

Casestudy:
DOUBLE STANDARDS FOR MERCURY?
Greenpeace and Tamilnadu Alliance Against Mercury (TAAM)
versus
Unilever

In early 2001, NGOs called upon Unilever, the Anglo-Dutch firm, to account for the mercury pollution that was detected in the vicinity of one its mercury factories in India. Hindustan Lever Limited was a subsidiary of Unilever Plc and manufactured mercury thermometers for export to the US and Europe, among others. Greenpeace had found dumping sites with mercury-containing wastes both on the factory premises and beyond. Employees were said to have been exposed to the toxic metal for years. Environmental organisations Greenpeace and Tamilnadu Alliance Against Mercury (TAAM) insisted that Unilever clean up the sites, close down the factory and issue an apology.

Societal Interface Management Challenges

PUBLIC ✶ PRIVATE	PROFIT ✶ NON-PROFIT	EFFICIENCY ✶ ETHICS/EQUITY	
Adherence to local legislation/not?	Relationship with local versus international NGOs	Efficiency of recycling waste	Safe and healthy working conditions Double standards?
Flight from strict(er) legislation to 'pollution haven'	Relationship with local environment: positive/negative externalities	Production of mercury inexpensive and permitted in India	Ethical relativism versus hyper norms?
Upholding own regulations; independent monitoring of compliance?	Relationship with current and former employees	Timing of factory closure	Pro-active environmental policy Environmental responsibility
Member of Global Compact	Relationship with health institutions		Transfer of environmentally sound technology
Including issue in social and environmental report?	Codes of conduct for NGOs?		Transparency

This case has been written by Alex van der Zwart with Rob van Tulder (RSM Erasmus University). This case applies the methods and theories as used in the book "International business-society management: linking corporate responsibility and globalization" (2006, Routledge), www.ib-sm.org. The Dutch newspaper articles in this case have mostly been translated into English.

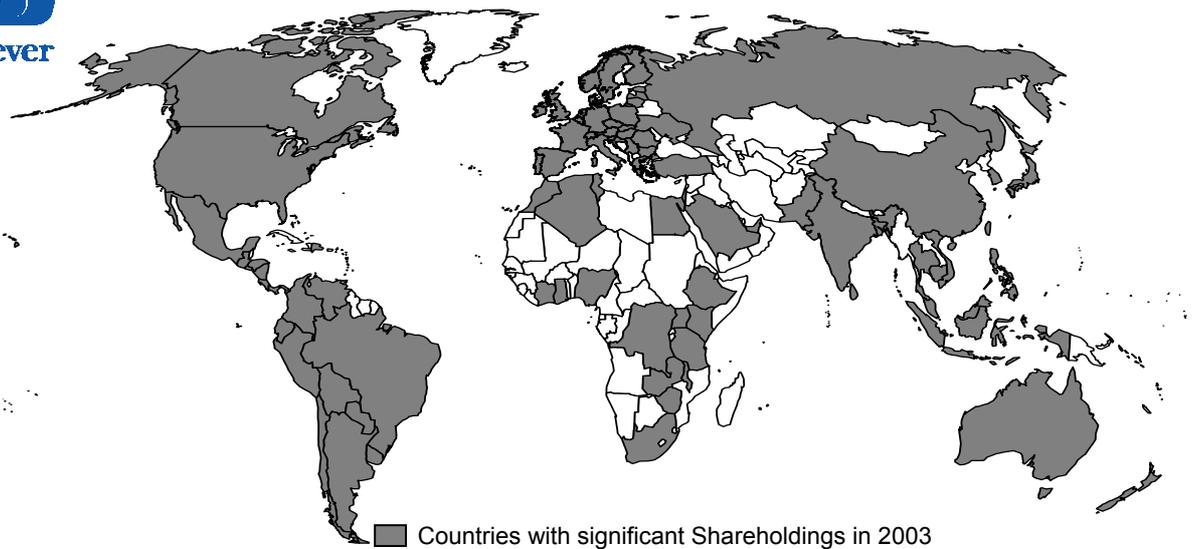


Unilever PLC

Unilever Plc is an Anglo-Dutch company which was created in 1930 when the Dutch van den Berg and Jurgens merged with the British Lever brothers. Unilever produces, markets and distributes a large range of food, home and personal care products via different operating companies. Unilever also used to be active in the chemicals industry via Diversey Lever. Unilever sold off its chemicals businesses in the 1990s. In 1997, it disposed of *speciality chemicals* companies Quest International, National Starch and Chemical Company and Unichema. In this way, the company narrowed down its core business to food, home and personal care products. Unilever employs a unit-branding strategy. The brand ‘Unilever’ is not used, it markets its products under brand names such as Ola, Iglo, Calvin Klein, Omo, Blue Band, Lipton and Dove. In 2000, the company achieved a turnover of more than 47 billion euro and a profit of 3.3 billion euro (Unilever, 2001: 2). Unilever is listed, among others, on the Amsterdam stock exchange (AEX Index). Unilever used to own a factory in Kodaikanal, Southern India which started manufacturing mercury thermometers in 1983. It became the owner of this factory when it acquired Cheseborough Ponds. Hindustan Lever Limited (HLL) was the largest mercury thermometer factory in the world. In the Netherlands, the production of products containing mercury was outlawed in 1998.



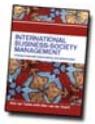
Based on scope data the TNI of Unilever for 2001 = 66%



Number of countries in which Unilever has activities

Nature of	Euro	North	Latin	Asia	Afric
Holding	7	1	2	1	0
Foods	30	2	19	18	18
Home & Personal	29	2	19	18	18
Other Operations	2	1	1	2	5
Total countries	30	2	20	18	20

source: Unilever 2003



Conflict

Hindustan Lever Ltd (HLL) was a subsidiary of Unilever Plc and manufactured mercury thermometers for the European and the US market, among others. The factory was located in Kodaikanal (Tamil Nadu State) in Southern India. The production of mercury thermometers was not HLL's core business. In January 2001, it was decided to dispose of the factory by the end of that year. This particular division of the chemicals factory was originally held onto due to the importance the Indian government placed on the export potential of the product.¹

The thermometers were manufactured in separate units of the factory. In the first, glass cases were made and in the second the cases were filled with mercury and sealed. Both processes generated wastes. It was particularly the waste products of the second process which could be hazardous to humans and nature.

The Board of HLL set down strict procedures for recycling 'clean' and mercury containing wastes. In March 2001, however, violations of the rules were detected.² According to Greenpeace India, 7,4 tonnes of mercury-contaminated wastes were found on and around the factory's premises (Werner and Weiss, 2002: 287). Mercury is a toxic metal and in humans it can harm the liver, kidneys and brain. On 7 March, Greenpeace India blockaded the premises in the nature reserve Kodaikanal, as well as the entrance to HLL's thermometer factory. In reaction to a letter from Greenpeace, the spokesperson of Unilever acknowledged the company's responsibility. The production and sale of mercury thermometers had been prohibited in the Netherlands in 1998. Greenpeace and Tamilnadu Alliance Against Mercury (TAAM) demanded that Unilever apply the same standards worldwide and stop using and selling mercury products. In addition, Greenpeace demanded a public apology for exposing all factory employees to the toxic substance. Greenpeace accused Unilever of negligence and employing double standards. According to the environmental organisation, companies can no longer get away with employing double standards in a world that is getting smaller.

Greenpeace (India) and TAAM



Greenpeace is an independent, international environmental organisation which is dedicated to raising awareness of global environmental problems and enforcing measures deemed essential for a green and peaceful future. Its goal is to safeguard the ability of the natural environment to sustain life in all its diversity. Greenpeace Netherlands is one of the largest environmental organisations in the Netherlands and has approximately 670.000 donors. In this campaign, Greenpeace (including Greenpeace India) was joined by other NGOs such as Tamilnadu Alliance Against Mercury (TAAM) and CorpWatch.

TAAM is a coalition comprising twenty NGOS concerned with environmental issues. CorpWatch focuses on the social and environmental (mis)conduct of multinational corporations.

¹ www.unilever.com/environmentsociety/newspublications/news/thermometer.asp, consulted on 13 July 2002.

² www.unilever.com/environmentsociety/newspublications/news/thermometer.asp, consulted on 13 July 2002.



Closing down the factory

In reaction to the protests, Unilever decided on 8 March 2001 to temporarily close the factory gates. An in-depth, independent investigation was announced³ which would be conducted by the environmental consultancy firm URS, formerly URS Dames and Moore. The results were submitted, among others, to the government institution, Tamil Nadu Pollution Control Board (TNPCB).⁴ The investigation revealed that the procedures for processing scrap glass had indeed been violated. Mercury-containing scrap glass had found its way into the waste stream dedicated to processing and recycling mercury-free scrap glass. Unsuspecting customers of scrap glass have thus purchased mercury-laced glass to recycle and reuse. Apparently, the scrap glass was also being used to make marbles.⁵ With the assistance of URS, Unilever set down guidelines for cleaning up the polluted sites in the vicinity of the factory where barrels of mercury-containing wastes were stored. According to Greenpeace, the barrels were stored on an illegal dumping site. Apart from violating its own recycling principles, Unilever was said to have acted in breach of the principles of UN Global Compact which the company endorses. Global Compact principles 7, 8 and 9 specifically, had been violated. These principles pertain to the adoption of a pro-active environmental policy, development of initiatives to promote environmentally responsible practices and environmentally friendly technology transfer. In this context, the NGOs also questioned Unilever's commitment to sustainable development: Meeting the needs of the present without compromising the ability of future generations to meet their needs.⁶

On 23 March, the Board of Unilever publicly acknowledged that the investigation confirmed that Hindustan Lever was responsible for the mercury-contamination in the area around the factory. The clean-up programme that had been drawn up earlier would be fully implemented. TAAM and Greenpeace India were satisfied with this first step, but they also demanded a public apology to the residents of Kodaikanal and employees who might have been exposed to mercury in the manufacturing process.



Investigation

According to Greenpeace, employees were inadequately protected against the mercury wastes during the clean-up actions carried out by Hindustan Lever Ltd⁷ and protesting Greenpeace India activists were threatened during a visit to the polluted area in April 2001. Kodaikanal residents, former employees and Greenpeace demanded that the company offer its apologies and accept responsibility for all the damage to

the environment and humans due to its outright irresponsible conduct.⁸ According to Greenpeace, (former) employees at the thermometer factory suffered serious health problems as a result of the company's double standards.⁹ Unilever in the Netherlands certainly would not approve of the working conditions and environmental standards in India, which once again proved that companies often needed an incentive from civil society to prompt them to adopt socially responsible policies. The pressure group insisted that Unilever prove that the

³ Pressrelease Hindustan Lever Ltd., 'HLL orders comprehensive audit & review at thermometer plant, suspends operation for the time being', 8 March 2001.

⁴ www.tn.gov.in/citizen/tnpcb.htm, consulted on 15 July 2002.

⁵ www.CorpWatch.org/issues-PID.jsp?articleid=624#4, consulted on 17 October 2001.

⁶ This saying is directly linked to the Sustainability definition in the Brundtland Report(1987).

⁷ www.CorpWatch.org/campaigns/PCD.jsp?articleid=625, consulted on 18 October 2001.

⁸ www.greenpeace.nl/ams/toxicskwikupdate5.shtml, consulted on 18 October 2001.

⁹ www.greenpeace.org/~toxics, consulted on 1 September 2001.



health complaints of (former) employees were unrelated to mercury exposure. An environmental impact assessment and medical examinations were subsequently carried out by URS. On 28 May 2001, it concluded that ‘no diseases had been identified’ that suggested mercury poisoning. All employees at the factory were examined and the results were presented to several institutions, including the TNPCB, the All India Institute of Medical Sciences, the Indian Association of Occupational Health (India) and even the Dutch TNO.¹⁰ Initially, concerns were raised about the possibility that water sources in the surrounding nature area had been contaminated, but the research of URS ruled it out. The research results did not confirm any of the negative impacts that were feared to have been inflicted on humans or nature.¹¹ TNO did not conduct any independent research, it only examined the reports from the local Indian authorities and research institutions.

According to the reports, Unilever managed ‘a respectable factory’. Greenpeace insisted on public disclosure of the research and also the thorough examination of ex-employees who stopped working for health reasons.

The research was made available through the TNPCB. The clean-up actions in the factory’s direct environment proceeded under the supervision of Greenpeace India, TNPCB and the District Authority in Kodaikanal.¹² The new benchmark indicators for mercury levels in soil that were established are in keeping with the strictest international standards. The rules were set down by the Dutch government, as guidelines of its kind in India are either lacking or inadequate.



Social plan

On 20 June 2001, Unilever decided to shut down the factory for good. Unilever never issued a press release, given that returns of this factory were relatively insignificant compared to the rest of the Group. By way of compensation, the factory’s 130 employees were offered a job at another Unilever factory in Kandla, retaining full pay. This factory, however, was located some 1000 kilometres from Kodaikanal. The employees rejected the offer and insisted on a decent social plan instead of a transfer. In the wake of consultations between Hindustan Lever Ltd (HLL), employees and the local authorities, a more acceptable social plan was agreed. All 130 employees made use of the offer and left HLL to remain in Kodaikanal.

¹⁰ Nieuwstadt, M. van (2001), ‘Vissticks met duurzaamheid’, *NRC-Handelsblad* (Dutch newspaper, headline originally in the Dutch language), 27 October 2001.

¹¹ www.unilever.com/environsociety/newspublications/news/thermometer.asp, consulted on 13 July 2002.

¹² www.unilever.com/environsociety/newspublications/news/thermometer.asp, consulted on 13 July 2002.



Demonstrable indicators of reputational damage

Consumer market

Since the factory's product did not form part of Unilever's core business, it is difficult to determine whether consumers actually turned their backs on Unilever as a result of the issue. Given that the name 'Unilever' is nowhere to be found in shops, consumers are less inclined to act on reports about an 'invisible' manufacturer of, for example, Dove soap and Ben & Jerry's ice cream. Moreover, media reports had been scant. The company's turnover increased annually. In the first half of 2002, six months after the mercury factory was closed down, the turnover of HLL exports and non-core businesses declined by 35,5 per cent and 54,6 per cent, respectively. Surplus stocks from the export division were disposed of in the course of 2002 in accordance with Unilever's strategic plan to restrict itself to core business activities. In 2001, the turnover of the chemical products division, which the mercury thermometer factory formed part of at the time, declined by 34 per cent compared to 2000.¹³

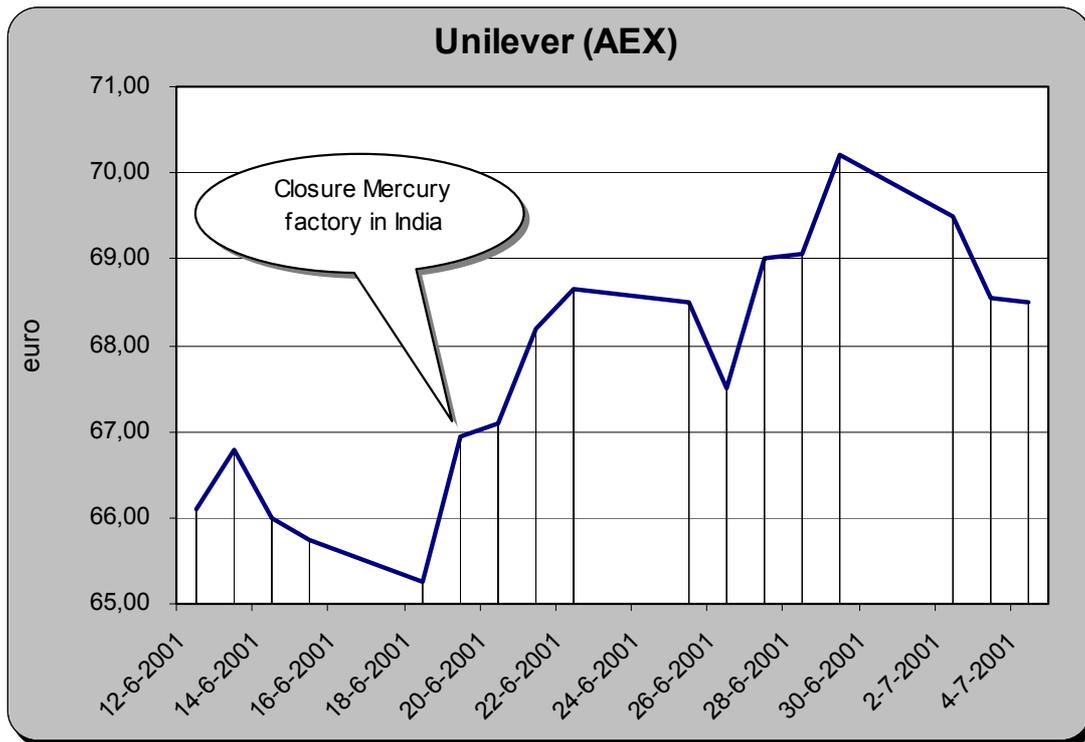
Capital market

In assessing whether capital markets responded to the allegations, we will use the only date on which the issue received media publicity. The price movements of the Unilever share on the AEX Index (Amsterdam) was analysed. On 20 June 2001, the first and only report about the issue appeared in the Dutch media: 'Unilever closes down factory'.¹⁴ The figure below shows the price movements of the Unilever share at the time the allegations were published.

On the day of publication, the share price barely moved. Investors hardly had time to respond to the report that day since it appeared in the evening newspaper, the *NRC Handelsblad*. The AEX Index, by contrast, showed a decline 0,8 per cent. The next day, the share price increased by 1,6 per cent and two days after the newspaper report, its value increased by another 0,7 per cent. Two weeks after the article appeared, the average market value in Amsterdam was almost four per cent higher than two weeks earlier and on the London stock exchange it was almost five per cent higher. This was equivalent to a market value increase of approximately 1,5 billion euros. It is not possible to determine whether capital markets actually 'rewarded' the decision to close the factory.

¹³ www.indiainfoline.com/comp/hile/lr00.html, consulted on 23 July 2002.

¹⁴ 'Unilever closes Indian factory for thermometers', *NRC-Handelsblad* (Dutch newspaper, headline originally in the Dutch language), 20 June 2001.



Labour market

Gauging the effect on the labour market is equally problematic. One hundred and thirty employees were out of a job. The unanimous decision of the existing employees to accept the social plan rather than a job elsewhere in the company can be interpreted as a loss of confidence in the company. However, it could also indicate the lack of mobility of Indian employees, which renders reputational damage less plausible. In the home country, the Netherlands, indications of reputational damage on the labour market could not be discerned. The annual corporate image research conducted by Intermediair (Intermediair, 2002) shows that in 2000 – 2002, Unilever maintained a relatively stable position among the top ten employers of highly educated people in the Netherlands. Although Unilever suffered a minor decline in status in 2001, it is not necessarily linked to the mercury affair.

Demonstrable indicators of disciplining

The approach adopted by the Board of Unilever can be described as one of bridging. An investigation was launched at the subsidiary immediately after the first allegations were made and Unilever took a number of (disciplining) actions in response to mitigate the damage.

- Acknowledged responsibility for pollution and launched an investigation.
- Closed down mercury factory and offered employees alternative job or social plan.
- Launched a clean-up and soil decontamination project in accordance with international standards.



- Installed filters to collect mercury residues in contaminated rain and groundwater during the monsoon season. The filters remained in place until the entire area surrounding the factory was declared ‘clean’.¹⁵
- Revised Code of Business Principles in April 2002.

These initiatives are in line with the Global Compact principles which Unilever endorses. Even the accusing parties acknowledge this.¹⁶ Unilever already had a code of conduct – Code of Business Principles – which contains guidelines for working conditions (safe and healthy worldwide) and the environment (operating in an environmentally responsible manner). Moreover, Unilever already had its code of conduct at the time of the mercury scandal and was a respected member of the UN Global Compact.

Outcome

Whose interests were met?

Unilever already had plans to close down the factory, but the campaigns significantly accelerated its implementation of the decision. Unilever quickly closed down the factory and cleaned up the contaminated area. The CorpWatch¹⁷ website suggests that the issue has been settled for the Group. The apology demanded from Unilever, however, was never received.

Issue resolved?

The site of Internet action group, CorpWatch India – a local division of CorpWatch – states that campaigns against Unilver have been suspended.¹⁸ In view of such reports, it can be concluded that the issue has indeed been resolved. Moreover, on the Greenpeace website, the latest reports on Unilever date back to end 2001. On its own website, however, Unilever has been updating the details of the case.¹⁹

Nevertheless, the issue is not fully resolved. Plans are underway for campaigns to extract an apology from the Board of Unilever, to draw up international guidelines for the production of mercury and to have the Ministry of the Environment in India admit its failure to protect the environment in Southern India. The issue has therefore not been resolved completely – despite the closure of the factory and Unilever’s disciplining initiatives.

The aftermath

Not all organisations have dropped the issue. Unilever is proceeding with its disposal of its chemicals businesses. The company also publishes an annual Environmental and Social report. The problems in India, however, do not receive special mention. The code of conduct was modified in August 2002 because the Board believes that the reputation of the company, which is largely determined by its policies, integrity and the extent to which tangible stakeholder interests are taken into account - is an extremely valuable asset. A number of changes have been made to the code which could have been influenced by the affair in India. Human rights and the interests of employees are explicitly mentioned. Reference is also made to promoting cooperation with (local) authorities, NGOs and trade unions and to help shape

¹⁵ www.unilever.com/environmentsociety/newspublications/news/thermometer.asp, consulted on 13 July 2002.

¹⁶ www.CorpWatch.org/issues-PID.jsp?articleid=624#4, consulted on 18 October 2001.

¹⁷ www.CorpWatch.org of www.CorpWatchindia.org

¹⁸ www.CorpWatchindia.org/action/PAA.jsp?articleid=44, consulted on 21 July 2002, zie ook www.pucl.org

¹⁹ Zie voor details: www.unilever.com/environmentsociety/newspublications/news/thermometer.asp, consulted on 13 July 2002



legislation that could affect Unilever's operations. Finally, reference is made to partnerships to promote environmental protection, understanding for environmental issues and the transfer of 'good practices'.²⁰ To date, Unilever has been listed on the DJSGI and FTSE4Good indices and the company participates in the UN Global Compact, United Nations Environmental Programme (UNEP), World Business Council for Sustainable Development (WBCSD) and the Forum for the Future.²¹ These memberships and listings date back to before the mercury affair. In the wake of the mercury affair and environmental organisations' allegations regarding the use of genetically modified materials, the Board of Unilever has expressed its support for a code to regulate NGO conduct.²² Unilever is currently regarded as a frontrunner in the area of corporate social responsibility.

²⁰ www.unilever.com/company/ourprinciples/default.asp, consulted on 22 July 2002.

²¹ www.unilever.com/environment/society/managingtheenvironment/stakeholderengagement/ consulted on 21 July 2002.

²² Nieuwstadt, M. van (2001), 'Measuring is knowing doesn't hold true for sustainability issues', *NRC-Handelsblad* (Dutch newspaper, headline originally in the Dutch language), 8 June 2001.