

BCP and Corporate Social Responsibility in the Event of Union Strikes

“Are you training at the Pontiac facilities?” This has been the questions frequently heard a year prior to March 2023 in Peoria, Illinois, USA, where there are many engineers working at Caterpillar, Inc., which is both an American and a Global Fortune 500 enterprise. Among those engineers, the question about Pontiac is a reference to training at different facilities in preparation for the union strikes that are likely to occur in March 2023, but were prevented by an agreement between the union and the Caterpillar management team.¹

In general, if a strike is likely to occur, management will want to maintain the continuity of its operations. Therefore, it needs a business continuity plan (BCP). A BCP is a plan that specifies how to resume business processes that are interrupted by a major calamity.² The International Organization for Standardization (ISO) 22301:2019 standard defines the BCP as a plan for enterprises to establish, implement, operate, monitor, review, maintain and continually improve a documented management system to protect against, reduce the likelihood of occurrence, prepare for, respond to and recover from disruptive incidents when they arise.³

Business continuity planning has been a hot topic since the outbreak of the COVID-19 pandemic, when many organizations had to find new ways to continue their operations—physically, virtually or through hybrid approaches—to survive.

In the event of a union strike, it is essential to not only have a BCP, but to have one that balances with corporate social responsibility (CSR). The 2013 Committee of Sponsoring Organizations of the Treadway Commission (COSO) Internal Control Integrated Framework (ICIF) provides clear guidance for enterprises to do so.

CSR

CSR refers to an organization’s efforts that extend beyond making money. Many organizations engage in actions that result in social good, even though they are not required to do so by law.⁴ The concept of CSR can be traced back to the 1960s when sweeping

social and environmental movements began to influence consumer expectations regarding corporate behavior in the United States.

CSR reporting has been a routine business practice since the 1990s. It is considered part of the internal qualitative framework enterprises use to assess sustainability. CSR also can be good for building accountability within an organization. From an external perspective, investors tend to use an environmental, social and governance (ESG) framework to assess sustainability. ESG is an independent rating that is more quantifiable than CSR. It provides metrics that can instill confidence in investors and the broader market. ESG arguably is replacing CSR as a measure of sustainability in the enterprise world.



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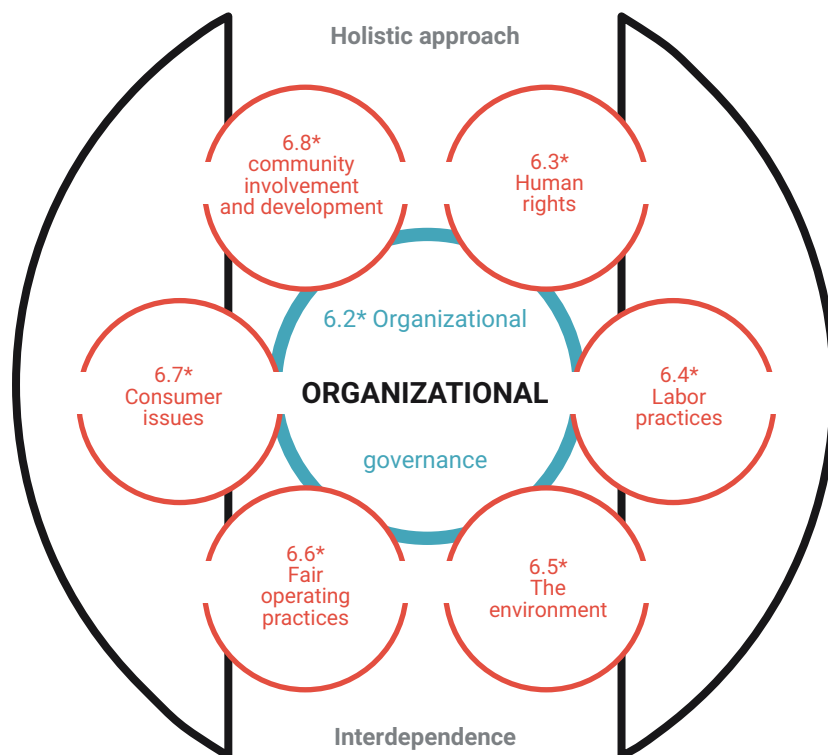
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Organizations, especially large global enterprises, have put more emphasis on their nonfinancial performance. As an internal process, CSR has been used by management for brand marketing, with the long-term focus on sustainability. Externally, rating firms such as MSCI, Thomson Reuters and Sustainalytics have created quantifiable metrics to measure enterprises' efforts in improving CSR. Investors have been incorporating these measures in their portfolio selection and management as there are ever more socially responsible investors.

CSR is an evolving business practice. A CSR strategy may include activities such as reducing a business's carbon footprint, establishing enterprise volunteer programs, improving labor practices and engaging in charitable endeavors. In the past, activists launched campaigns to demand that enterprises treat employees with respect and fairness, create philanthropic programs to improve local communities and practice environmental sustainability. Now, promoting CSR has become a critical part of brand management for many enterprises. Incorporating CSR into an enterprise's business model shows that enterprises are more socially conscious and reminds employees that they are working for an entity that is concerned with more than just the financial bottom line. ISO 26000 *Social responsibility* provides guidance for organizations that are committed to operations in a socially responsible way. As shown in **figure 1**, ISO 26000 lists seven core topics of social responsibility.⁵ Those topics cover the wide spectrum of ESG and include the environment, human rights, labor practices, fair operating practices, consumer issues, community involvement and development, and organizational governance.

FIGURE 1
Core Topics of Social Responsibility



Source: International Organization for Standardization (ISO), "Social Responsibility: Seven Core Subjects," <https://www.iso.org/files/live/sites/isoorg/files/store/en/PUB100259.pdf>. Reprinted with permission.

Labor Unions

CSR includes labor and fair operating practices, which inevitably affect labor unions. Labor unions are associations of workers formed to protect their rights and advance their interests.⁶ Unions negotiate with employers through collective bargaining. The resulting contracts specify workers' pay, hours, benefits, and health and safety policies. If the collective bargaining process is not successful, the union may vote to accept the offer or vote to go on strike. The creation of unions was the result of the labor movement of the 18th century and the industrial revolution in Europe.⁷ Unions exist in many countries around the world. For instance, France's trade unions are notorious for bringing the country to a standstill, significantly impacting the national economy.⁸ The frequency of union strikes varies significantly across nations; Denmark, Italy and Russia had the most union strikes in 2016.⁹

The first recorded strike took place in 1768. After the end of the US Civil War, in 1866, the US National Labor Union was created. By 2021, nonunion workers had median weekly earnings that were just 83 percent of the compensation union members earned.¹⁰

Support for unions has been rising in the United States. A 2022 Gallup poll indicated that 71 percent of US citizens support unions. That is up from 65 percent before the onset of the COVID-19 pandemic, and it represents the highest support level in the US since 1965.¹¹

There are four main types of unions:

1. **Craft union**—The workers identify with the same craft, specialized skill or occupation. They can form their union irrespective of the industry or trade that employs them. For example, electricians, carpenters and turners may form unions. The members of this type of union cannot be easily replaced by other workers. If they strike, the result can be widespread organizational paralysis.
2. **Industrial union**—The workers form unions irrespective of their craft. The industrial union is open to employees based on workplace (e.g., a factory). This type of union encourages worker solidarity and facilitates negotiations.
3. **General union**—The workers form unions based on a particular city or region, irrespective of their craft or industry, and there is no distinction between skilled and unskilled workers.
4. **Federation**—A federation is a national level apex body with which plant-level unions, craft unions, industrial unions and general unions are affiliated. Federations coordinate the affairs of the various unions in their fold.

Workers at Caterpillar, Inc., belong to the International Union, United Automobile, Aerospace, and Agricultural Implement Workers, better known as the United Auto Workers (UAW), an industrial union. The UAW-Caterpillar contract expires every six years. In early 2023, a new six-year contract agreement was reached between the union and the Caterpillar management team.¹²

The most recent strike in the enterprise's history, which started in June 1994, lasted 17 months. Every six years since, the UAW and Caterpillar have negotiated a labor contract. However, based on news reports, Caterpillar Chief Executive Officer (CEO) Donald Fites has taken a hardline approach with little regard for union demands.¹³ Will Lehman, who is currently running for president of the UAW, has maintained that recent contract negotiation failures were due to internal corruption in the UAW.¹⁴

Social Impact of Union Strikes

The economic impact of strikes on both those conducting business with the enterprise hit by a strike and the picketers is significant. For example, a 2021 John Deere strike lasted 35 days (October 14 through November 17).¹⁵ During this time, agricultural groups and business partners were concerned about the effects of the lengthy strike, noting that the shortage of John Deere equipment could significantly impact farmers' harvests. In addition, despite special financial arrangements to assist strikers, workers often suffer financial distress. For example, during the 1983 Caterpillar strike, 103 strikers lost their houses due to foreclosures. The strike also led to lingering feelings of frustration and ill will between the enterprise and the union.¹⁶

Enterprises also suffer significantly. In John Deere's case, the strike likely reduced Deere's output by 10 percent to 15 percent for the fourth quarter (Q4) of 2021 and Q1 of 2022.¹⁷ During the 1983 Caterpillar strike, Caterpillar was put on a credit watch list. In February of that same year, Peoria, Illinois, USA, (where the headquarters were located) had its county credit rating dropped from AA to A due to concern that the strike would lead to a high unemployment rate. Caterpillar announced a US\$172 million Q1 loss and a sales drop of 60 percent.¹⁸ After the strike, the UAW's Jim O'Connor called Caterpillar's strategy in the labor conflict "ruthless and unfair."¹⁹ Given that the costs of union strikes are tremendous, what should organizations do to avoid or minimize these costs?

Aligning CSR With Business Continuity: A COSO Approach

Business continuity planning covers both an organization's short-term survival and long-term success. Since union strikes interrupt business routines and affect CSR practices. It is advisable to align CSR with the BCP or to embed CSR into the BCP.²⁰ COSO's ICF provides guidance for this alignment.

COSO is a group of five private sector organizations—the American Accounting Association (AAA), the American Institute of Certified Public Accountants (AICPA), the Institute of Management Accountants (IMA), the Financial Executives International (FEI) and The Institute of Internal Auditors (IIA)—dedicated to providing leadership through the development of frameworks and guidance on enterprise risk management, internal control and fraud deterrence.

All elements of ESG should be accounted for to demonstrate an organization's commitment to its CSR goals.

COSO's ICIF was originally developed in 1992 and revised in 2013 to achieve broader application by addressing operations, reporting objectives, and clarifying the requirements for determining what constitutes effective internal control.²¹

COSO's ICIF is an evolving and dynamic framework. One major update is the expansion of reporting objectives. The 2013 version of the framework includes not only financial reporting objectives, but also nonfinancial and internal reporting objectives. In addition, in April 2022, COSO's board of directors (BoD) approved a study to develop supplemental guidance and insights in the areas of sustainability and ESG. The goal is to help all organizations create and ensure effective internal control by applying the ICIF to sustainability reporting for internal decision-making and external public reporting. This principles-based framework integrates three types of objectives: operations, reporting and compliance. It is extensive in coverage and suitable for a wide range of enterprises. Because the BCP is a strategic business plan that spans the three objectives of COSO's ICIF, it makes sense to embed CSR with BCP.

There are five components of COSO's 2013 ICIF: control environment, risk assessment, control activities, information and communication, and monitoring activities. Each of these components touches on best practices that organizations should consider in the event of a union strike.

Control Environment

The control environment is the foundation of all the other components of the framework. Setting the right tone at the top is crucial for the establishment, implementation and monitoring of the BCP and CSR. The BoD and top management are the leaders of the entity, and they should establish its goals, mission and values, which should be long-term in nature.

In the end, an organization is not only evaluated by financial metrics, but also by nonfinancial measures to show its sustainability. In other words, all elements of ESG should be accounted for to demonstrate an

organization's commitment to its CSR goals. For instance, according to the *Deloitte Global 2021 Millennial and Gen Z Survey*, loyalty from employees to their employers has dipped, as skepticism about employer goals has increased. More millennials and Gen Zs would, if given the opportunity, welcome an employer change within two years. In addition, more than 77 percent of adults across France, Germany, the United Kingdom and the United States would consider an organization's culture before applying for a job, and 79 percent would consider an organization's mission and purpose before applying.²²

An organization with a well-established control environment may avoid any potential issues of union strikes, maintain the CSR goals and support the BCP plan. A well-established control environment includes:

- A culture that stresses integrity and commitment to ethical values and competence
- Human resource (HR) policies and rules that ensure the right people are hired based on their competency
- Top management's consideration of the requirements of diversity, equity and inclusiveness (DEI)
- Willingness of the BoD and top management to hear and respond to the voices of the union members
- View of the enterprise as a society with all stakeholders involved
- Installment of all stakeholders in the supply chain

Risk Assessment

The risk of union strikes should be assessed appropriately so that organizations can be prepared for the possibility of a strike. Prior history of union strikes, current economic conditions and industry peers' situations are all factors that need to be considered.

Corporate social responsibility may have been playing a major role in the past 30 years during which there have been no union strikes at Caterpillar. In addition, the 2021 John Deere workers' strike may have influenced discussion about a possible strike at Caterpillar. The direct benefits of the John Deere strike included a pay increase over the next six years, with a 10 percent increase in the first year, followed by a 5 percent increase in the third and fifth years, and an US\$8,500 signing bonus.²³

Risk of financial costs, reputation damage and time costs should also be assessed in the event of union



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strikes. In anticipating union strikes, organizations need to conduct cost/benefit analyses to determine whether the costs of incurring them, financially and nonfinancially, would be less than what the unions' contract renewal demands would cost. Best practices are those that contribute to the long-term success of the enterprise.

Control Activities

Organizations must determine what control activities should be put in place to prevent strikes and what actions should be taken to minimize the impact of strikes if they occur. For example, during the 1994 Caterpillar strike, the enterprise supplemented its workers with management and office employees, temporary workers, permanent new hires, union workers who crossed the picket lines and skilled workers borrowed from Caterpillar's dealers and vendors. Caterpillar imported machines from its overseas plants in Brazil, Europe and Japan and shifted work to nonunion plants. Caterpillar invested US\$1.8 billion to automate its production facilities to be less worker-dependent. During that turbulent period, the enterprise encountered a rising demand for its products, and it tried to avoid massive customer defection through extensive customer care programs. In 1996, Caterpillar reported record profits for the third year in a row.²⁴

Caterpillar avoided the union strikes by reaching an agreement with union workers for the next six years. If it had failed to do so, it might still have been able to supplement its workforce in the event of a strike. However, there might have been challenges with importing machines from overseas plants if the strike interferes with production. The COVID-19 pandemic sparked many challenges to global supply chains such as logistics disruption, production delays, overreliance on a limited number of third parties, doubling down on technology investment (which is costly for stakeholders in the supply chain), commodity pricing, and workforce and labor shortages.²⁵

If not handled properly, a union strike today will cost much more to an enterprise than it did in the past, financially and nonfinancially.

Information and Communication

Enterprise information should be communicated to internal and external stakeholders in a clear and timely manner. In the event of a union strike, the organization should release clear information to all stakeholders in the supply chain. Suppliers should also be notified in a timely manner if they need to provide sufficient

parts and materials for inventory management. If a temporary workforce is needed, it should also receive timely notice for a smooth transition. Vendors and distributors should be notified of the situation so that they can help transport the products off the property. Regulatory agencies and auditors need to be notified of the situation to ensure compliance. Procedures should be documented and filed for audit purposes. Customers in the value chain also need to be informed so they may expect delays or other unexpected situations in product and service delivery.

Social media can play a major role in communicating with the public about an organization's efforts in settling with union workers on contract terms. Posts of fair labor practices, labor relations, employee training programs, involvement in local communities, and donations to charities can be published via social media platforms to help make the public aware of the organization's performance of CSR. For instance, John Deere's *2022 Sustainability Report* showed that the enterprise had created purpose-driven work opportunities, unique learning experiences, professional and personal development opportunities, comprehensive performance reviews and development plans, and mentoring opportunities.²⁶

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Monitoring Activities

The effectiveness of the programs launched and steps taken should be monitored for future adjustment and adaptation. For example, in the event of a union strike organizations should ask these questions:

- Are engineers and other temporary workers willing to work unexpected schedules?
- Are the training programs proceeding as planned and are the results satisfactory?
- Are suppliers reliable during this turbulent time?
- Are the customers getting the products/services they purchased?

- Do vendors and distributors get products in a timely manner?
- Is the local community satisfied with the enterprise's service?
- Is the enterprise staying compliant with regulations?

Organizations need to answer these questions and reevaluate as needed to maintain an effective BCP.

Conclusion

Having an effective BCP and incorporating CSR are both of strategic importance to organizations in the event of union strikes. In the event of union strikes, organizations should use COSO's ICIF as guidance for implementing internal controls to ensure organizations' objectives are achieved, especially those related to nonfinancial goals.

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