China Refrigeration Industry Company | | SA8000 | Safety control, Health management | No discrimination, No forced labour | Employee training, Professional programme | Social welfare, Varied welfare package | Employee representatives meeting, Labour union | SGS third-party verification |
| China Ship Building Industry | Labour Contract Law | Shanghai Stock Exchange Market CSR Guidelines | H&S duty, Danger check, H&S education, Professional health care | Respect for human rights, No forced labour | Various training, Promotion incentive, Leader development | Social and medical insurance, Annual bonus | | GRI reporting |
| China Southern Railway | | | H&S management, H&S education | | Overseas training | | | |
| Chongqing Hoping Pharmaceutical CO. | | SA8000 | | Respect for human rights | Sales training | Fair payment | | INEPT third-party verification |
| CIMC | | SZ Stock Exchange Market CSR Guidelines, Industrial Guidelines | H&S Committee, H&S control, H&S training | Care for women employees | Talent project, i-Learning, Leadership training | Social and medical insurance, Legal holidays, A series of subsidies | Employee representative, Democratic governance | GRI reporting, Third-party comment |
| CNPC | Labour Contract Law, Trade union Law, Social Security Act, Law of Occupational Disease Prevention and Treatment of | Shanghai Stock Exchange Market CSR Guidelines, CASS CSR Guidelines, UN Global Compact | HSE, Safety emergency control, H&S education, On-site and offshore safety, Professional health | Fair competence, Equality, Respect on all employees | Professional training, International development, Long-distance training, Career plan and development | Performance-based salary, Medical insurance, Social securities, Employee assistance | Employee act, Employee communication, Trade union | GRI reporting, Third-party audit |

| Company | Law | Code of Conduct | Health and Safety | Human Rights | Training and Development | Payment and Welfare | Employee Engagement | Monitoring and Reporting |
|---|--|---|--|--|--|--|---|----------------------------------|
| | P. R. C | | | | | | | |
| COFCO | | UN Global Compact, CASS CSR Guidelines | Professional H&S management, Emergency management, Safety hazard control | Human rights policy, Equal opportunity | Varied training course, Leadership training, Core competence | Social securities welfare package | Employee representative conference | GRI reporting |
| COFCO Bio-chemical CO. | | ISO9001, SA8000 | Health check, Safety production, Occupational safety management, Safety control | Respect for human rights, Freedom of association | Employee training, Professional improvement | Social and commercial insurance | Trade union, Employee representative, Labour activities | SGS third-party verification |
| Colin Industrial Limited | | ISO9001, UN Global Compact, SA8000 | Health check, Safety production, Occupational safety management | Equality | Employee training, Apprenticeship programme | Fair payment, Subsidies, Social securities | Trade union, Employee expression | BV third-party audit |
| Dalian Shengjia Color Print and Packing CO. | | SA8000 | | No forced labour | Professional training, Career development | Social securities welfare package | Employee representative conference | SGS third-party verification |
| Datang Power | Labour Contract Law, Law on the Protection of Women's Rights and Interests | SASAC Guideline, Industrial Guidelines, Shanghai Stock Exchange Market CSR Guidelines | H&S mechanism, H&S crisis prediction, H&S evaluation, Professional safety protection | Prohibition of discrimination, Respect for sex and religion race | Professional training, Professional competition | Fair payment, Medical insurance, Endowment insurance | Employee survey, Employee representative, 'General Manager Contact' | GRI reporting, third-party audit |
| Dereko Fashion Company | | UN Global Compact, SA8000 | Occupational health, Health and safety management, Occupational protection | No forced labour, No child labour | | Fair and on-time payment, Social insurance | | BV third-party audit |

| Company | Law | Code of Conduct | Health and Safety | Human Rights | Training and Development | Payment and Welfare | Employee Engagement | Monitoring and Reporting |
|-------------------------------------|---------------------|---|--|--|---|---|---|---------------------------------|
| Dongfeng Motor | | SASAC Guideline, CASS CSR Guidelines | One-vote negotiation about safety production, Safety index control, Protection of professional safety crisis | No discrimination, Employment of disability | Integrated training mechanism, Skill competition | Competitive salary, Collective wage bargaining, Various insurance and subsidies | Democratic management, Employee Congress, Fair collective negotiation | GRI reporting |
| Dongguan Dongchang Footwear Company | | SA8000, CSC9000T | Health and safety control | Equal respect to all employees, No forced labour | | No delayed and reduced payment | Labour representative in survey | TUV Rheinland third-party audit |
| Dongsen Clothing & Weaving Company | | ISO 26000, SA8000, CSC9000T | Health control, Health check | Respect to women employee, No forced labour | | Fair payment, Annual reward | Labour Union | BV third-party audit |
| Eastern Airline | Labour Contract Law | UN Global Compact, SASAC Guideline, CASS Report Guidelines, ISO26000, ILO Standards, CCAR-121FS | Physical examination, Limited working time, Physical convalescence, Psychological care | Respect for human rights regardless of sex, race, age religion | Flying Plan, Staged career plan, Professional training | Post wage, Social security, Subsidies Allowance | Collective bargaining, Employee entertainments, Employee SOS | GRI reporting |
| Foton Motor | Labour Contract Law | | Health profile employee health, Professional H&S certification (GB/T28001) | No discrimination | Competitive employment, Professional certification, Overseas training | Fair payment, Subsidies, Social securities | | Internal comment |
| GREE | | OHSAS18001, SZ Stock Exchange Market CSR Guidelines, CASS CSR Guidelines | Health care | | Internal training, Career development, Apprentice guide, After-work study and education | Varied mechanism of payment, Housing fund, Social securities, Subsidies | | GRI reporting |

| Company | Law | Code of Conduct | Health and Safety | Human Rights | Training and Development | Payment and Welfare | Employee Engagement | Monitoring and Reporting |
|---------------|---|---|---|--|--|---|---|-------------------------------------|
| Guodian Power | | SASAC Guidelines | H&S management, Health protection | | | | Trade union | GRI reporting, BV third-party audit |
| Hebei Steel | Labour Contract Law | Industrial Guidelines | H&S Management | No discrimination on race, sex, age or religion, Human rights | | Talent-payment, Social securities, Injury insurance | Manager mailbox, Employee survey | |
| Huadian Power | Labour Contract Law, Trade union Law, Company Law | Shanghai Stock Exchange Market CSR Guidelines | H&S mechanism, Production safety | Equality | Professional improvement | Medical insurance | | |
| Huaneng Power | Labour Contract Law | Shanghai Stock Exchange Market CSR Guidelines | Production safety, H&S evaluation | | Competitive employment, Career development at top management | Performance-based salary, Medical insurance | Trade union, Complaint handling | GRI reporting |
| Hunan Hualing | Labour Contract Law | | H&S duty, H&S education, Health profile | | Professional training | Social insurance | | |
| Lenovo | Labour Contract Law | CASS CSR Guidelines | H&S management, Bureau Veritas, Safety evaluation | Respect for human rights, No discrimination on race, sex, religion | Career plan, Professional improvement, Apprentice training | Competitive award, Performance-based salary, Commercial insurance | Employee communication, Employee survey trade union | GRI reporting, Third-party comment |
| Ma Steel | Labour Contract Law, Labour Law | | H&S protection, Professional sickness control | | Educative internet, Three-step training | Social securities | | |
| MCC | | SASAC Guidelines, Shanghai Stock Exchange Market CSR Guidelines | Occupational health, Psychological care | No forced labour | Skill enhancement | | | GRI reporting, Third-party audit |

| Company | Law | Code of Conduct | Health and Safety | Human Rights | Training and Development | Payment and Welfare | Employee Engagement | Monitoring and Reporting |
|--------------------------------|--|--|---|---|--|---|--------------------------------------|--------------------------|
| Minmetals | Law of Occupational Disease Prevention and Treatment of P. R. C | Shanghai Stock Exchange Market CSR Guidelines | H&S management, Professional crisis control, H&S education | | Internal training | | Employee representative, Trade union | |
| New Hope Liuhe | Labour Contract Law | CASS CSR Guidelines, SA8000 | H&S management, Health exam, First aid | Equality to all employees | Internal training, Internal promotion, Professional ethics education | Employee assistance, Social securities, Employee awards | Employee representative conference | GRI reporting |
| Niutang Chemical Plant Company | Social Securities Act, Law of Occupational Disease Prevention and Treatment of P. R. C | ISO9001, ISO14001, SA8000 | Health care, Occupational safety, Safe production | Equal opportunity to all employees | Apprenticeship, Training and development programme | Bonus, Company welfare | Trade union, Employee activities | BV third-party audit |
| Pan Steel | | | Notion of H&S, Standardized construction of H&S, H&S education, H&S Profile | Equality, No discrimination on human rights | Professional training, Managerial improvement | Basic and performance-based salary, Endowment insurance, Medical and injury insurance | Employee survey, Director's Day | |
| Pang Da Auto-mobile | | | | Human rights protection, No forced labour | Employee training, Apprenticeship programme | Social Welfare | | |
| Sany Group | Labour Contract Law | | H&S education, Health exam, Safety protection | | Annual training, OLM Online study, Career development | Fair and competitive payment, Share-based payment, Social insurance | | |
| Shanghai Electricity | | Shanghai Stock Exchange Market CSR Guidelines, CASS CSR Guidelines | HSE management | Open and equal opportunity to all employees | Apprentice training, Promotion training, CEO development | | Employee activities | GRI reporting |

| Company | Law | Code of Conduct | Health and Safety | Human Rights | Training and Development | Payment and Welfare | Employee Engagement | Monitoring and Reporting |
|-------------------|---------------------------------|--|---|--|---|--|---|------------------------------------|
| Shanghai Medicine | | | Safety crisis management, Improve professional health | | Cooperation with universities | Enhance payment | | |
| Shanghai Motor | | Shanghai Stock Exchange Market CSR Guidelines, CASS CSR Guidelines | H&S control, H&S education | Prohibition of discrimination in employment | Public lecture, Leadership development, Talent evaluation | Increased salary, Welfare package | Employee representative survey and evaluation | |
| SINAOPHARM | Labour Contract Law | SA8000, SASAC Guidelines | H&S system, H&S audit and enhance, H&S education, Professional health | Care for women employees, Freedom of association | 'At work college', Educational plan, Manager training | Competitive award, Performance-based salary, Commercial insurance, Minimum payment assurance | Trade union mechanism and activities | GRI reporting, Third-party comment |
| SINO-CHEM | | OHSAS18001 | H&S management, Chemical control, Office safety, H&S competition | Equal employment, Care for women employees | KTP Programme, STP Programme, Teamwork | Encouraging incentive, Annual bonus | Trade union, Financial help | |
| SINO HYDRO | Labour Contract Law, Labour Law | SASAC Guideline, Industrial Guidelines, ISO26000 | H&S mechanism, H&S education, Potential crisis control | | Career development incentive | Employee care of welfare package, Employee assistance | | GRI reporting |
| SINOMA | | CASS CSR Guidelines, SASAC Guideline | Health care, Safety management, Safety production | Respect for human rights, Freedom of association | Employee future achievement, Employee development, Skill training | Employee welfare, Employee concern Social and commercial insurance | Trade union activities | GRI reporting, Third-party comment |
| SINO-MACH Auto | Labour Contract Law | | Health care, Safety guard | Respect for employee's rights | Employee promotion, Employee improvement, Employee development | Fair payment, Social insurance | Employee activities | |

| Company | Law | Code of Conduct | Health and Safety | Human Rights | Training and Development | Payment and Welfare | Employee Engagement | Monitoring and Reporting |
|------------------|--|---|--|--|---|--|--|----------------------------------|
| SINOPEC | | Shanghai Stock Exchange Market CSR Guidelines, CASS CSR Guidelines, UN Global Compact, OHSAS18001 | HSE On-site safety, Public H&S, Emergency control, Health care, Health profile | Human rights equality | Position training | | Employee representative | GRI reporting, Third-party audit |
| SINOPEC Shanghai | Labour Contract Law, Trade union Law | Shanghai Stock Exchange Market CSR Guidelines | Professional health care, Health exam, Production safety | Equality, Respect for human rights | | Welfare package, Competitive payment | Trade union, Help to employees in poor condition | |
| Sitong Group | Labour Contract Law, Production Safety Act | SA8000 | Occupational care, Health improvement, Safety at work | Equality, No child labour | Employee development, Professional training, Further career | Subsidies, Social securities | Employee representative | SGS third-party verification |
| TISCO | Labour Contract Law | ISO26000, UN Global Compact, CASS CSR Guidelines, Industrial Guidelines | Production safety, Safety operation, H&S education, Professional H&S | No forced labour, No child labour, Respect on race, sex, nationality or religion | 'Whole training', Position improvement, Professional competition, Development on top management | Minimum payment assurance, Legal holiday, Social and medical insurance | Trade union | GRI reporting |
| Weichai Power | Women's Rights Protection Law | SASAC Guideline, CASS CSR Guidelines, Industrial Guidelines, ISO26000 | H&S mechanism, H&S audit, Professional disease control, Health profile | Care for women employees | Annual employee training Leader training | Social and medical insurance | | GRI reporting |
| Wuhan Steel | Labour Contract Law, Social Securities Act | SASAC Guideline, CASS CSR Guidelines | H&S management, Emergency control, H&S education, Professional health | | Employee training, Talent development, Employee innovation | Employee assistance, Prioritized payment, Competitive salary | Employee representative conference | GRI reporting |

| Company | Law | Code of Conduct | Health and Safety | Human Rights | Training and Development | Payment and Welfare | Employee Engagement | Monitoring and Reporting |
|----------------------------|--|---|---|--|--|--|--|--------------------------|
| Xinxing Ductile Iron Pipes | Labour Contract Law, Production Safety Act | SZ Stock Exchange Market CSR Guidelines | H&S mechanism, Safety standard | | Competitive employment, Employee training, Employee career plan | Social securities Welfare package | | |
| Yangquan Coal Company | | ISO9001 | Safety production, Health and safety management to miner | No forced labour, No child labour | Employee recruitment | | Employee engagement, Poor employee assistance | |
| Zhongmei | Law of Occupational Disease Prevention and Treatment of P. R. C, Labour Contract Law | | H&S system, H&S crisis management, Risk control, H&S indicator | Respect for migrant worker | Employee professional training | | Democratic governance | |
| Zhonglv | Labour Contract Law | | H&S protection, Crisis control, H&S mechanism, Psychological care | Care for women employees, Respect on disability, race, sex or religion, Freedom of association | Apprentice training, Professional competition, Career mechanism, Top management, MBA | Welfare of retirement, Performance-based salary, Social securities | Collective bargaining, Employee complaints, Employee participation of activities | |
| ZTE | | OHSAS18001, UN Global Compact, ISO26000 | Professional H&S management, Health survey, Employee Assistance Programme | Respect for human rights, No forced labour, No child labour | Online training, Overseas training, Apprentice training, ZTE Award | Performance-based salary, Medical insurance Social securities | Trade union, Internal forum, CEO mailbox | GRI reporting |