

# The Hague Global Principles for Accountability in the Digital Age ?

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# Contents

1. Introduction
2. The Hague Summit for Accountability & Internet Democracy
3. Speakers and Contents
4. The Hague Global Principles for Accountability in the Digital Age
5. Implications and Problems of the Summit and the Principles
6. General Data Protection Regulation of EU
7. Backgrounds of the Summit and the Principles
8. Final Remarks

# 1. Introduction

*<An Invitation Letter for the Hague Summit>*

- An experience of serving as a delegate from Japan for the Hague Conference of Private International Law
- A contact from an expert of the Hague Conference on PIL
- An invitation letter to an event of *the Hague Summit for Accountability & Internet Democracy* which was to be held on 31<sup>st</sup> May and 1<sup>st</sup> June
- Only one Japanese delegate invited to the invitation-based event

## 2. The Hague Summit for Accountability & Internet Democracy -Shaping an Internet of Values-

*<Organizers, Sponsors and Participants>*

- Institute for Accountability in the Digital Age
- UNESCO
- ITU
- Participants mainly from EU Member States and from International Organizations including UN Internet Governance Forum and NGOs

# 3. Speakers and Contents

## <1. Opening Session>

|                   |   |
|-------------------|---|
| Pauline Krikke    | The mayor of the Hague  |
| Kajsa Ollongren   | Deputy Prime Minister and Minister of the Interior and Kingdom Relations, the Netherlands |
| Houlin Zhao       | Secretary General of ITU  |
| Moez Chakchouk    | Assistant Directeur General, Communications and Information sector, UNESCO                |
| Boris Koprivnikar | Deputy Prime Minister and Minister of Public Administration of the Republic of Slovenia   |
| Vint Cerf         | Chief Internet Evangelist, Google   |

# 3. Speakers and Contents

## <2. *The State of Play in Accountability and Internet Democracy*>

Prof. Alexander Rinnooy Kan

Latha Reddy

Bernhard Jungwirth

Andrea Millwood Hargrave

David Greene

Edo Haveman

Jan Kleijssen

Gary Shapiro

Mr. Thorbjorn Jagland

Senator Dutch Parliament (**Moderator**)

Co-chairman Global Commission on Stability in Cyberspace

Director Austrian Internet Ombudsman

Director General International Institute of Communications

Civil Liberties Director, Electronic Frontier Foundation

Facebook

Director, Information Society and Action against Crime, Council of Europe

CEO Consumer Technology Association

Secretary General, Council of Europe

# 3. Speakers and Contents

*<3. Shaping an Internet of Values: The Role of Accountability & Internet Democracy>*

Dr. Indrajit Banerjee

Lynn St. Amour

Steven Wilson

Olaf Kolkman

Derek O'Halloran

Prof. Aimee van Wynsberghe

Peter Batt

Malavika Jayaram

Tadao Takahashi

Director knowledge Societies, UNESCO (**Moderator**)

Chair, United Nations Internet Governance Forum (IGF)

Director European Cybercrime Centre, Europol

Chief Internet Technology Officer, Internet Society (ISOC)

Digital Economy & Society System, World Economic Forum

Director Foundation for responsible Robotics

Director General of Digital Society, Administration Digitization and Information Technology

Executive Director, Digital Asia Hub

Director General, PROJECT i2030/BRAZIL

# 3. Speakers and Contents

## <4. Policy Challenges and Implications for an Accountable and Democratic Internet>

Arthur van der Wees

Pavan Duggal

Prof. Mireille Hildebrandt

Jaya Baloo

Boris Wojtan

Mårtin Schultz

Jan Middendorp

Mark Nelson

Dr. Boyan Radoykov

Institute for Accountability in the Digital Age (**Moderator**)

Chairman at International Commission on Cyber Security Law

Free University of Brussels, Radboud University Nijmegen

CISO KPN

Director of Privacy, GSMA

The Swedish Law and Internet Institute

Member of Parliament NL

Co-director Stanford Peace Innovation Lab

Section Chief, Knowledge Societies Division Communication and information Sector, UNESCO

# 3. Speakers and Contents

<5. *Public Consultation*>

Concept Text: *The Hague Principles for Accountability in the Digital Age*

Arthur van der Wees  
Prof. Marta Pertegas Sender

Institute for Accountability in the Digital Age  
University of Antwerp

# 3. Speakers and Contents

*<6. Instruments for Accountability in the Digital Age>*

Arthur van der Wees  
Paul Nemitz  
Professor Dan Jerker B.  
Svantesson

Institute for Accountability in the Digital Age  
Directorate-General Justice and Consumers, European Commission  
Co-Director, Centre for Commercial Law, Bond University, Australia

# 3. Speakers and Contents

*<7. The Role of the Media in Accountability in the Digital Age>*

Dr. Indrajit Banerjee

Dr. Andrew Taussig

Neil Chase

Almar Latour

Huib Modderkolk

Director knowledge Societies UNESCO (co-moderator)

Former BBC Foreign Language Director (co-moderator)

Executive Editor Mercury News and East Bay Times

Publisher and Executive Vice President, Dow Jones Media Group (WSJ)

Investigative Journalist Volkskrant

## 4. The Hague Global Principles for Accountability in the Digital Age

### **The Hague Global Principles: An Internet of Values**

The digital world is changing everything.

As much as advances are improving our lives and economies, it is changing the way individuals and organisations communicate, act and react to each other. Interactions on the internet are complex and raise a number of questions including the protection of human rights, integrity and dignity. In any case, however, human rights and societal values need to be protected from malicious acts and other threats.

An internet, where each stakeholder is accountable for the consequences of acts and omissions, accountable to others and to society, is integral and crucial to the success of the digital society and economy.

Accountability may refer to personal, social, professional, economical, ethical, philosophical and legal factors and, in this context, principally refers to the duty for Internet actors to be responsible for the consequences of their actions and to operate within the confines of the rule of law. It also refers to an open and accessible Internet for all, in line with universally recognized human rights and fundamental freedoms.

## 4. The Hague Global Principles for Accountability in the Digital Age

In recent years, a number of attempts have been made to establish frameworks and principles of Internet Governance, including the R.O.A.M principles for Internet Universality, endorsed by UNESCO's 195 Member States, which call for a human-Rights based, Open, and Accessible internet that is governed by Multi-stakeholder participation, as well as the World Summit on the Information Society 2005 Tunis Agenda for the Information Society. Relevant internationally agreed standards include the Universal Declaration of Human Rights (UDHR), the International Covenant on Civil and Political Rights (ICCPR), the United Nations Guiding Principles on Business and Human Rights (UNGPs), and the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms.

The Hague Global Principles seek to uphold an accessible, open and accountable internet – encompassing all internet-related applications from Artificial Intelligence to the Internet of Things – which are essential to the building of Knowledge Societies and the achievement of the 2030 Sustainable Development Agenda. They seek to serve as a reference point to consider the impacts of balancing freedom of expression and privacy onto the broader dimensions of Rights, Openness, Accessibility and Multi-stakeholder participation in the digital domain.

## 4. The Hague Global Principles for Accountability in the Digital Age

Citizens need to be able to trust that their personal integrity and democratic values and rights are safeguarded and protected through a free, open and transparent digital domain. Digitalization and accountability must evolve hand in hand.

This requires, where not yet implemented already, making concerted effort to protect the integrity and rights on the internet of individuals and societies, and explore and construct a basis for accountability in a connected and digital world, one which positions human beings, human rights and universal values at the center of internet governance frameworks.

### **Our Key Principles:**

With these – The Hague Global Principles for Accountability in the Digital Age– the signing partners outline a framework of key accountability principles that we consider essential, within the existing applicable Rule of Law, for the protection of personal integrity on the global internet, and for establishing accountability and safeguarding democratic values on the internet for individuals, society and relevant public and private stakeholders. Without prejudice to the existing fundamental rights and related frameworks within the applicable Rule of Law, we believe that a common goal to be pursued is to strive to position human rights and human values at the heart of internet governance and use.

## 4. The Hague Global Principles for Accountability in the Digital Age

1. **Internet of Values:** We take these values and perspectives as a starting point for analysis and action:
  - a. Human and societal values, including human rights and democracy;
  - b. The notion of rights and responsibilities, and finding a reasonable and meaningful balance between them;
  - c. The 2030 Sustainable Development Agenda as the overall goal to be achieved;
  - d. Respect for the Rule of Law;
  - e. Multi-stakeholder participation in a multi-faceted context;
  - f. Accessible, transparent, enforceable redress, and measurable remedies
2. **Accountability by default:** Adopt the highest appropriate level of accountability and ensure that it is configured into the design of services, ecosystems, platforms, processes, technologies, operations, architectures, and value and business models.
3. **It Is Everyone's Task:** Anchor being accountable throughout society including the highest governmental, societal and business levels, and all the way

## 4. The Hague Global Principles for Accountability in the Digital Age

4. **Education and Capacity Building:** Include internet accountability and digital skills both in educational curricula as well as career development tools, to facilitate both capacity building and resilience, and to lead the transformation of skills and job profiles needed for the future.
5. **Transparent & Technology-Neutral:** Inclusive and overarching principle-based, transparent and technology-neutral approach by default addressing all technologies linked through the internet.
6. **Public-Private Partnerships:** Drive and encourage public private partnerships and other joint initiatives, including all relevant stakeholders, in order to implement the Principles in the various parts of the digital world without undue delay.
7. **Continuous Co-Creation:** Co-create with a permanent multi-stakeholder dialogue the relevant subsets of principles, parameters, indicators and metrics that may represent the ability of internet providers and users to be accountable, including but not limited to general awareness-raising, media and information literacy, good practice codes, informed recommendations, statutory legislation or regulation. Apply the expertise developed for the quantification of similar human and societal values to measure accountability in the Digital Age.

## 4. The Hague Global Principles for Accountability in the Digital Age

8. **Policy Frameworks & Enforcement Collaboration:** Participate in a permanent multistakeholder dialogue and network in order to share new insights, information on incidents and trends, and facilitate discussion on effective redress and remedies. Promote local, national, regional and international collaborations in good practices, standardization, regulation and awareness, as well as appropriate, effective and readily accessible alternative dispute resolution and cross-border law enforcement.

## 5. Implications and Problems of the Summit and the Principles

- Speakers were mainly from EU Member States and emphasized the Value of Europe to be included in the field of Internet.
- The Value of Europe = Privacy, which appears in the newly-introduced General Data Protection Regulation (GDPR)
- Speakers from Int'l Organization expressed a similar view as the European ones who emphasized the need of much more regulations and controls against Internet.

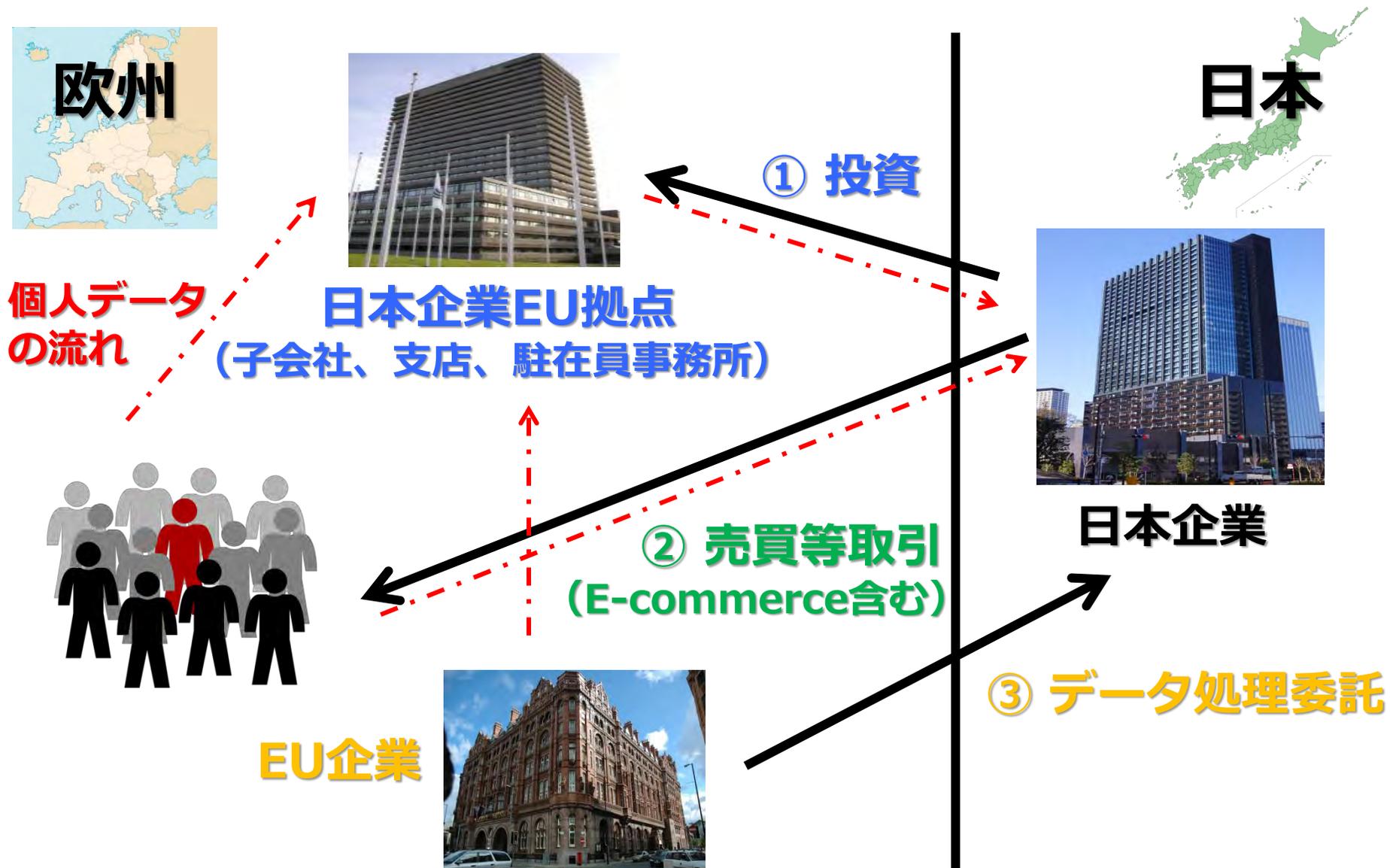
## 5. Implications and Problems of the Summit and the Principles

- Speakers from the US were mainly people of the NGOs who shares the same value. A business corporation from the US was *Facebook*!
- Impartiality of the Speakers? Diversity of the Speakers? Can we call the outcome of the Summit a “Global” one?
- From the world-wide viewpoint, Privacy is important but there are other values to be considered (ex. Freedom of Speech, Innovation, Business Interest ...) and each State has its own policy for the balance.

## 6. General Data Protection Regulation of EU

- 2018年5月25日に施行されたEU版統一個人情報保護法
  - 管理体制の構築義務
  - 事故対応の強化
  - データ主体の諸権利の整理
  - 厳罰化(巨額の制裁金)
  - 域外適用
- EU外企業のEU外での行為に対しても広範に域外適用
  - ① EUに子会社、支店等の拠点を持つ企業
  - ② EUに拠点を置かずEU向けに物・サービスを売る企業
  - ③ EU内の個人データ処理を委託された企業

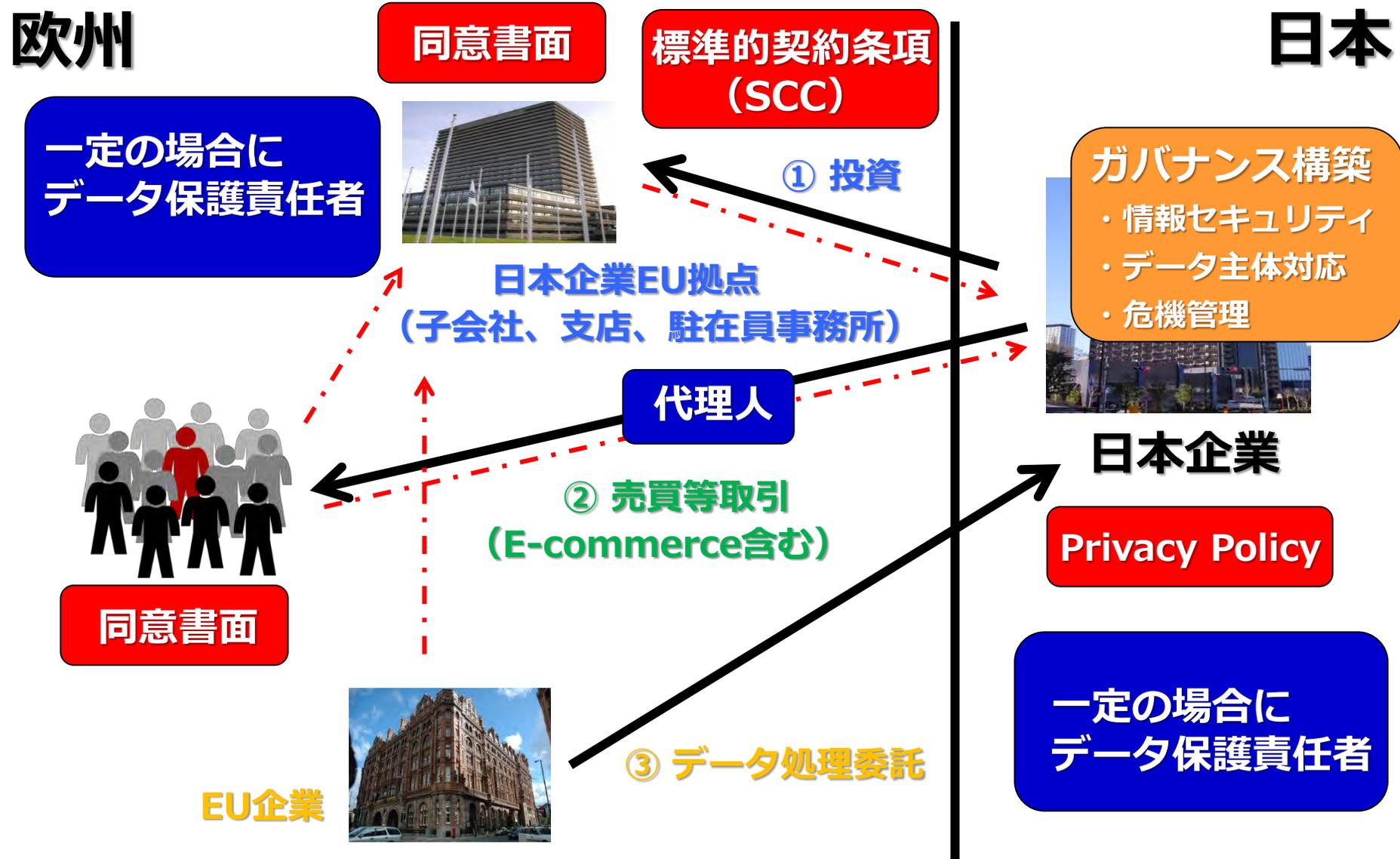
# 6. General Data Protection Regulation of EU



## 6. General Data Protection Regulation of EU

- 個人情報取得の際に必ず「同意書面」
- EU外への個人情報の移転に「標準的契約条項(SCC)」
- ガバナンス構築の要請(データ情報セキュリティ構築、データ主体からの要請への対応、事故対応(72時間以内の通報義務))
- 社内に「Privacy Policy」
- 一定の場合には社内に「データ保護責任者」
- EU内に拠点がない場合にはEU内に「代理人」
- 違反の場合に巨額制裁金(前年度の全世界売上高の4% or 2,000万ユーロ(約26億円)の大きい方)

# 6. General Data Protection Regulation of EU



## 6. General Data Protection Regulation of EU

|          | 日本個人情報保護法                          | GDPR   |
|----------|------------------------------------|--|
| データ取得    | 同意。                                | 同意。自由意思、利用目的特定の要件あり。                             |
| 取得時の情報提供 | 全ての保有データの利用目的、事業者の名称、開示・訂正等請求権の存在。 | 左に加え、データ受領者、移転可能性のある第三国、保有期間、権利告知等。              |
| 第三者への提供  | 事前同意が必要。                           | <b>データ取得時の同意が必要。</b>                             |
| 開示請求権    | 6ヶ月以上保有の個人データのみが対象。                | <b>保有期間にかかわらず全ての個人データが対象。</b>                    |
| 機微情報の定義  | 人種、信条、社会的身分等。                      | 左に加え、労働組合等に関するデータを含む。                            |
| 危機時の対応   | 情報漏えい防止等の努力義務。                     | <b>データ漏えい時に72時間以内の当局への通知義務。</b>                  |
| 当局対応     | 安全管理措置、従業員監督、委託先監督義務あり。            | 一定の場合に、 <b>データ保護責任者</b> 設置、EU内の <b>代理人</b> 設置義務。 |
| 第三国移転    | 認定のない外国への移転は同意により可能。               | <b>認定のない外国への移転には標準的契約条項を含む契約が必要。</b>             |

# 7. Backgrounds of the Summit and the Principles

- GDPR may infringe the competitiveness of Europe in the new industries which use new technologies and Internet (ex. Big data).
- The distance of competitiveness between Europe and the US (and other drastically developing States including China) in the fields would become much wider.
- On the other hand, Europe cannot weaken the protection of Privacy.

## 7. Backgrounds of the Summit and the Principles

- In general, EU becomes much stronger in the international rule-making scene (at UN or other international organization) due to the increase of the number of Member States (28).
- At the same time, it is much more difficult to coordinate the Member States for their uniform internal rules. Now EU cannot change its internal rules so easily for the harmonization with the States out of EU.
- EU tries to make its internal rules be “Global” rules. Or to stop rule-making process which may produce rules different from the EU ones.

# 8. Final Remarks

- The Hague Summit and the Principles it aimed to establish are along the line of the Europe's recent attitude in the international rule-making process.
- At the same time, there are international organizations which wish to get much more power to regulate and control the Internet.
- How should we react to the next step of the Summit and the Principle?

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