

Speech by Ambassador Mr Michel Doucin at the European Multistakeholder Forum on CSR, 29 November, 2010

France, along with Sweden, is privileged to have created the post of CSR Ambassador. This is to ensure greater consistency with regard to the country's stated position at the various simultaneous international negotiations that are currently under way, which all seek to establish new regulations for guiding economic stakeholders in their efforts to fulfil their responsibilities concerning the sustainable development of our planet.

These negotiations, which are being held simultaneously at the United Nations, at the OECD, and in the World Bank Group, but also within *sui generis* institutional spaces such as the Global Reporting Initiative, the Carbon Disclosure Project and the Global Social Compliance Programme, **encourage us to examine the potential role and added value of having the European Union take part in the process of drafting CSR standards**. Indeed, since all States aim to see their firms comply with the best possible standards in terms of the environment, labour laws, good corporate governance and human rights, without prejudice to their competitiveness, **we give priority to negotiations that include the greatest number of countries; those which aim to make the rules universal**.

In this regard, the recent negotiations at the International Organisation for Standardisation, which concluded with the adoption of **ISO 26000** by almost all the participating countries, representing three-quarters of our planet's population, are a significant indicator that **it is still possible to opt for very wide-reaching agreements**.

Over and above this initial awkward question about identifying the EU's exact place as a standard-setter in an international context, where much broader platforms are doing the self-same thing, a second question begs an answer: **What added value can be offered by the EU vis-à-vis its member States?**

Nearly ten years have gone by since the Green Paper was produced and in that time a significant number of member States have, indeed, undertaken numerous initiatives to encourage socially and environmentally responsible practices. These initiatives have included such measures as the inclusion of social and environmental clauses in public invitations to tender, support for socially responsible investment, consumer protection, the development of consumer complaints procedures in the case of inappropriate practices, assistance for SMEs, and the requirement for improved information for all parties concerned regarding inherent risks in practices adopted by companies, including via their subsidiaries and suppliers. This activism shown by States has been extended in recent years with the **creation of national CSR strategies and plans. About ten member States now have such mechanisms in place**. This development also raises the issue of what precise role the EU might play in this domain.

Another question that arises is that of Europe's identity, in a world where economic globalisation has accelerated and power has been considerably redistributed. The crisis we have been experiencing for the last three years means that such developments take on a worryingly systemic dimension. **The emerging countries in this new international context are sending us contradictory messages about the exercise of social and environmental responsibility: on the one hand they draft regulations that are tough yet unpredictable and which vary depending on the status and nationality of the entity in their territory; on the other hand they appear cynically indifferent to the predatory behaviours of their firms operating abroad; moreover, they express the desire to be a part of the international standard-setting movement, while remaining lukewarm about subsequently implementing them** and rejecting most of the freedom of association and anti-corruption requirements contained within the standards.

Finally, the European Union is merely a marginal player in the international standard-setting movement, with primacy going to its member States. This raises the question of the appropriateness and suitable extent of any action it could undertake.

So perhaps the first question that needs to be asked is actually how **useful** any intervention by the European Union would be in the field of corporate social responsibility?

The answer is, obviously, that it would be very useful indeed. For three main reasons:

Firstly because **the proliferation of national CSR standards is becoming a threat to the Single Market – the very foundation of the Union – and is placing ridiculous burdens on our firms**.

Secondly because there often lurk, hidden behind the international CSR negotiations, **major economic, social and environmental issues for our economies**: what is at stake is none other than the risk of a resurgence of obstacles to investments and trade.

And finally because the **European Project embodied by Strategy 2020 would be meaningless without the social, environmental and human rights objectives incumbent on the private sector that are mainstreamed into it**. In the face of the Euro-scepticism which appears to have taken root, **the issue of CSR, since it stems from our Union's founding values, may be able to rekindle Euro-enthusiasm** for European construction.

How can we identify the areas where European initiative would be appropriate, as a complement to member States' own endeavours, and which proposals would help the European Union to make fresh progress in this domain? In the all-too-short time before me, I shall try to answer this question.

I suggest that there are three different fronts to tackle: first of all, on a pragmatic note, the necessary harmonisation of national standards which, presently, are in danger of becoming an obstacle course for European firms; a second level concerns the analysis of how our collective economic weight could potentially be brought to bear on international standard-setting; the third front calls for reflection on our shared values and how we could promote them through methodologies bearing the hallmark of European identity.

1. An urgent need for harmonisation

In 2007 the Commission launched a census of governmental CSR initiatives, which is currently being updated. A comparison of the difficulties encountered during the 2010 exercise and those encountered in 2007 reveals that Europe is on the brink of becoming a CSR legal jungle. To some, this legal jungle may seem beneficial, since it offers a few protective niches. Most companies, however, feel that this jungle is actually dangerous because it multiplies compliance costs, given the need to adapt to standards that differ from one country – or even region – to another.

Where is this jungle the most developed?

Obvious starting points include the specific social and environmental clauses for **public procurement, measures for supporting CSR-committed SMEs, certification and labels as well as regulations concerning transparency obligations, whether these fall under the remit of States or stock exchange regulators**.

A second major category of regulatory jungle can be found in **legislation enabling victims of corporate foul play to obtain reparation and justice**. The work by the Special Representative of the Secretary-General of the United Nations on Human Rights and Transnational Corporations and other Business Enterprises has quite rightly drawn our attention to the inconsistent and often very restrictive nature of national legislations, which are very heterogeneous and generally of little use to victims, especially when the impugned actions do not take place on national soil.

In light of all of these matters we should suggest that the Commission undertake consultations – following the excellent example of the five seminars organised a year ago by the DGs for Labour and Industry so as to identify practices encouraging social and environmental transparency – which will result in an **inventory of regulatory disparities and the ensuing difficulties encountered by economic and social stakeholders**, so that proposals can then be made.

2. How to harness European economic power judiciously

While Europe may have lost a degree of economic power in the face of emerging nations in recent years, it nonetheless remains a key player in globalisation; Europe's foreign trade is still number one in the world. What are we doing with all this muscle? Nothing much. And if we look around us, we see that we have entered an era in which each major power is increasingly utilising its comparative economic and monetary advantages, and its advantages in terms of energy and mineral resources, to bring its weight to bear on globalisation. The notion of consciously capitalising on the extra-territorial effects of national laws, an issue examined by the Council of Human Rights, is no longer even taboo.

The European Union can count on the strength of its foreign trade and the generosity of its system of preferences. Seven European parliamentary reports drafted in recent months invite us to think about the manner in which **the Union's customs agreements could be used to push our partner countries toward identifying social and environmental obligations for their exporters, as well as joint monitoring mechanisms**. This is one avenue that deserves to be explored; a first step could be an international

technical seminar.

As a corollary, it is also worth examining **the potential impact of certain import-related economic sectors that significantly influence international markets**. The Global Social Compliance Programme, launched by the main European large-scale distributors, a trade union and an NGO in order to improve the quality of their social audits, demonstrates the potential that certain industrial sectors have for drafting global standards. These distributors, which have been joined by manufacturers from other sectors and other continents, are inviting us to assist them in building dialogue with emerging countries so that this standard becomes universal and is understood as intended: a tool for dialogue between purchasers and suppliers. This kind of approach could probably be transposed to other sectors where Europe ranks as one of the heavyweights.

The development of responsible consumer habits among European citizens is yet another factor that may enable Europe to play a proactive role in international CSR standardisation. **Label harmonisation** for Fair Trade products is one avenue to be explored. Another is that of enhancing the ways in which manufacturing information, already within reach under several directives, can be accessed. **Responsible shareholding** offers another way of being a responsible consumer; and a complete overhaul of the rules governing minority shareholders' access to information and participation in strategic decision-making could be explored as well.

Finally, Europe is a financial power, endowed with agencies, such as the EIB, which have created exacting standards regarding their investment choices. It may be worthwhile creating a think-tank on **harmonisation of the rules of engagement of Europe's financial industry under public control**, including development assistance agencies and export credit insurance agencies.

3. Turning our values into a strength

Europe was built on a social market economy. The Internal Market Commissioner has boldly reminded us of this fact in recent times. Yet it is striking that everything that has so far been achieved within the European Union on corporate social responsibility was in fact achieved outside of the Union's institutions.

Take, for example, the **International Framework Agreements (IFAs)**, the contractual accords governing the implementation of CSR commitments drawn up between multinational groups and global union federations. Their genesis is in Europe; they were born of European social dialogue. **Today there are 86** such agreements, several of which concern Asian and American enterprises. Some of them are already in their third version, with the first ones having been signed in the early 1990s. These 20 years of hindsight, coupled with a good many academic studies which offer a certain scientific depth, should enable the European Union today to promote these IFAs as one of the **preferred models for the development of CSR practices** to be adopted by sincerely motivated parties.

Another effective CSR implementation method is via **social economy enterprises, mutual societies, cooperatives, foundations and associations**. These represent at least ten per cent of our economies and are often at the forefront of developing new services, as called for by our changing societies. They constitute a model of governance which intrinsically links stakeholders, employees and customers. They are only rarely included in national CSR policy indicators. The European Union should undoubtedly give them more space as it constructs its CSR standpoint, and also when promoting models at the international level.

This leads us to a third, closely related, idea: that of the **role of CSR in the management of public services**. In Europe, to date, this issue has failed to receive full consideration. While it is true that several member States have demanded exemplary behaviour of their respective State-controlled enterprises, there is no evidence of any firm conclusions as to the role that socially and environmentally responsible management can play in improving public services, especially if a more inclusive governance model is in place. This issue ought to be mainstreamed into the development of a European vision of CSR. It may attract interest well beyond our borders, since the question of the **role of public services** is at the very heart of general debate **when it comes to international challenges such as the Millennium Development Goals**.

What should motivate us, ultimately, is the idea that international discussions on corporate social responsibility – discussions which concern all continents because they are all questioning the planet's future, not only in physical terms, but also in social, societal, and, at the end of the day, philosophical terms – are in fact an outstanding opportunity for the Union to **raise awareness and recognition of its founding values**. In this regard, it is perplexing that we should appear to be so timid, in the main negotiations under way, when it comes to **tabling solutions that European legislation and jurisprudence have contributed to certain decisive questions, such as that of how to delineate a transnational group's responsibility**, which is a crucial subject if we expect the expression CSR to become anything other than a meaningless slogan, in a

world where globalisation offers ever-greater possibilities for groups to optimise social and tax-related irresponsibility. The European Union should launch research into this subject so as to develop and adapt its own legislation.

Similarly, we are strangely quiet on the interesting **interpretations made by the European Court of Human Rights on the application of human rights law to enterprises**. These precedent-setting interpretations from the Court go beyond the mere recognition of firms' duty to remain reasonably vigilant, deeming that they are furthermore bound to actively **contribute to the realisation and enforcement of rights that are not always immediately asserted**. We should submit to the Court our joint deliberations on possible developments of European law and the contribution that it can make to international human rights law pertaining to corporate responsibilities.

For the European Union, human rights cannot be defined merely in accordance with decisions handed down by the European Court of Human Rights. Another expression of our human rights commitment can be seen in the **Guidelines adopted by the European Council**. One of these deals specifically with the protection of **human rights defenders** and can indeed be used, provided that instructions are addressed to the Embassies of member countries in order to offer clarification, to protect trade unionists who file complaints against European companies. But perhaps it would also be worthwhile to consider **putting into place broader-reaching guidelines that cover the issue of European enterprises' responsibility in third countries**, particularly in cases where the local legislation falls short of universal standards or in situations where armed conflict has negated the very Rule of Law?

Conclusion:

In late September I received an e-mail from Ms Li Li, who is a representative of the Chinese employers' federation and one of the Chinese negotiators for ISO 26000. *"To get sustainable development all over the world, especially in times of crisis, we still need dialogue and communication to have a better understanding how we can reach sustainable development, both in developed world and in developing world. I think we can find ways to reach there. From the drafting process of ISO 26000, I can see that EU and European countries have participated very actively and are the de facto leaders in this field. Not only in CSR, but in low carbon economy, EU goes ahead of the world."*

This message expresses an expectation, explicitly addressed to Europe, that our continent will play an active role in the construction of an economic, environmental and social international order in which business enterprises, via CSR standards, are to have their rightful place. The few ideas that have been outlined here are an attempt to point the way.

In closing, the question that needs to be asked is whether we should be expecting a plan of action from the Commission, as envisaged by the Commission itself, rather than being content with a mere "statement"? In a few months' time, it will have been ten years since the Green Paper came out and public opinion is awaiting action, now, from the European Union; in other words, people are expecting, in the case in point, a **recommendation with its corresponding action plan**.