

TADAKATSU SANO

Attorney-at-law at Jones Day; Former Chief Executive Assistant to Prime Minister Yukio Hatoyama

Nicolas BARRÉ, Managing Director, *Les Echos*

Strangely this debate is not as strong in Japan by the way.

Tadakatsu SANO, Attorney-at-law at Jones Day; Former Chief Executive Assistant to Prime Minister Yukio Hatoyama

I recall that the “global corporation” is something that we have discussed since the 1980s. At that time we said “multi-national corporation” instead of “global corporation”. I think that the definition now has quite different characteristics. For example the global corporation itself has now really transformed from the multi-national. The multi-national had some kind of centre or headquarters with a lot of subsidiaries in a hub and spoke structure. Now, the global companies have multiple-headquarters with many factories or subsidiaries within a network and at the same time we cannot really identify the nationality based on who the shareholders are. Because of the globalised capital market we do not know who really owns each company. Even though the company name is originally from the United States or France or Germany or somewhere else, you still do not know who owns and controls it. Global companies are supposed to respond to the owners or their interests, to shareholders, not to one country or another. The reason why we do have such global companies right now is because they succeeded in operating globally. The small companies and some other multi-nationals have not completely succeeded in operating globally like Google and other relatively new companies. By way of example, I have a Google email address, but that is “google.com”, it is not a google.co.jp address. That company is google.com. That company is really global in that sense. That is one point.

The second is that I experienced 35 years in the government and we in government strongly supported creating global entities by establishing the WTO, as was discussed just before this session, and we removed almost all the barriers. The global companies took advantage of such a legal framework by, at the same time as the global trading system was developing, taking advantage of information technology and also of very convenient airplane transportation and cheap sea transportation of goods using the digital data and so on. They succeeded in being global in that way.

At the same time “global” is not only the brand image presented to the public. I think that global companies have not yet succeeded in being really global without having any kind of nationality, and maybe will never succeed. The reason is because there are many, many kinds of regulations we need from the public, and those are developed by each nation state. As the poet says, a national person has an address or a nationality, a legal person, in every case is established under some country’s law, and has nationality in that sense. The address of the headquarters, or wherever the operations are or where the company is going to pay tax and so on, all suggest that a company has a national identity. Of course they can change address sometimes, much like a natural person can change her nationality; some companies can change their nationality for tax reasons from the United States with its heavy tax burden to a country where there is light tax. That means that you can make a change, but it seems to me from my legal work, for example in relation to a national security requirements, you cannot really escape all obligations imposed by the national governments.

The second thing is, perhaps, safety. Safety to the public and in the working environment and so on. This is the second issue.

The third issue which is becoming very popular in Europe is the data protection issue. Well, this is ignited by Snowden, and now Google and Facebook and similar companies have difficulty transferring their data into the United States even though we have a EU directive that has a so-called “safe harbour” clause, but recently that safe harbour was completely denied by the European court. In that sense I think we will have to end up with some kind of regulations



and in that sense, because it does business in many countries which need to regulate its activities, the global company cannot be really global without having any nationality. They have to have a nationality because of that.