



Mitigating future damage the CSR way

By *Megan Lampinen*

Automotive companies are becoming increasingly global, and with entry to new regions comes new challenges. Establishing strong and trusted relationships with local government agencies and labour organisations can prove key in ensuring success – and mitigating troubles – in new markets.

Scania is no stranger to the challenges of doing business in foreign regions. The manufacturer found itself at the centre of a bribery scandal in Iran a couple years ago, accused of violating UN sanctions by paying kickbacks to the Iraqi regime.

The company was later acquitted, but the experience has not been forgotten.

Recent developments indicate that it is taking proactive measures to avoid similar situations down the line. The OEM has just signed a declaration of transparency and anti-corruption with the government of Colombia as part of a new Swedish Corporate Social Responsibility (CSR) Network. As Richard Goetz, head of Dykema's international law practice, explained to *Automotive World*, this isn't just about bribery or corruption. The CSR code

focuses on four elements of sustainability: anti-corruption, human rights, labour rights and the environment. "Anti-bribery provisions are included in most countries' national laws as well as in UN, OECD, OAS and other international conventions. The purpose of a CSR is to cover a broader range of topics and involve all or most of a company's stakeholders," Goetz explained.

The Swedish CSR Network has been established by the Swedish Embassy in Colombia and developed with the



Colombian Secretariat of Transparency. Sweden is the first country in Colombia to make this kind of pact. What sort of message is it sending with this new agreement?

Mitigating damage

“When a CSR actually becomes a part of a company’s culture, it provides assurances to employees, investors, customers, governments and communities that the company will do more than just abide by the law – it will be a good citizen,” said Goetz. “In exchange for abiding by its CSR, a company hopes to obtain a degree of protection or support from its stakeholders and the public in the event something happens that appears to violate the CSR, e.g., a bribe, an environmental spill or a violation of child labour laws. So, a CSR may be a way to mitigate the damage to a company’s image and even legal penalties by allowing it to show it has tried to do the right thing in the event something ‘bad’ does happen.”

He goes on to highlight the importance of strong relationships when it comes to



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responding to possible accusations in the future. “By engaging third parties, NGOs, labour organisations, government bodies and others in the process of implementing the CSR, the company may create some relationships that will come to its defence or at least be less critical if, in spite of its best efforts, it or its employees fail to live up to the CSR,” Goetz commented. “As the expression goes, ‘When you need a friend, it is too late to make one’, a CSR that becomes part of a company’s culture may help generate the goodwill to recover from an unintended lapse.”

Many markets in the world offer considerable potential for OEMs but success comes with a high risk if corruption is rife. “Corruption is often a shortcut to achieving a business objective, whether that is a building permit or landing a contract. It can be avoided through preparation, patience and being prepared to face the consequences of saying ‘no,’” said Goetz. “Having a strong CSR helps with that.”

Colombia in the spotlight

As far as corruption in Colombia goes, there are worse places to do business. The country ranks 94th in Transparency International’s Corruption Perceptions Index of 175 countries. This puts it on par with the likes of Panama, Armenia, Egypt and Liberia, and a bit better than China and Mexico. “So it is better than some, worse than others and corruption there should not be considered inevitable,” Goetz emphasised. “Perhaps a greater image risk involves the continuing conflict within Colombia and the risk that labour leaders will be detained or worse by one side or the other and the company accused of complicity.”

When things go bad

A number of things could happen should it all go wrong and an OEM find itself with a conviction for corrupt activities. “Under the US Foreign Corrupt Practices Act, larger companies usually settle their cases paying large fines and, where applicable, disgorgement of profits. They are generally required to implement strong compliance programmes and may be required to hire an outsider to act as a compliance overseer for a period of

years,” said Goetz. There is also a chance that specific company employees could be slapped with a fine or even a prison sentence. A company could lose the right to conduct business with the US government, though this is not common.

Then there are the non-legal repercussions. “Customers may be less willing to buy a company’s products if the company is viewed as being corrupt,” said Goetz. “Both public and private employees responsible for purchasing a company’s products would have at least some concern about being accused of corruption even if they had done nothing improper.”

Risk assessment, resource allocation

Other than the CSR declarations that Scania has just signed, there are other steps that companies can take. Goetz recommends that all businesses perform a risk assessment to determine where and which of its activities and employees are most likely to encounter corruption risks. After that, a company needs to allocate sufficient resources to implement appropriate policies, training, monitoring and reporting to reduce the risk of violating the law.

“It is critical that beginning with the most senior leadership, companies develop and implement strong anti-corruption compliance policies, communicate them effectively, train employees and support them when they refuse to give in to corruption,” he stated. “The law is clear, there is no ‘everybody does it’ defence. If a business cannot operate in a market without engaging in bribery, it should not be doing business in that market.”

As for Scania’s efforts with the Swedish Embassy to engage with the Colombian government, Goetz suggests that these could prove “helpful by providing it with access to a higher level of government in the event it is being solicited for a bribe at a different level. As noted earlier, a business needs to communicate with all of its stakeholders so they understand what can be expected of it, both what it will do and what it won’t. Its employees need to know that they can say ‘no’ to a request for a bribe and that they can report suspicious behaviour without retaliation.”