

Speech by Mr. Michel Doucet, ambassador at large for corporate social responsibility of France

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Why has the European Union elaborated a CSR policy?

The European policy in the field of Corporate Social Responsibility started in 2001 with a first Communication dedicated to this topic. Last year, on October 25th, the European Commission issued a third Communication on this subject. It is untitled: “A renewed EU strategy 2011-14 for Corporate Social Responsibility”.

I will comment in front of you this very interesting document where we may find most of the answers to the question you invited me to respond to. I propose to examine the presented arguments, then the new definition proposed by the Commission, and finally the components of the Action Plan announced which has, since, started to be implemented;

I. The arguments presented justifying a European CSR policy

The invoked reasons for a “CSR strategy” can be declined on four main aspects;

1. Addressing corporate social responsibility is in the interests of enterprises

This sentence is the first title appearing in the introduction of the communication. It is developed with the following wording:

“A strategic approach to CSR is increasingly important to the competitiveness of enterprises. It can bring benefits in terms of risk management, cost savings, access to capital, customer relationships, human resource management, and innovation capacity.

“Because CSR requires engagement with internal and external stakeholders, it enables enterprises to better anticipate and take advantage of fast changing societal expectations and operating conditions. It can therefore drive the development of new markets and create opportunities for growth.

“By addressing their social responsibility enterprises can generate higher levels of trust and respect from citizens. This in turn helps to create an environment in which enterprises can innovate and grow.

“Through CSR, enterprises can significantly contribute to the European Union’s treaty objectives of sustainable development and a highly competitive social market economy. CSR underpins the objectives of the Europe 2020 strategy for smart, sustainable and inclusive growth, including the 75% employment target. Responsible business conduct is especially important when private sector operators provide public services.

“The growth and jobs created by enterprises addressing social and environmental challenges make CSR part of the exit strategy from the current economic crisis. Helping to mitigate the social effects of the crisis, including job losses, is part of the social responsibility of enterprises. In the longer term, CSR offers a set of values on

which to build a more cohesive society and on which to base the transition to a sustainable economic system.”

The vision of CSR expressed by the Commission in these sentences is a vision of a more efficient management, yielding productivity through the employees' engagement for the values of the enterprise.

2. Restoring confidence of European citizens affected by the economic crises

The Commission explains: “The economic crisis and its social consequences have to some extent damaged consumer confidence and levels of trust in business. They have focused public attention on the social and ethical performance of enterprises. (...) There is frequently a gap between citizens' expectations and what they perceive to be the reality of business behaviour. This gap is caused partly by instances of irresponsible behaviour by some enterprises, as well as by cases of some enterprises exaggerating their environmental or social credentials. Sometimes it is caused by an insufficient understanding on the part of some enterprises of fast evolving societal expectations, as well as by an insufficient awareness on the part of citizens of the achievements of enterprises and the constraints under which they operate.”

All over the world, many people, including low income people, have lost a large proportion of their savings. Many scandals have affected the trust in companies. Confidence is a necessity for markets. CSR is seen by the European Commission as a way for restoring confidence.

3. Constructing a standardized approach for CSR in Europe

The Commission observes that “15 out of 27 EU Member States have national policy frameworks to promote CSR”. It could create a “risk of divergent approaches that could create additional costs for enterprises operating in more than one Member State.”

This observation had been made by the French government during its EU Presidency, at the end of 2008. France and Denmark had adopted regulations for the non-financial reporting, while the Netherland prefered to have the reports of the largest companies evaluated by academics and the results presented officially by the ministry of economy in a “Transparency Benchmark”. In a few countries, tax incentives for CSR practices appeared. For 25 out of the 27 EU members States of OECD, the National Contact Points created in 2001 for the implementation of the Guiding Principles for Multinational Companies were working through very different ways, adopting different conclusions for analogous complaints. And so on. There was a risk of a CSR Balkanisation in Europe.

France had asked the Commission to take the initiative of harmonizing these beginning policies, starting with the key question of reporting. We were heard: this Communication copes with the problem.

4. Contributing to the respect of international fundamental rights standards.

The Commission announces clearly its intention to “Better align European and global approaches to CSR.” What does it mean? “The EU should promote European interests in international CSR policy developments, while at the same time ensuring the integration of internationally recognised principles and guidelines into its own CSR policies.”(...) “In order to advance a more level global playing field, the Commission will step up its cooperation with Member States, partner countries and relevant international fora to promote respect for internationally recognised principles and guidelines, and to foster consistency between them.”

EU intends to support and promote internationally the following international standards: OECD Guidelines for multinationals, ISO 26000, UN Global Compact, ILO Tripartite Declaration of Principles Concerning Multinational Enterprises and Social Policy, and, with a special paragraph, the UN Guiding Principles on Business and Human Rights.

Most of these international standards have been created or updated during the last three years. They share a common characteristic which constitutes a sort of revolution: while until recently CSR was considered as belonging to the realm of voluntarism and entailed no other obligation than the respect of local law, all standards insist now on the need to respect widely agreed international treaties in the fields of labour, human rights, fight against bribery and environment.

For instance, OECD Guidelines state in Chapter 2 “Enterprises should: 2. Respect the internationally recognised human rights of those affected by their activities; in Chapter 4, the “commentary” explains:” The International Labour Organisation (ILO) is the competent body to set and deal with international labour standards, and to promote fundamental rights at work as recognised in its 1998 Declaration on Fundamental Principles and Rights at Work. The *Guidelines*, as a nonbinding instrument, have a role to play in promoting observance of these standards and principles among multinational enterprises. The provisions of the *Guidelines* chapter echo relevant provisions of the 1998 Declaration, as well as the 1977 ILO Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy, last revised in 2006 (the ILO MNE Declaration). And the “commentary” of Chapter 7 states : ” The *United Nations Convention against Corruption (UNCAC)*, which entered into force on 14 December 2005, sets out a broad range of standards, measures and rules to fight corruption. Under the *UNCAC*, States Parties are required to prohibit their officials from receiving bribes and their enterprises from bribing domestic public officials, as well as foreign public officials and officials of public international organisations, and to consider disallowing private to private bribery. The *UNCAC* and the *Anti-Bribery Convention (of OECD)* are mutually supporting and complementary.”

ISO 26000 and the UN guiding principals for Business and Human Rights make also reference to such international treaties, part of them belonging to the Hard Law realm. Here is the revolution: CSR is no longer exclusively the field of Soft Law. Echoing this position, the EU Communication declares : ” For companies seeking a formal approach to CSR, especially large companies, authoritative guidance is provided by internationally recognised principles and guidelines, in particular the

recently updated OECD Guidelines for Multinational Enterprises, the ten principles of the United Nations Global Compact, the ISO 26000 Guidance Standard on Social Responsibility, the ILO Tri-partite Declaration of Principles Concerning Multinational Enterprises and Social Policy, and the United Nations Guiding Principles on Business and Human Rights. This core set of internationally recognised principles and guidelines represents an evolving and recently strengthened global framework for CSR. European policy to promote CSR should be made fully consistent with this framework." Please notice the wording:"recently strengthened global framework".

The reasons of such a European position are mainly based on the two following ideas: firstly, to respond to the concerns of European companies advocating that European regulations on CSR could create unbearable burdens for them. Universally recognized rules can restore a level playing field for competitiveness. And the second reason is that internationally recognized treaties mirror the core European values. A CSR policy based on these treaties is a way for the promotion of these values: respect of environment, social rights, human rights, fair practices of business, etc.

These are the four main reasons for a European policy on what has been, until recently, seen as an exclusive "private" realm: CSR.

Let's now have a look at the new definition of CSR presented by the Commission at the forefront of its communication.

II. A new definition bearing important meanings

The communication declares: "The Commission puts forward a new definition of CSR as "the responsibility of enterprises for their impacts on society". Respect for applicable legislation, and for collective agreements between social partners, is a prerequisite for meeting that responsibility. To fully meet their corporate social responsibility, enterprises should have in place a process to integrate social, environmental, ethical, human rights and consumer concerns into their business operations and core strategy in close collaboration with their stakeholders, with the aim of: – maximising the creation of shared value for their owners/shareholders and for their other stakeholders and society at large; – identifying, preventing and mitigating their possible adverse impacts. (...) To identify, prevent and mitigate their possible adverse impacts, large enterprises, and enterprises at particular risk of having such impacts, are encouraged to carry out risk-based due diligence, including through their supply chains."

This definition is, firstly, in line with ISO 26000 definition : " Social responsibility is the responsibility of an organization for the impacts of its decisions and activities on society and the environment, through a transparent and ethical behaviour that contributes to sustainable development, including health and the welfare of society; takes into account the expectations of stakeholders ; is in compliance with applicable law and consistent with international norms of behaviour; and is integrated throughout the organization and practised in its relationships".

In ISO 26000 vocabulary "international norms of behaviour" means "internationally widely approved treaties. In so far, secondly, this definition is coherent with the objective of contributing to the respect of international fundamental rights standards".

The sentence “respect of collective agreements between social partners is a prerequisite for meeting that responsibility” underlines, thirdly, that the EU is a common project of 27 countries in order to build a socially based market economy. This is another key element differentiating the CSR European vision from the mainstream one.

And it is also a fifth reason for Europe to engage in a CSR policy: CSR is for us a way for achieving the “socially based market economy”. “The Commission (...) recognises that CSR contributes to and supplements social dialogue”, states the communication.

III. An Agenda for action: a method for fostering the development of CSR.

The communication includes an “Agenda for action 2011-2014” This Agenda translates in programs the 5 reasons we have identified. Summarizing, we can gather those programs in three types:

1. Requirement from Member-States to elaborate two plans for action

Before describing what are these two plans, let me answer a question many of you have in mind: “Why should a State have plans in a matter usually considered as “private” because based on the “good will” of the company’s management?

As you know, it is generally assumed that CSR is the achievement by enterprises of their responsibility as regards sustainable development. ISO 26000 definition, for instance, explains that it is a “transparent and ethical behaviour that contributes to sustainable development”. The most famous definition of sustainable development is in the Gro Brundtland’s report: “A development that meets the needs of the present without compromising the ability of future generations to meet their own needs.” Question: Who has the legitimacy for taking in charge the interest of “future generations”? Don’t you think that there is no better answer than: “The State”.

The communication explains this underlining the educational role of the public authorities regarding young generations: “Member States can play an important role by encouraging education establishments to integrate CSR, sustainable development and responsible citizenship into relevant education curricula, including at secondary school and university level.”

The Commission adds: “Public authorities should play a supporting role through a smart mix of voluntary policy measures and, where necessary, complementary regulations, for example to promote transparency, create market incentives for responsible business conduct, and ensure corporate accountability”. Among these incentives, public procurement (18 % of European GDP) should be used “to integrate social considerations (in particular) to help under-represented businesses, such as SMEs, to gain access to the public procurement market.”

European States are invited to elaborate two kinds of plans: one is the CSR National Action Plan, “to promote CSR in support of the Europe 2020 strategy, with reference

to internationally recognised CSR principles and guidelines and in cooperation with enterprises and other stakeholders, taking account of the issues raised in th(e) communication. » The 27 CSR Nation Plans will be used as a basis for peer-learning exercises between the countries, in order to promote best practices and identify initiatives creating discrepancies or useless complexity for enterprises.

Another “Nation Plan” aims at “Implementing the UN Guiding Principles on Business and Human Rights, and thereafter to issue periodic progress reports”.

The objective of this Human Rights planning is to build an exemplary Europe regarding protection of Human Rights, in coherence with the aim of aligning its regulation on universal standards.

2. A limited number of European regulations

The legitimacy of States in fostering private CSR behaviours relies as well on the European Union. But the Commission considers that its regulatory role has to be limited to the cases where companies will not spontaneously find the right way and where States risk having discrepant initiatives:

- As regards **Public Procurements**, because they have also to “respect the existing EU legal framework” and “abide by Treaty provisions on non-discrimination, equality of treatment and transparency.”
- Concerning “**disclosure of social and environmental information**, including climate-related information”, because, as “some Member States have introduced non-financial disclosure requirements that go beyond existing EU legislation, (...) there is a possibility that different national requirements could create additional costs for enterprises operating in more than one Member State”. In response to this risk, the Commission intends to “ensure a level playing field, as announced in the Single Market Act”.

Disclosure is, in the Commission view, important because it “can facilitate engagement with stakeholders and the identification of material sustainability risks. It is also an important element of accountability and can contribute to building public trust in enterprises. To meet the needs of enterprises and other stakeholders, information should be material, and cost-effective to collect.” (...) The Commission will present a legislative proposal on the transparency of the social and environmental information provided by companies in all sectors.”

In addition, the Commission intends to “consider a requirement on all investment funds and financial institutions to inform all their clients (citizens, enterprises, public authorities etc.) about any ethical or responsible investment criteria they apply or any standards and codes to which they adhere.”

- In order to protect consumers, a question part of the core competencies of the EU, the Commission will “address the issue of misleading marketing related to the environmental impacts of products (so-called **“green-washing”**) in the context of the report on the application of the Unfair Commercial Practices

Directive18 foreseen for 2012, and consider the need for possible specific measures on this issue."

3. A series of multi stakeholders workshops proposed and financed by the Commission

The proposed method is not new: the Commission had launched, in 2002, the "Alliance", an organization aiming at triggering constructive dialogues between companies, trade-unions and NGOs.

With the 2011 communication, the Commission proposes several workshops: it "will in particular focus on sectoral approaches and on the dissemination of responsible business conduct through the supply chain". Therefore, it will "create in 2013 multi stakeholder CSR platforms in a number of relevant industrial sectors, for enterprises, their workers and other stakeholders to make public commitments on the CSR issues relevant to each sector and jointly monitor progress." A bid has been launch to that purpose. In complement, the Commission will "work with enterprises and stakeholders to develop human rights guidance for a limited number of relevant industrial sectors, as well as guidance for small and medium-sized enterprises, based on the UN Guiding Principles."

Other workshops are proposed in order to:

- "Monitor the commitments made by European enterprises with more than 1.000 employees to take account of internationally recognised CSR principles and guidelines, and take account of the ISO 26000 Guidance Standard on Social Responsibility in its own operations".
- "Develop with enterprises and other stakeholders a code of good practice for self- and co-regulation exercises, which should improve the effectiveness of the CSR process."
- "Initiate an open debate with citizens, enterprises and other stakeholders on the role and potential of business in the 21st century, with the aim of encouraging common understanding and expectations, and carry out periodic surveys of citizen trust in business and attitudes towards CSR."
- "Launch from 2012 onwards a European award scheme for CSR partnerships between enterprises and other stakeholders."

Concluding remarks

The European vision on CSR can be described as being based on the confidence in the capacity of the CSR management to trigger changes helping the European business to overcome the crisis, gaining in productivity and creating a return of trust of consumers and savers. Pragmatic, European leaders consider that there is need for a collective endeavour mobilizing all the social, economic and political forces.

What they call a "smart mix" is this common engagement of public authorities and private actors acting together.