

THE BROOKINGS INSTITUTION  
THE INTERNATIONAL IMPLICATIONS OF THE NATIONAL SECURITY AGENCY LEAKS

Washington, D.C.  
Wednesday, June 4, 2014

**Moderator:**

PETER W. SINGER  
Senior Fellow and Director, Center for 21<sup>st</sup> Century Security and Intelligence  
The Brookings Institution

**Panel One: The World's Reaction:**

HAROLD TRINKUNAS  
Senior Fellow and Director, Latin America Initiative  
The Brookings Institution

JAMES A. LEWIS  
Director and Senior Fellow, Strategic Technologies Program  
Center for Strategic and International Studies

TANVI MADAN  
Fellow and Director, The India Project  
The Brookings Institution

KARL-THEODOR zu GUTTENBERG  
Distinguished Statesman, Center for Strategic and International Studies

**Panel Two: The Wider Fallout:**

IAN WALLACE  
Visiting Fellow, Center for 21st Century Security and Intelligence  
The Brookings Institution

CAMERON KERRY  
Ann R. and Andrew H. Tisch Distinguished Visiting Fellow  
The Brookings Institution

BRUCE JONES  
Senior Fellow and Director, Project on International Strategy and Order  
The Brookings Institution

STEWART A. BAKER  
Partner, Steptoe & Johnson LLC

BOB BUTLER  
Vice President of Government Strategies, IO

\* \* \* \* \*

## P R O C E E D I N G S

MR. SINGER: Why don't we begin? I'm Peter Singer. I direct the Center for 21<sup>st</sup> Century Security and Intelligence at Brookings and delighted to welcome you all to this session and appreciate you coming out.

Exactly a year ago, few, outside his friends, his family, his coworkers, and an extremely small circle of reporters, had ever even heard of Edward Snowden, who was then a contractor with the NSA who had just informed his bosses that he was taking leave.

Electronic data surveillance was certainly known of, but it couldn't be described as a central topic in either global political or media discourse. And then a series of articles came out based on intelligence leaks provided by Mr. Snowden and it touched off what can only be described as a worldwide controversy and conversation, and you can measure this in all sorts of different ways. You can measure it by the 26 million news articles and blogs and the like that mentioned Mr. Snowden over the last year, to media prizes, to a new Oliver Stone movie in the making, but what interests us most, I think, gathered around here today, is how in the world of policy, it was certainly one of the most, if not the most, important event of the last 12 months.

Just on the foreign policy side it raised new issues in areas that touched on national security, bilateral, multilateral relationships, business competitiveness, trade agreements, global order, internet governance and beyond.

And so, today, what we'd like to do is not rehash, but weigh, that is, this series of panels are not going to be about whether Mr. Snowden was in the right or the wrong or whether the programs that he leaked about were good or bad. That debate has happened and that debate will continue, but what we'd like to do is weigh the implications of it. What have they met? What's been their effect? And so, we've divided this conversation into two parts, which you can think of as a split between the regional side and the functional side.

The first panel that's up here on stage with me will assess the regional reactions to the NSA revelations and what repercussions they had for American diplomacy, soft power, trust, and how they played out in a series of regions. And the second panel discussion will focus on the issue area side, how they influenced things like Internet governance, trade, the intelligence community, and what those consequences mean for the future international order.

And so, my job as moderator now is to introduce folks and frankly get out of the way because we've got a great panel here.

First we're going to hear from Harold Trinkunas, who is a senior fellow in foreign policy at Brookings and director of our Latin America Initiative. Linked to this topic, his current research focuses on Brazil's emergence as a major power and a specific investigation into that country's creation of a national internet and the implications for things like net neutrality, data protection, surveillance, and commerce.

Then we'll hear from Tanvi Madan who's a fellow in foreign policy at Brookings and director of our India Project. Her work explores Indian foreign policy with a particular focus on the intersection of security and energy policy, especially with the U.S. and also China.

That leads to the person we'll hear from next, which is James Lewis. Jim's the director and senior fellow with Strategic Technologies Program at CSIS. We're a little bit out of order, but that's the order I'm going to jump to, and his research examines international security and governance in cyberspace and the effect of the Internet on politics. And of not to the topic today, he's led a long running track two dialogue on cyber security with Chinese counterparts.

And finally we'll hear from Karl-Theodor zu Guttenberg. Baron zu Guttenberg is a distinguished statesman with CSIS and he served in a wide variety of roles in German politics and European politics, including as German Federal Minister of Defense from 2009 to 2011. With CSIS he leads a high level, transatlantic dialogue that's focused on a number of these issues and global trends, political, financial, and

technology issues.

And so the way the panel is going to flow is essentially I'm going to toss the same question to everyone. The first one is, what's played out in the last year in your particular region that you've been looking at -- what have been the effects of this? What's been the most important aspect/impact of Mr. Snowden and the NSA leaks debate? And so why don't we begin with Harold?

MR. TRINKUNAS: Great. Thank you, Peter, for the introduction and for organizing this fantastic event.

I think what I think when I look at the last year in Latin America, obviously there was a great deal of interest in this story, but for most of the region, with the exception of one extremely important country, I think the reaction was quickly muted. The countries that have worked with us closely on issues of security such as the Colombians or Mexico, for example, pretty much reacted with some concern, but muted concern very parallel to some of the reactions from our other partners and allies.

Countries that have been more critical of the United States, particularly the Bolivarian block, were also, interestingly enough, relatively muted because they kind of assumed this was going on all the time -- the whole time, so they weren't really particularly surprised. But in the one case where it really made a major difference was in our relationship with Brazil, and I think this is particularly important because the U.S. and Brazil have been engaged, previous to these revelations, in an intense process for many years, especially during the Obama and Rousseff administrations, in intensifying relationships across a series of important domains -- trade, economics, education, and international security and global issues -- and the Brazilian reaction to the revelations, especially President Rousseff's reaction to the revelations, was extremely critical and it essentially led to a certain amount of paralysis taking hold in the U.S.-Brazilian relationship, both at the senior level -- she postponed an official state visit to the United States that was scheduled to take place last October -- at the government-to-government level, bilateral working groups, forums slowed down or again were paralyzed, there hasn't

been much progress there, and President Rousseff also announced a set of measures, as you mentioned in the introduction, that were designed or interpreted as asserting a more resilient Internet, increasing domestic production of bandwidth, increasing domestic production of servers and equipment for the Internet in Brazil, increasing connectivity to other parts of the world that sort of routed around the United States, and this was sort of viewed as part of Brazil trying to build some sort of effort to work around the United States on issues related to surveillance and the global Internet.

So, that initial reaction even led to her -- to President Rousseff using the UN General Assembly speech in October to denounce the United States in working with Germany on international digital privacy.

More recently though, I think we've seen a shift in Brazil's position, both an interest in getting past this issue in relations with the United States, looking forward to next year, and also a very important global internet governance conference that took place in Rio de Janeiro (inaudible) in April, which showcased some very interesting shifts in Brazil's position in global internet governance, which is a related issue that's emerged as a result of the Snowden revelations that I think portend for some very interesting Brazilian positions going forward.

MR. SINGER: Tanvi?

MS. MADAN: Thanks, Peter. I would say the Indian reaction was twofold. There was the official Indian reaction that was relatively muted, enough so that you even had articles entitled "Why is India taking the U.S.'s side in the Snowden scandal?" The foreign minister was -- the Indian Foreign Minister a year ago was seen as almost defending or justifying NSA surveillance and he said, and to quote, "They were able to use it to prevent serious terrorist attacks in several countries," and for a country that has faced several terrorist attacks itself, this was seen as him approving of the surveillance.

You had other kind of serving officials privately and former officials saying this is standard practice for a government. This is just something governments

do. Others pointed out, including the foreign minister publicly himself, that India had similar systems in place and we all do these things.

There was also a sense that the kind of official muted reaction at the beginning of Snowden scandal breaking was -- that the official muted reaction was partly because the relationship was at a relatively decent footing, and we've seen this in terms of how the reaction in India has played out is when the relationship is considered to be more positive, the reaction's been muted, and that the Indian government didn't want to come out and say something very publicly that was negative that would affect the border relationship.

What we have seen over the course of the year, that both the official and public reaction has changed somewhat in terms of how much criticism there has been partly as relationships, at least the public facet of it and some official facet of it has deteriorated somewhat, though I would say it's turned around again, and this was largely due to the arrest of an Indian diplomat, which did create some problems in the relationship, and at that time there was a lot of questioning both within and outside government of whether the Indian government should have taken a stronger stance and a public stance more akin to the Brazilian stance, which was praised by many in the Indian commentariat.

And I would say that the Indian public reaction, and kind of in terms of the media, public opinion, but also analysts and pundits have had two kind of sorts of reactions. You've had one kind of reaction that's been one of indifference, just assuming that all governments do these things and that Snowden -- there was very little love lost for Snowden himself, but that this is just something governments do, including the Indian government.

There was also a sense that the debate about security versus civil liberties in India is very different, that the Indian public is willing to let its government and would understand other governments having -- emphasizing security over civil liberties. And so that was one reason why -- or a couple of reasons why there was some

indifference to these revelations.

I'd say there was criticism, though, from certain segments and there were two types of criticism, one you found from people who tend to be critics of the U.S. in general. They saw this as vindication of their stance that the U.S. was either anti-India or didn't really think India was a friend, and basically treated other countries badly anyway, so this was just more proof of that.

But you did see people who did think -- who were supporters of the U.S. who held it to a kind of higher expectations, who did come out and criticize the U.S. for saying and the U.S. government saying that the U.S. had lost its moral high ground and that this had damaged the U.S.'s moral standing and not just the Snowden revelations themselves, what was surprising to them was they saw as the relatively muted domestic reaction in the U.S., which they also found disappointing.

I would have to say for this group of critics there was also a sense that it wasn't just the Snowden revelations, it was the debate or the lack of debate about drone attacks, torture and detention policy that they all put in kind of a box together in terms of the reaction.

MR. SINGER: Great. Jim:

MR. LEWIS: You want me to go. Oh, sure. Okay.

MR. SINGER: We're going to end on Europe.

MR. LEWIS: Okay, that's good, and I'll do a good lead-in there.

So, I think not surprisingly the reaction in Asia, at least on the official side, has been not particularly dramatic. Having talked to five of the countries in the region, the governments, they aren't particularly upset. The Japanese, the Koreans aren't particularly upset. The Chinese always knew we were doing this, so Snowden wasn't a big surprise. I mean, one advantage of being paranoid is occasionally you're right. So, the thing that was a surprise to them was they kind of believed a little bit some of the rhetoric you hear sometimes about, you know, the U.S. sword has been blunted in these cyber talks, and so coming out of the blue and being smacked in the side of the

head with indictments, why they were surprised, I don't really know because they had been warned repeatedly, including at the presidential level, that something bad was going to happen.

So, when I look at this in China and in Russia, they're eager to exploit Snowden for advantage, political advantage, in their efforts in Internet governance and cyber security, they're eager to use it to undermine the U.S. position, but their fundamental -- they weren't surprised and their fundamental positions haven't changed.

One of the things that's interesting, though, is that when you talk to people about progress in cyber security, I think after the initial shock the debate, at least in official circles, has become a little more mature. One of the things that's come up is there's a strong -- and you'll hear more about this in a minute from KZ, but strong reaction on the European left. I mean, they've been mourning the demise of Marxism now for more than a decade and here's a way to be anti-American again and feel good about it.

And that has a political effect, but not as much as you might think, and so countries are now saying, how do we rebuild some effort to come to a common understanding on internet governance and the importance of democracy and human rights, how do we rebuild understanding on how we make progress on cyber security. So, I think that the effect of Snowden -- I don't worry so much about the effect of Snowden on cyber security discussions. The things that are having the greatest effect are Crimea, right, which has had a major effect, and the indictments, and today's events, I think the Hagel speech at the Shangri-La conference and the recognition of Tiananmen Square -- the Chinese tend to put everything together and so you couldn't have talks with them, right, this is America, we don't have strategy and we're disorganized, they don't believe that, they think we're the Borg, right, prepare to be assimilated.

So, they'll see this all as a plot. Ah, you know, indictments, Hagel speech, Tiananmen Square commemoration, it's part of your larger plot to control China, but Snowden really isn't a major element in that story, so I think the issue for Snowden



and his handlers will be how does he remain relevant as the international discussion moves on.

MR. ZU GUTTENBERG: Thank you. Thank you, Peter, for having me here. The European reaction, first of all, there is certainly no coherent European reaction, which probably doesn't come by surprise, and many other topics as well, but there was a different set of reactions during the course of the months after the revelations.

I'd say the first one was almost a no reaction, specifically in Germany. The German Chancellor and the German government was in a campaign mode at that very time and she tried to keep it as low key as anyhow possible during the first couple of months, and counting on the abstract topic, as such, for many people in Germany, that played out rather well up until the moment that it was found out that her phone was wiretapped. And then we had a remarkable reaction in Germany, as you have all followed at that very time, and that brought us to a second level of reaction, which first of all, was hypocrisy. So, everyone was astounded and showed outrage of how such a thing could happen without really pointing out that we all did it and that the German government certainly did not do it as sophisticated as it has been done over here, but that was also kept at a level where it didn't really fit into the overall scheme.

From there, the next reaction was a rather significant surge or resurgence of a, I'd say, selective anti-Americanism, also again, specifically in Germany. And I would not only tie that to the left spectrum in Germany, it also was more or less covered by quite a remarkable group of conservatives as well, so that was an interesting new development, which played into the overall scheme as such.

The third reaction were some panic reactions coming from certain governments but also from the EU, as such, to say, what do we do now, is there anything we could set against that very revelations we have seen so far, and one of those reactions was to immediately think about European cloud, a debate which isn't over yet, as we know.

Another one -- and we may talk about how much sense that makes or not -- another one was tying with Brazil, with the fantastic idea of an underwater line to Brazil, also very interesting coalition, by the way. A third point that popped up was to take some of the agreements between Europe and the United States hostage, although it had just indirectly tied to the questions we'd been discussing at that time. So, TTIP will be part of the second panel here, but we all followed quite interesting discussions at that time as well whether TTIP should be suspended or whether TTIP is still relevant. And if you asked the people on the streets, specifically in Germany what they connect with TTIP, most of the time you get an answer that it is actually connected to all the big data discussion we're in right now.

So, the main topics of what TTIP is all about have been shifted into the background in that very respect. Same is true for the suspension of safe harbor agreement and so on. So, you have seen a couple of these developments specifically also coming out of the European parliament and the situation does not become easier after the recent elections we have had in Europe because the stronger nationalist parties will definitely play that tune again and again and again and again and there is a certain tendency and also temptation amongst the center spectrum of the parties to at least come a bit closer to some of the arguments we have heard.

All in all, the mistrust is still high. Unfortunately, also on the top level, the rather banal example of the communication strategy last year from over here towards, for instance, the chancellery, is just one point to underline here. So, typically, directly after the revelations and after it became clear to the President of the United States that Angela Merkel's phone was tapped, you would have picked up the phone and just called her, and that was in August last year at the latest. So, that didn't happen.

Then they waited up until the press revealed the whole thing and even then, the President didn't call. It was the Chancellor that called the President. And that's something interesting for, let's say, the general mood between heads of state and there was not only discussion in Germany and other parts of Europe where the White House is

entirely detached from allies and other partners, but also whether there's still a level of communication that could bridge the problems we are facing in these days and at that time.

And last point, which is also, I think, rather interesting, and it's also a reaction and this is overtaxing or over-stretching the own abilities from a European perspective, it came as quite a surprise that the German Chancellor, for instance, who usually never really steps forward with a rather radical proposal, and some people say she follows, more or less, the policy of keeping all options open, but to do it decisively, to a certain extent, but she stepped forward and she said, well, we would love to have -- I will try to form a "No Spy" agreement with the United States and even the question was in the room, to join five (inaudible) alliance. And for those who know, actually, the transatlantic relations at this time and for the last decades, it was rather clear that this is an illusion, it won't ever happen. But she raised quite some expectations and the latest visit just showed that it is an illusion to come to such terms, and, again, this does not fall on all too fruitful grounds for those who see the transatlantic relationship as a strong, sustainable pillar. At the moment, I do, but some of these things are in shambles right now.

MR. SINGER: That's given us a wonderful tour -- global tour of the impact over the last year. So, I'd like to pitch another question to each of you, which is, essentially, look forward. What do you see as the long-term effects of this playing out over the next year, the next five years? And another way of putting it is if we're holding the five-year or the ten-year retrospective of this, how might we talk about it different than what you just laid out there?

And as part of that, if there's a negative aspect, what are your policy recommendations for how we might steer around those negative potential legacies in the year ahead? So, why don't we just go in the same order again?

MR. TRINKUNAS: Thank you, Peter. Again, I'm going to focus on Brazil because that's really the country where we saw the biggest impact in our relationship.

And I think you can focus on this in three levels, one is the actual issue of the revelations about the leaks and the espionage, and I think where the U.S. and Brazil have left this is that Brazil has been expecting an apology, the United States is not really willing to give it, but that issue, I think, increasingly has been set aside by both governments and I think they're looking forward now, possibly after the Brazilian elections in October, to restarting the very active agenda they had until last summer, summer 2013.

So, I think that particular issue has been sort of slowly fading from the bilateral relationship.

The other thing I think looking forward is how do we assess Brazilian efforts with relation to their own Internet and the proposals that President Rousseff had made to -- in reaction to the Snowden revelations of how to alter Brazil's relationship to the global internet? And I think there there's an argument to be made that actually what she was doing was just reframing some existing programs that the Brazilians had already been pursuing. The Brazilians have always had national content policy on a wide range of technology issues, including things like servers. Brazil had already had a very active policy since at least 2004, by some accounts, to build up domestic bandwidth -- production of bandwidth. Brazil has the second highest number of Internet exchange points in the world after the United States.

Brazil has an extremely active and Internet savvy population, second largest number of Facebook users in the world, I believe. And Brazil had already been building a number of new cables and interconnections, undersea cables, to other parts of the world, including something called the BRICS cable, even before these revelations had happened.

So, I think what you saw, to a certain extent, was Brazil reframing some of the things it was already doing that were designed to increase its national capacity in this area, as a reaction, sort of cleverly repurposing existing policies to show the public that they were reacting to these revelations.

The third area where we've seen very interesting movement is on the

whole issue of global Internet governance, which has become linked to this issue, I think, in the global debate, and there, I think, we've seen Brazil move quite a bit. Originally, traditionally, Brazil has been closer to Russia, India, China on the sort of national sovereignty of the Internet versus multi-stakeholder model approach to global Internet governance. And what we saw at the (inaudible) conference in Rio is Brazil really come out for square for multi-stakeholder approach to global Internet governance, but that said, one in which the institutions associated with that multi-stakeholder approach are de-centered from the United States or become more internationalized, and also one in which governments have more of a co-equal status with the other stakeholders in this approach, which actually is a debate that goes on among people who participate in this about what exactly is the role should governments play in addition to civil society and the private sector, which operates most of the Internet.

So, Brazil shifting its position, I think, is a sort of hopeful sign in the long-term, and in fact, I think one of the things that we're seeing based on its domestic process, which has just led to the adoption of what the Marco Civil, which is being called the Internet Bill of Rights in Brazil, is something that's actually much closer to U.S. civil society and private sector positions on global Internet governance rather than U.S. government positions.

So, in a sense, I think, you're starting to see Brazil resort to a traditional strategy, which is seize the moral high ground and then criticize other actors in the system from that position.

So, that's what I see going forward.

MS. MADAN: I'll tell you, there are a few different effects depending on kind of which perspective you're looking at it from. On the impact on the U.S.-India relationship over the next five years or so, I'd say it will reflect the general trajectory of the relationship. If the cooperative elements in the relationship -- in the official U.S.-India relationship are being emphasized, you will hear very little about this. If differences are at the forefront broadly, and not just on this, you will hear this being brought up again and

again. It will have an impact on trust.

There's a new Indian government in place. A number of working relationships will have to be established as will trust, but on the specific issue of the revelations themselves, now Prime Minister Modi, when he was still a candidate, just -- in fact, just a week or so before the results were declared, was specifically asked about the revelations, that if he would have reacted differently, if he would have come out more strongly and spoken out against, and he was asked repeatedly, he declined to answer -- put aside the question saying, I don't have enough information.

He's made clear that a counterterrorism policy will be a main priority for his government partly by naming -- this is reflected in his naming of Ajit Doval, who used to be the head of India's Intelligence Bureau, as his national security advisor. Mr. Doval has been on record as saying he actually think India's anti-terror laws are not tough enough.

So, in that sense, you're not likely to see a major move away from the official side, both on the issue itself, but on the impact on U.S.-India relations, unless there is a broader kind of breakdown or more emphasis on the negative side of the relationship.

I would say, just as Harold did, that on the kind of question of global Internet governance, the debate both within government in India, but also outside it, it is something some have linked to this question and will likely continue to link, but on the other hand you had others taking them on, people who are more on the same page as the U.S., especially speaking from the private sector perspective, who have actually said that these two issues should be de-linked, that the Snowden revelations, the NSA surveillance issue should be de-linked from the question of global Internet governance because India has much more at stake on the latter question.

So, we will see that continue to play out.

On the implications for the U.S. private sector, a number of IT and communications companies have interest there, want to invest more, but yet again, just

NSA-2014/06/04

like Harold mentioned on the Brazilian side, most of the things like local sourcing or the concerns about U.S. companies -- not just U.S. companies, including Chinese companies, foreign companies in general, being involved in these sectors pre-dated any of these revelations. If anything, they just reinforced or are used to justify the existing policies and a desire not to move away from them.

Finally, I would just say that how this plays out will depend on two things, and some of this we'll see play out, one is how the debate within India on Indian laws about privacy, about the balance between security and civil liberties plays out, and there is a debate that's domestic that is playing out right now and it will depend on that.

And the second thing it will depend on is the incidence of terrorist attacks in India. If there is a major attack or a series of attacks, you will see, in fact, perhaps, segments of the Indian population calling for less emphasis on civil liberties and more on the security side, in fact even saying that the Indian security establishment should be more like that of the U.S.

MR. SINGER: China? Asia?

MR. LEWIS: Oh, sure. Well, I want you to think about three things -- the U.S., China, and Internet governance, I think that would be a good way to look at this. What was the book I saw on the way out? "It was Ours to Lead"? or something or "Still Ours to Lead"? Boy, that's delusional. It's not still ours to lead, right? We inherited leadership and starting in about 2000 it's been a bumpy downhill road. So, a lot will depend on how the U.S. reinvents its policies, reinvents its strategies.

MR. SINGER: Fortunately, we have the author up on the next panel to respond, so --

MR. LEWIS: That's good. I just -- we are not -- and the global reaction - - in some ways Snowden prompted a global reaction to Iraq and to drone strikes and to Guantanamo, which is still open, the whole thing, to the indignities people suffer when they come into the border, the U.S. request for data. So, we need to come up with a new game to regain influence.

And there's some signs that we're doing that, but I think Snowden in some ways focused a larger discontent, and you hear this, well, the U.S. has lost its moral leadership, the statement that you hear from some people. So, we're going to need to come up with some new ideas here. I want to come back to that.

The Chinese are, I think, in a difficult situation. They domestically have - and I want to focus on them because they are the pivot point for Asia -- they have a tremendously difficult domestic political situation and it's not going to get better, so immense internal strains that limit, in some way, their abilities to move on other issues, particularly things like cyber security.

But when you talk to the Chinese they're always talking about zero-sum games, and what that means is for China to gain, the U.S. must lose, and until they can redefine their relationship with us in some way, that's going to point to more tensions. I think when you ask them, you know, what's up with this little rock that you're fighting over with Japan, well, that's a U.S. plot. I just heard from Peoples' Congress members last week that China's historic claims -- all of its maritime claims were historically based in fact, and I thought that was really interesting because the British have a really good historical claim to North America. You know?

The path we're on with China is not a positive one and we'll need to think of some way to change that. And the U.S. is doing an okay job in managing that, but as part of this larger sort of reinvention.

Finally, on Internet governance, there's two problems, and I know the other panel will talk about this later, but governments are going to extend sovereign control, and that's just how it's going to be. When the design for the Internet was created for Internet governance, we thought it was going to be a toy, right, we thought it was going to be like a big, online eBay, and there'd be a few billion -- 100 million users, it wasn't going to be a big deal. We did not expect it to become the central infrastructure for global commerce and global society, and the governance structure that was created by the Clinton Administration in the late '90s is inadequate.



Many countries have come to this conclusion and they're looking for ways to extend their sovereign control, the most recent being, of course, the European Court of Justice and their amazing decision that people have their right to be forgotten, which from an American perspective -- I don't know what Cam will say about this -- that struck me -- I would have called it just censorship, it's easier to spell, but we're going to see things like that, encroachments on this notion we had of a global network, and how we deal with that will be very important for determining the effect of Snowden. The existing multi-stakeholder argument is inadequate and I think there's a general recognition of that, although it's not usually said in public.

That's not to say abandon multi-stakeholder, but is to say it needs to evolve, right, and so maybe we'll hear more about that on the second panel.

So, I think those are the issues by which we'll judge the effect of Snowden.

I didn't mention Russia. I don't know, I tend to agree with the President about Russia and their relative status, but I think the relation with China will be the crucial foreign policy problem for the U.S. in the next few years.

Snowden has only affected that in its effected focused attention to the need for the U.S. to come up with a post-War on Terror foreign policy.

MR. ZU GUTTENBERG: Thank you. I agree with the points you've made, Jim. On the right to be forgotten, just a footnote on that very latest decision of the European Court of Justice, a remarkable one, I dare to say that it would not have been formulated the way it has been formulated without last year's developments we have seen so far. So, that's one of the things that will be discussed rather thoroughly, I think, for the next months to come.

On a short-term perspective, if the German's had to make a decision on Snowden, they would probably grant him sainthood immediately, probably quicker than John Paul II and offer him a place in the plane with the German team to Brazil -- the German soccer team, but that certainly doesn't resolve any of the issues.

You may have followed also the discussion we have had about giving him a chance to appear before the (inaudible) talks investigation committee to speak -- to talk there. I don't think that this is going to happen because the government's position has been rather clear on that, but it's still in flux, that very debate.

On the next years to come, I think that we will still see many, many attempts from the European side to at least try how far they can go with the development I would call data secessionism. So, that may be a different term for the balkanization or the dream of the balkanization of the Internet. So, there is lots of emphasis at the moment behind the idea of a European cloud of forming even a Schengen Area in Europe, which consists of the countries that don't have any border controls any longer, most interestingly, the UK is not part of it. By the way, it's also quite remarkable to see how well off the UK is in the whole debate in Europe because their services -- their intel services have been actually more successful on many topics than the NSA and quite a bit more than that, and they are not part of a fierce debate or the fierce debate we are facing right now in Europe, so that's quite an interesting development as well.

After -- I think after a while there will be the moment when we will have a discussion whether the opportunity costs of any of these secessionist movements are worthwhile doing such things and whether security is actually the result or more security will be the result. I personally doubt it. I think it will become rather -- probably more insecure if we don't find thoroughly thought through steps in global Internet governance.

Having said that, I don't see at the moment quite coherent approach by the European Union, for instance, of how to form or phrase a strategy when it comes to the next ITU meeting we will have in fall right now. The European Union is not visible ones. Of course, there is a transition period right now. We are, after the elections, there will be an outgoing and an incoming commission, a commission, which obviously consists of highly modernist people, as it looks like right now, so the question will be, will there be a change of policy? Probably not too much in this respect as well.

Germany is emotionally leading this debate right now. This is my

impression I have. On the other hand, there are a couple of (inaudible) you are facing as well. Our intelligence service right now has just asked for, in fruitful rounds, as it looks like it has asked for real time access to social media, surprise, surprise. So, that will be a debate we will have for the next months to come, so that's what I expect for the next one, two, probably three years. It won't go away too quickly and it will take quite some time, in my opinion, until a government or the European governments are capable of reshaping the policy towards a more internationalist approach and not only a European solution or a Brazilian-European solution, however you may call it, in that very respect.

On the private sector it is also rather -- probably not astonishing, but it is quite stunning how easily the private sector is being put into one basket with the American government or the intelligence service. So, Google is as evil, for many Germans or for other Europeans, as the NSA. And of course you see at the same time that it's some of the private sector companies could do, and I put it very mildly, a better job when it comes to their PR strategy in Europe. Maybe let's be a bit more clear. I think Google's strategy, at the moment, is rather disastrous, so whatever they do, it just doesn't play out and it doesn't play out really well. So, there's lots of room to -- there's actually lots of room to maneuver, but the way they maneuver is, unfortunately, quite poor at the moment.

So, it is -- so, that's one thing we face and one thing where, in my opinion, the private sector, from over here, has to do more than just to say, well, let's somehow regionalize. At the very moment it has worked out what Microsoft has done, that they say, well, let's try to set up some regional data centers, but it's a matter of time until the interrelation of a regional data center to the American mother company and the opportunity to get data also from regional data centers in the U.S. if you need them over here, will pop up. And so I don't think that's taking too long.

One interesting development we see right now also with our company is that many, many American tech companies are thinking about even moving headquarters now to Europe as a hub for a wider international outreach and to somehow get rid of this

suspicion being an American company that tries to leave a footprint maybe on the African continent and the Middle East or even in Asia.

So, we have had a couple of -- many requests right now actually to help also with their potential move to Europe, which I think is a quite, quite interesting development to look at the very moment as well.

So, I'd love to be a bit more gloomy and positive, but it's quite a mess we are in and from a political point this year I think we have to overcome these kind of mutual finger pointing procedure we're in right now and to finally get to a discussion, which clearly points to the differences we have, but on the other hand also to find a way back to some mutual trust.

MR. SINGER: Great. Well, let's turn to a discussion in this room. Please raise your hand and when I call on you, wait for the mic to come to you and introduce yourself. And so, if you have a question directed either at the panel as a whole or an individual, let us know that.

So, please, anyone who has a question. Right there in the back.

MS. BERNSTEIN: Leandra Bernstein, (inaudible). This is a question on what was brought up with the United States losing its moral position in the international community and that has -- it seems as though that has been a long-term trend and there's a lot of discussion now about regionalism. Europe, after the elections, appears to be moving more in a nationalistic direction, for better, for worse I couldn't say. Do you think there's any potential for the United States to redefine our international security interests in a more narrow way than we have in the past decades? And if that were possible, what kind of impact do you think that would have, positive and negative?

MR. LEWIS: Let me just make a footnote here, which is that if -- there's this thing called Foreign Relations of the United States, which the State Department puts out, and if you look at the one for 1955, there's a report of a cabinet meeting where President Eisenhower says, "I don't understand why all these countries don't like us." So, this has been going on for a long time.

I would agree that only the U.S. has the capability to lead. It has the global presence, it has the resources, and it has the intellectual framework, which I think was part of the larger discussion. But to do -- having the resources and actually leading are different and this is where I think you would need to do some rethinking.

The Russian/Chinese alternative, which particularly comes up for Internet governance, I don't think it has any legs. Their code of conduct, it's just not going to win popular support. So, I think it's possible for -- I don't see an alternative to U.S. leadership, but that doesn't mean we will necessarily lead.

MR. SINGER: Anyone else on the panel want to weigh in?

MR. ZU GUTTENBERG: I do certainly see the possibility that there is -- there will be an improvement, but it needs certain levels of rebuilding trust, specifically with Europe, first of all, to be aware from an American perspective, I think, that you cannot read Europe as Europe if you don't understand every single member state over there, and it's certainly not enough -- this rather simplistic point I'm making right now over here -- to leave the impression, you fly in for some anniversary and you fly out again, and you don't keep up a certain continuous contact on these iffy issues we have touched upon right now.

I've said before that there is the impression that, at the moment, we have one of the most detached relationships from the White House to other heads of state, and that's one of the things where there's always an opportunity to work on. Now, of course, at the same time, European leaders have to try not to react as they momentarily do -- as bluntly as they momentarily do, but also to see certain shades of gray in between and that all these things are not as easy as they are, but there is of course, there is a tendency of populism and unfortunately, as I've said before, anti-Americanism, right now, for the fruitful grounds. It's unfortunately as simple as that.

A second thing where I have the impression that we could work on and which would also be a way where the Europeans should only look at the U.S. and say, well, they don't care about us any longer, they have isolationist tendencies, they now

NSA-2014/06/04

have their own energy policy, they leave us alone, which is all not true, as such. Specifically now in the light of the Ukraine crisis we see more American troops moving back to Europe and other things, but the communication actually is failing right now when it comes to that.

And I'd like to see Europe stepping forward in this regard and making first steps and first proposals of how to get together, of how to find functioning ways how the intelligence services could work together more properly as they do right now, and also of how to confront another development, which would probably be the next transatlantic discussion we will face, and that's a certain shift that goes along with a shift of information also from the public sector to the private sector.

So, the discussion we have had last year was mainly a discussion -- almost a traditional (inaudible) discussion about the information the public sector holds and also there we have seen quite some hypocrisy by the private sector. Oh, the Googles and others, NSA is treating us so badly. If you look at it honestly, probably NSA wouldn't function the way it functions without a strong Google/Facebook/Amazon and other media and data and big data background, as such.

So, if you come now into a development, which I would call from government to Googlement, so that the private sector takes over more and more -- more and more positions and traditional ways to handle things from the public sector, we would probably have another cry of outrage after a while, specifically probably coming from Europe where the people say, well, this has -- this is a thing the government has to handle.

But there are no attempts right now to strengthen the position of the government in this very regard. So, that's a debate I see at least on the horizon and where we could actually try to foster a transatlantic initiative of an international -- multinational initiative to confront the perils and the challenges connected to that.

MR. SINGER: Right there.

SPEAKER: Hi. My name is Caroline Tutra. I'm from Brazil. And my

ANDERSON COURT REPORTING  
706 Duke Street, Suite 100  
Alexandria, VA 22314  
Phone (703) 519-7180 Fax (703) 519-7190

question goes to Mr. Harold Trinkunas. Snowden is in Russia and his visa is ending in August. He is asking for asylum in Brazil. What do you think will happen if Brazil concedes this asylum to Mr. Snowden? What will be the results and reaction of the United States government to this possibility?

MR. TRINKUNAS: Great. I think it will be predictably negative, but I think the prospects for Brazil actually taking that step are pretty unlikely. I think the Brazilian government has actually been signaling that they would like to get past the Snowden issue and I think it was even -- President Rousseff has -- or government officials have said they haven't really received an official asylum application in this case and I expect that they would prefer it that it remain that way.

So, I think at this point in time, the Brazilian government is not particularly interested in this becoming an issue for them and so I think they're going to try to set that aside in the interest of re-launching the relationship later on this fall and, of course, they're extremely busy right now with a set of other international issues with the World Cup coming up, so I'm sure they would not like this distraction at this moment.

MR. LEWIS: If it did happen, could we arrange a stopover in JFK? Do you think that would -- I mean, we could guaranty a warm welcome.

MR. SINGER: Can I pose a different one? Does his location somewhere -- I mean, we now have a status quo that maybe it holds forever or it changes -- does a change in location have an impact? I mean, essentially, Harold, you answered it as saying, the change in location isn't going to happen in Brazil, but that's different from saying, does it have an impact -- a long-term impact in the relationships in the different regions that you've been speaking on.

Another way of putting it is, where -- if Mr. Snowden ends up somewhere else, how does that play out?

MR. LEWIS: I guess what I've been wondering --

MR. SINGER: Other than JFK.

MR. LEWIS: Yeah, that would be nice, but is Snowden on the same

NSA-2014/06/04

trajectory, albeit a longer one, than Julian Assange was on? Right, and so you've got the sort of efforts to continually release something to get attention, kind of mirror what happened with Wikileaks. So, I wonder if five years from now whether he's in Brazil or in Russia or, you know, whatever, I don't know, North Korea, wherever he goes, will anyone really care? Right? And a lot of that will depend, I think, on how the U.S. reacts and how the U.S. moves forward.

But I do wonder if he isn't on the same trajectory as Assange.

MR. TRINKUNAS: And Peter, I think it really is more of how countries would use that instrumentally to position themselves in their relationships with the United States, including Brazil -- what I was trying to get at was obviously, Brazil is not interested in positioning itself in this kind of negative or hostile relationship, it's trying to get past that with the United States, but there are countries in South America that have discussed this in the past, you know, Venezuela, Ecuador, Nicaragua, and would there be a case -- an instance in which they would see it to their advantage to have a distraction of some sort by accepting this asylum application to overcome some sort of domestic or regional concern?

The one thing I would say is that that group of countries is not quite as well-positioned internationally, is not strong economically or politically or as stable as they were when this issue first came to light, so I think even they have to think a little bit carefully about whether they really want to assume the risk of doing this at a time where they're not quite as strong internationally or domestically in their ability to meet the requirements of hosting.

MS. MADAN: And I think that's the same thing in India. The only two places that he could move or want to move that would make a difference would be if he actually eventually came back here and what the U.S. reaction, et cetera, would be, and if he, yet again, made it clear that he was interested in seeking asylum in India, which did happen, and at that point it was mostly a discussion about positioning, to say, no, the U.S. is a partner and we'll not do this, but the other thing is setting a really bad precedent



to the internal officials at home, and so you're not going to see, other than that, other countries, I don't think you will see much of a discussion in terms of change location.

MR. SINGER: In the back there in the striped tie.

MR. MARKS: Hi. I'm Joe Marks from Politico. Most of what we talked about so far today has been sort of large policy shaping nations. I'm wondering if you could talk about what effect the Snowden leaks will have on smaller developing nations that are just coming online or coming online in force now, either directly or through the internet governance debates that it's sparked or helped to spark.

MR. LEWIS: One of the things I had to do at the end of my government career was negotiate with a range of countries on what we used to call "lawful access to communications". I never found a country that didn't engage in it.

So, I think one of the things you'll see, and I just had a long talk with an African government official from their Ministry of Communications, all countries do this, and so I think what they're looking back at is where is the role of the U.S.? What is the feeling about U.S. leadership? What is the -- is there a split -- and I forget who said this -- U.S. official statements and U.S. behavior, and that divergence, I think, is what shapes a lot of their attitudes towards Internet governance.

That said, there really isn't a compelling alternative yet. The Russians might be trying to come up with a compelling alternative, but the choices for smaller countries are still somewhat limited. They're going to have surveillance. They would like a bigger role in Internet governance. They're waiting to see how the U.S. moves out on these issues.

MR. TRINKUNAS: I would just add that -- there's a couple things to keep in mind, is that in a sense a lot of the critical Internet resources that allow you to effect how the regime is operated are in the hands of the private sector, largely concentrated in developed countries, and so the developing countries, as they come online, really have to keep that in mind as well. It's not -- I mean, there's a government-to-government discussion that you just pointed to, but also that private sector role.

And the other thing is, to the extent that these developing countries have national telecommunication ministries or corporations that provide the service, they're going to tend towards the side of the debate that favors state sovereignty over the Internet, whereas some of the countries we've discussed, you know, here, I mean, if you look at India or Brazil, they have very important private sector control of these kinds of resources and technologies and that creates a debate that's much closer to the kind of debate our private sector and civil society has about these issues.

So, I'd really think about where these developing countries fall in that spectrum of who provides, in a sense, the Internet domestically.

MR. SINGER: Let's get one last question. Right there in the front in the blue.

SPEAKER: Hi. My name is Rachel. I'm a student at Yale University studying national security, and my question is to all of you, really. Multiple of you mentioned that the U.S. has lost the moral high ground, at least in the view of some people, and I'd like to know, how do each of your respective regions think that the U.S. can regain that moral high ground? In other words, since most of you admitted espionage is not going to stop and that's clear to all of us, how do the countries in your regions think that the U.S. can engage in moral espionage?

MR. TRINKUNAS: Well, I'll --

MR. SINGER: We'll just go down the row again.

MR. TRINKUNAS: Yeah. And I think the key thing to keep in mind about Brazil and its particular outrage over the Snowden revelations is Brazil has traditionally historically been very careful to defend its sovereignty, so I'm not sure that Brazilians would really -- they'd be very dubious about the concept of moral espionage, although I think many people in their government admit that, you know, they conduct espionage and this is fairly normal.

But they would distinguish that from sort of moral behavior at least in terms of international law and defense of sovereignty.

But the other thing I would say in terms of the domestic politics of this in Brazil, because of the history of the military dictatorship and the role of espionage played -- as used by the military, there's an additional level of domestic political sensitivities on espionage issues that makes it an issue that the Brazilian government would have to handle carefully. So, they certainly wouldn't want to officially admit or have -- to take a statement -- making claims such as moral espionage, that's an interesting phrase.

MS. MADAN: I'm not sure in India there would be a sense that the U.S. could either -- I don't think there was much of a discussion about this in the first place, but I think there's not -- amongst those there is, there's a question of whether the U.S. can regain the high moral ground or, frankly, if it should.

I think what you will find is people stating that there needs to be a closing in the gap between what the U.S. says and what it does, and I do think this is also related to the earlier question about, you know, decline and -- there was more discussion about this question of U.S. decline broadly rather than this question of moral high ground itself, and on that, you know, just going to add to what was said on the question of decline, you saw that discussion about the U.S. is declining a few years ago. I'll tell you, one of the things that helped change that, at least in India, was the energy revolution.

And you've now heard more talk about, well, the U.S. is not declining that much, why is it behaving like it's declining? But that doesn't mean there's an interest in India in the U.S. being more involved like every other country, it wants the U.S. to be involved in its areas of interest, including Asia, but there is also kind of a sense of they want more engagement, not necessarily intervention, so there is a distinction between that, and so there's much more focused on the U.S. regaining things in that sense in terms of global involvement and not so much on the moral high ground.

MR. ZU GUTTENBERG: I love the term moral espionage. I ask whether I'm allowed to copy that. I have some experience with copying things, so it's -- I don't think that the European expectation goes anywhere close to some moral leadership. The enthusiasm regarding that is rather limited, to put it mildly.

I think the expectation goes more into a direction that the U.S. should actually try to understand a bit more the discrepancy we face in the interrelation of privacy and security in Europe and over here.

So, if there is some outreach just to find understanding on both sides that a German, a Frenchman, an Italian reacts entirely differently to the question of privacy than over here instead of continuously stretching the term "shared values", "shared approaches" all the other things. We have them, of course, but there we are distinct, really distinct, and so that's -- I think that would be a moral perspective, which would be appreciated in Europe to say that it's not about regaining high ground, it's actually try to come on a level playing field at eyesight, and I think there is an opportunity to do that.

At the same time, as I've said before, the Europeans have to be extremely cautious not to immediately counter react and say, there they are again, trying to lecture us on things we just don't want to hear from the other side of the Atlantic. But moral high ground, I don't think is the solution we would like to reach.

MR. LEWIS: So, I do think rumors of our demise have been overstated and I think I'm one of the people -- I don't know what the other panelists think -- who question the term "BRICS", so I think that the relative positions of these countries remains largely the same and the U.S. remains, if nothing else, primus inter pares.

We are seeing -- and I'm sorry, you know, I can't resist the term multi-polar. We are seeing the outlines of a sort of new multi-polar world emerge and Crimea and Snowden and the China debate, the indictments, give us some -- the ECJ, give us some idea of what this multi-polar world will look like. It's not going to be the 1930s or the 19<sup>th</sup> century.

And in that, then, the question is, how does the U.S. continue to shape the world, shape international events in ways that it thinks are beneficial? And I think that someone said the word "engagement" and I think that's really the key word.

It's not going to be a grand crusade again, right, it's not going to be the Cold War. I wrote down "Cold War Light", but I'm not going to say it. It's not going to be

NSA-2014/06/04

a grand crusade, it's not going to be World War II. We're not going to re-invade France, but it will be our leadership in specific issues and to some extent, our example on these issues, and that's where the discrepancy, revealed by Snowden between what we said, and again from a legal perspective, you know, the U.S. had a strong legal justification for its actions and I think, unfortunately, many other people, many other countries, saw that as hair-splitting.

You know, yes, what we did was legal under both international law and domestic law, and the rest of the worlds' reaction is largely, 'so what?' So, how do we regain through engagement a position where we can shape the agenda in a way that will reinvigorate an approach towards democracy and rule of law? And that's sort of up in the air. We're making efforts, but we're at a transitional moment in foreign policy and it's not easy to say -- it will not be the Cold War, it won't be the War on Terror, what will it be? That's, I think, what this Administration and its successors will need to define.

MR. SINGER: Well, I want to thank the panelists for joining us. They've taken us on a -- I won't say a great global tour. In some ways, kind of a mixed news global tour, but I appreciate you joining us. Please join me in a round of applause for them.

(Applause.)

MR. SINGER: And so, what we're going to do is hopefully not lose too much time and invite our next panelists to come up and swap microphones.

(Recess)

MR. SINGER: So, as discussed before this session is going to hit the issues side. We've touched on issues before in terms of -- with in the context of regions, but (inaudible) is going to look at them within the functional side. And then of course we'll then hear, I'm sure some discussion, in turn, on the regional aspects. And so while we are getting folks mic'd up here, I'll do quick introductions.

First, we'll hear from Ian Wallace who is Visiting Fellow on Cyber

ANDERSON COURT REPORTING  
706 Duke Street, Suite 100  
Alexandria, VA 22314  
Phone (703) 519-7180 Fax (703) 519-7190

Security at the Center for 21<sup>st</sup> Century Security and Intelligence here at Brookings. He is a Former Senior Official with the British Ministry of Defence, where he helped develop the U.K. Cyber Strategy as well as its cyber relationship with the U.S. And his research is focusing on the international dimensions of cyber security policy, and particularly the implications of cyber for military forces.

Then we'll hear from Bruce Jones, who is a Director of the Project on International Order and Strategy at Brookings. His work examines U.S. International Security Policy, Global Order International Conflict Management, and as you heard pitched by one of our last speaker, he's the author of a book that came out in March, entitled, *Still Ours to Lead: America, Rising Powers, and the Tension between Rivalry and Restraint*, it's available for purchase outside, as well as for those webcasting. I think there's an e-version, Bruce?

MR. JONES: Yeah.

MR. SINGER: Yes. Okay. And then we'll hear from Cam Kerry. He's the Tisch Distinguished Visiting Fellow with the Governance Studies Program at Brookings. He is also a Visiting Scholar with the MIT Media Lab. He has done many things in his career, but important to this topic, he was formerly General Counsel and Acting Secretary of the Department of Commerce, where he worked on a wide variety of issues, important U.S. economic growth in the global marketplace, including and particularly touching on this topic, privacy, data security, intellectual property and international trade.

Then finally we'll hear from Bob Butler. He is the Vice President of Government Strategies for IO, which is a privately-held data center, builder and provider. And he's also an Adjunct Fellow at the Center for New America Security. Relevant to this discussion and in addition to those is, he was previously the First Deputy Assistant Secretary of Defense for Cyber Policy at the Pentagon, where he was the Principal Advisor to the SecDef, and other DOD leaders on cyber strategy and policy.

So, what I'd like to do is essentially pitch to each of you the same set of

questions; within your functional area, what did you see as the major impact that played out over the last year? You know, weigh for us the effect of the NSA leaks in terms of the issue areas that you are working on. Ian?

MR. WALLACE: So I'm going to concentrate on the Internet Governance in this context, and I think it is fair to say that what we've seen over the last year, and this mirrors some of the areas that we've discussed, is Snowden has essentially exacerbated existing, or possibly even, latent trends that have -- were preexisting, but have been brought more closely to the surface, and have been seriously complicated, from a United States perspective, by the leaks and the reaction to them.

So the Internet, of course is a hugely complex system of systems, that is already governed in a number of extremely complicated ways, and that governance has always involved governance in it, but there are different philosophical and practical uses of how that sort of governance involvement should relate to the private sector and the civil society. And essentially, you can put governance into three buckets, if you like. It's a group of authoritarian countries who really want to exercise more control, largely because they fear what the Internet can -- what trouble the Internet -- what trouble can come to them through the Internet.

Then you have the liberal democracies, including the United States who have, as well as a sort of philosophical, a pragmatic view that most of the functions of running the Internet should be left to the private sector. And then you have a third group of swing states, who are not quite sure where they fit between those, and you might think of sort of Brazil and India, in that bucket. They are attracted to some private sector models, but at the same time, the idea that the United States exercises too much control makes them a bit nervous about fully accepting this.

And as Jim Lewis said in the last Panel, in recent years there has been concern that what exists at the moment doesn't really work, a sort of multi-stakeholder model that everybody has a say, and it's done by consensus, which kind of work works, so if you all are developing code, but can that work something that's so fundamental to

the way in which governments work.

And I think what Snowden has done has emboldened the first group of authoritarian states to believe that they can push back against the United States' position for a more multi-stakeholder, more private sector, more civil society in both roles. It has made the swing states, the Brazils, possibly not so much the Indias, but other swing states less inclined to caucus with the United States and others. And possibly, most importantly, it has undermined the ability of the United States to work with its natural allies, and particularly in Europe to organize itself against these roles.

Against these other positions that I just described. And I think that that in some ways is the most worrying trend going forward. We have a number of international meetings over the next few years, most obviously a big ITU Meeting happening in October and November and, you know, that will likely lead to the election of the Chinese Secretary General of the International Telecoms Union, an organization that sits within the U.N. which, some people would like to take on more responsibility for Internet Governance, and others including the United States and some European countries believe would stymie innovation and the ability to keep the Internet as vibrant as it ought to be.

And I think if Snowden has done anything, it has made it more difficult for the United States to exercise its influence over this process going forward. And (inaudible) complete disaster, one hopeful sign in the last year has been the NETMundial Conference called by the Brazilians to sort of say, we need to think differently about this, partly in reaction to the President's umbrage at being spied on in Snowden -- and the U.S., I think, managed that quite -- after an initially very hand-fisted response to the international aspects of this.

Actually performed quite well tactically and announced saying that the United States wanted to find a way of giving up its oversight of ICANN's role in giving out names and numbers right before the conference, which shifted the focus of that conference. And they also gave enough space to ICANN, whose President, Fadi



Chehadé, think they did a fantastic job of getting his arm around Dilma Rousseff in persuading her that multilateralism is not the way forward, that really she was -- wanted to be an non-American advocate for the multi-stakeholder approach.

But there's still a long way to go and unless the U.S. can work well with its allies to overcome some of the counter views then it's going to be an (inaudible).

MR. SINGER: Okay. Bruce?

MR. JONES: Well, in a way, all I want to do is try to respond to some of the themes that came up in the last Panel, and essentially picking up on what Ian just said it seems to me that that discussion you just described is a perfect microcosm of the broader phenomenon, of where the United States is going to have to be in the international order.

It's (inaudible) matters to be clear about the context here, and some of this came up in the discussion the last Panel. This is not just any moment in American foreign policy, we are at a moment of inflection, we are at a moment of flux. I'm among those who think the storyline of American decline has been exaggerated, we talked a little bit about this the last Panel. The storyline of the Brits has also been exaggerated both from the scale of their influence and the degree of their unity, et cetera.

But there's no questions that there's a redistribution of power that's ongoing, and I think the overarching question that the United States faces is to what extent is it going to be possible or feasible for the United States to continue to play the role that it has historically played, of being the kind of leading actor and shaping the counters in international order, and where this redistribution of power will fit into that.

On way to think about it is if you had in the Cold War, a fairly simple matrix where you have one set of powers on one side of the equation, the United States and its allies versus Russia, the Soviet Union, and to a lesser extent, its allies. That was one phenomenon. We've then been through a 25-year period where the United States was really the only power that could play at the global level and in a meaningful sense and in a leading power. And during that 25 years we've seen the articulation and the

institutionalization but a very expansive and robust set of international agreements. The tools of international order to do all kinds of things, from internet to civil wars, to free trade, et cetera, but all during a period of when there was no real contest of all the top powers.

And we are entering the phase where there will be a contest among the top powers about the shape and the contour of those -- of that international order. And in my sense, and I think this is confirmed by a lot of what was said in the previous Panel, is that we have to see that Snowden is not a discrete event, but one part of a process of weakening the United States precisely as it enters that moment of trying to retool the international order, or reconfigure for the current realities.

And it seems to me that one way to think about this is, people talk about the moral high ground before, but what are the components of that. You know, at least the myths and there are always myths, they were never the full realities, but the myths of America were, that it was a country that willing to put at least some portion of its security into defense of allies. Right, it wasn't just a purely national security actor, it had an alliance structure. That was, I think substantially eroded by both Iraq and the global war on terror, and so the issues that came out in alliance issues there.

The second myth is about -- and these myths have important elements of truth by the way. The second myth is about the United States was the Boardwalk of the global financial order, and open and stable international financial and trade order. And that's very much true, but the global financial crisis queried a lot of people's perception about the credibility and the reliability of the United States as a guarantor of that order, and as the steer of that order.

And then the third myth is about American civil liberties and the kind of model that the United States provides versus other powers, and Snowden has challenged that myth. And again, I'm using the word myth in the true sense, you know, there's a lot of truth in myths. So you had a kind of security image of the United States, a financial image of the United States, and a civil liberties image of the United States, all of

which have been challenged in the last several years, and Snowden is -- Snowden has been part of that, not alone.

We've talked a bit, yes, about it affects some of the countries, and you, I think, in your presentation on Internet Governance characterize accurately the groupings of countries. One country we didn't talk of much is Russia. I do think the fact of Snowden being given asylum in Russia, when it happened was a part of the process of the breakdown, of the recent breakdown of the trust between the United States and Russia. The fact that it happened in the lead up to the Olympics, and it was part of why the United States chose not to go to the Olympics -- to the Russian Olympics, at a senior level.

All of these were kind of cascading effects that, by itself, was not a determinant, but it certainly didn't help anything, in the kind of breakdown that we've seen in U.S./Russia relations of late, and that it's going to complicate very substantially all sorts of aspects of the international order. So I think that we -- and the piece that I worry most about is actually these swing states that Ian talked about, and we've heard about them before.

The one piece that I thought that I wanted to kind of highlight or dramatize from the Brazil and India portions, is it seems to me that one of the -- one of the phenomenon is that there is an active debate in these swing countries about to what extent to partner with the United States, or not. And for those people who are most important in pushing the argument, it was never that we should buddy up with the United States, it's that we have interest, they have interest, and by the way, our interests align a lot, so let's just get over our old hang ups, and our old anti-Americanism, et cetera, and actually recognize their interest align.

Some of those people were the most embarrassed by the Snowden relations about who was being targeted and how, and it has weakened them in that argument. I think that's recoverable, as is the allies piece, but it weakened the United States in the -- in that argument at a critical -- at a critical moment in time.

The silver lining in all of this, and I think, again, this just building on things we heard last year is, you know, if you are somebody in Delhi or in Brazil or in Germany, and you arguing, well look, the United States has shown that it's not as strong as it claims it is in civil liberties. You know, are you going to then say, therefore we should we should work more closely with China, that paragon of civil liberties? Or, Russia, that paragon of civil liberties. I mean, there is nowhere else to go, right.

So in this question of whether or not the United States can recover a kind of leadership function, I think the United States profits, there's a silver lining here that profits from the character of its potential adversaries, it is not as if China or Russia offer an alternative that's particularly attractive, or particularly credible in the kinds of terms we are talking about.

MR. SINGER: Okay. Cam?

MR. KERRY: Thanks, Peter. I do want to note that it's also the 25<sup>th</sup> Anniversary of the crackdown in Tiananmen Square, just because I can. But, you know, a year ago, as the first stories, about Snowden, 215 story; the President Program were breaking, I was occupying the Secretary's Office at the Department of Commerce. So, some of this, the way you might watch an accident in, sort of, slow motion vision, as just unfolding slowly, and kind of powerless to change the outcomes.

I think for me and other of us at the Department of Commerce have been focused on Internet Governance, on privacy, on the importance of data flows to trade. I think the impact of the disclosures on our stakeholders overseas, on the gulf that people have talked between American rhetoric, and our actions in all of these things, I think were apparent, but, you know, this was initially viewed, I think, as a security issue. And I think you will get no argument from the White House today that that (inaudible) the President out a week or to win to say, don't worry no American citizen are being subject to surveillance, that might help to ignite the flames, while some of the official reactions as, as Karl-Theodor zu Guttenberg described was a muted, it was a grass reaction that, you know, really led to one of the effects that people have already described.

But the fallout to those effects on trade and commerce, have been significantly met this morning with the General Counsel from a leading tech company who said, you know, there's no question that this has had an impact on the willingness of foreign customers to trust American providers. And we see that playing out in various ways, and I think most directly in China. Cisco attributed a downturn in results at the end of 2013, to the loss of some China business.

IBM has lost contracts there in China, as Ian has -- was described taking the equivalent taste that it's able to claim here to increase the already difficult barrier to entry in that market place. The other place where, for all the reasons counted or described the impacts have greatest, has been in Europe. It has put a real spotlight on American companies, heightened the distrust, the fear, the angst for (inaudible) that exists there, and translated into political policy terms. So because of the desire for a European cloud, Parliament actually voted to direct the European Commission to come up with a plan for a European Internet that would keep data for -- on European citizens from leaving European borders.

And we have seen the pipe -- the efforts towards European privacy regulation gain a lot of steam, and European institutions, looking to be the instruments of leverage to, you know, keep data out of the hands of NSA. So in the Safe Harbor context, the Safe Harbor Agreement has enabled the flow of data across borders, notwithstanding some of the differences in our privacy systems. The European Commission has issued what Viviane Reding called her to-do list, for the Federal Trade Commission, and Department of Commerce to make changes to Safe Harbor.

Most of which are doable but, you know, providing a recourse for European citizens for U.S. surveillance, and other (inaudible) activities beyond the powers of that agreement. We are also seeing in TTIP, you know, those (inaudible) are also described has been heightened as an issue, I think on both fronts, there's progress being made, but these issues will continue to play out, and I'll talk more sort of about where I see this going.

MR. SINGER: All right. Bob?

MR. BUTLER: Sure. I'm going to talk briefly about defense and then I'm going to spend most of my time, based on where I sit today, talking about tech; an industry from a global datacenter perspective. Within defense, though, I think in light of the Snowden revelations I think Cam's explanation of a kind of a aircraft accident or a car accident, kind of, proceeding slowly, holds true. There is a sense -- there was a sense of awkwardness, and a lot -- I think a lot of folks just watching to see how the United States was going to deal with it.

At the same time, in these -- when these unfortunate situations happen, National Security and Defense dialogue trumps, so with coalition partners close allies, the conversation continues and it continues to grow. I think the other dimension is, you have two sides of a discussion, is above-the-table political discussion that's going on, and then there's a discussion within the defense and intelligence community. And again, from the substance of national interest, not only U.S. national interest, but foreign national interest, there is -- you know, we built alliances, coalitions and relationships based on dialogue.

So from the defense perspective I think that is a trend that we've seen, and I think we'll continue to play out over time. It does get altered, you know, based on other events, right, so we are now in the process of looking at a (inaudible) it's ongoing with these Chinese indictments from DOJ. You know, we talk about moral leadership and what that means. That's a broader discussion and just defense, but how that plays out vis-à-vis something like what was announced yesterday, with the game overseas (inaudible) take down in the Department of Justice is U.S. leadership, in terms of taking down a global threat.

So those all interplay as we get into this discussion, and happy to talk about, you know, where that might lead us in the Q&A. And looking at the tech industry, and just picking up on Cam's points, because I do spend a lot of energy here with regards to looking at this in my role as Chief Security Officer at IO, we have global operations in Singapore, and building out in London and around the world. When we

NSA-2014/06/04

look at what we are driving at, where business, tech industry is going, a significant amount of projections that U.S. businesses made had predicated on growing global business, growing business offshore.

And there is concern based on what has happened with the Snowden issues. You know, based -- just common estimates in the world of cloud computing, right, we had predicted, projected, most industry projections, Gartner's projections are about a 40 percent compounded annual growth out through just 2015, in cloud computing. But what is the impact over time of what is happening here with the Snowden discussion?

When you look at the surveys, and the survey is almost every couple of weeks, pulsing foreign companies, U.S. companies, foreign governments, U.S. governments in the space. The issues that continue to come up are, again, sovereignty and data custody, and Stu and others can talk about that from a legal perspective, I'll talk about it from an industry and business intelligence and policy perspective here. There is concern, and the concern is, you know, where is the data, who owns the data, who controls the data?

We are beginning, as we survey from industry to government, and getting government responses back. In the foreign arena, there is concern about what that's going to do in terms of buying behavior, due diligence processes and the RFP process. Concerns about training with regards data protection laws, and who is doing what in that space, so there's a lot of things going on here as we kind of unpack the issue of Snowden revelations, but they -- we are challenged in that space as we kind of go through that, because I think like government industry was caught off guard in terms of what was happening here.

So spending a bit more time with regards to Government affairs, people being engaged in this space and looking at it knowing from their engagement with U.S. government affairs but foreign government affairs, a lot of listening going on in terms of not only attitudes regarding the revelations but the implications, so all of the laws that are

being talked about, whether it U.S., Canadian, Brazilian, in the discussions there's a lot of attention inside of the strategy groups, that a different corporate -- corporations, as well as in the boardrooms. Certainly within with our company, IO, we spend time discussing these types of issues, and the more and investors are concerned. You know, what are the long-term implications?

I think the other point I would make in this space, is that as we see this playing out, you do have several different types of reactions coming from industry, you've seen Google come out pretty strong, you've seen -- can't mention Cisco's announcement. But most have been very quiet, right. They are thinking through this and trying to sort out what the implications are, and that's both from a technological perspective as well as a business perspective, and what I would say, a government affairs engagement perspective.

The immediate impact as I've seen it, as I work as a -- in the datacenter, in the cloud computing world and kind of looking at supporting critical infrastructure, enterprise both U.S. and abroad, is especially in a couple of different regions. The APAC regions, as well as in the GCC states, there is pause in RFPs, request for proposals. You know, where we had projected a word of activities, Snowden is -- the Snowden revelations is a contributing factor into slowing things down a bit.

I'm going to stop there now and talk about projections and trends in the future.

MR. SINGER: Let me introduce our final panelist, Stewart Baker, who is a Partner with Steptoe & Johnson, where he return to, after three-and-a-half years as Department of Homeland Securities First Assistant Secretary for Policy, and he has a long career working -- technology, intelligence policy issues, law, where these all come together. So, Stewart?

MR. BAKER: Thanks. I think that request was I think about what this meant for intelligence overall. You know, it's always hard to tell how bad a particularly leak is for your intelligent sources and methods it's -- it often depends on knowing a lot of



classified information and knowing who responded in very particular ways to the leaks. So, it's very difficult to say, I know we lost this capability, although there are so many disclosures that are so specific, this target, the Taliban, targeted in this way with this kind of tool, that it's impossible to believe that some of our targets didn't read their names in the paper and decide to change their own methods of communication.

So we've lost that. We've certainly lost, big time, in the relationship on which most of our intelligence operations, at least our signals intelligence operations depend. Which is allies who are prepared to, you know, help us with geography or other capabilities, and companies that are willing or feel obliged to cooperate with the government passively or actively.

On the diplomatic side with governments, I think many of these things are repairable. I mean it doesn't help to have the Swedish Government called out for cooperating with the U.S. Government against Russia. Or the Norwegian Government called out for exactly the same kind of relationship, but in the end, those relationships are built on mutual self-interest, and they will continue pretty much as you said.

The companies, it's going to be much harder. They recognize that they are in a power relationship that is unbalanced when they talk to the United States Government, they are very angry, they probably overestimate the ultimate commercial fallout from this, but that's easy to say when it's not your quarterly revenue targets that are getting missed. And so they are very angry, they are responding in ways that are not completely rational, I'm not it helps to rage against the United States as a privacy invader, if you are ultimately selling U.S. technology to the rest of the world.

And that probably accounts for some of the silence. But there is no doubt, I mean, I get this from clients all the time now, they want to know, do I have to, what's the least I can do, how can I challenge this? What happens, often when, rather than if there's a disclosure about this. These are questions I used to feel obliged to say to my clients. You know, look, this is quite possibly going to get leaked, and you need to think about that as well, and you realize, you know, the agencies are your friends, but

they are their own friends first.

All those things I used to have to say, I don't have to say anymore, they come in knowing it, and that is -- that is going to hurt the U.S. Intelligence Enterprise in significant ways, but ways that are hard to identify specifically. Interestingly, the Snowdenista journalist have felt, we don't want to disclose names, like carefully-smudge faces, but the names of companies, no, they deserve to have pain. And so there's a glee with which the names of companies are disclosed, even where there isn't really good evidence that the companies did anything, particularly to help the U.S. Government.

The Snowdenistas have even withheld the names of targets of U.S. Intelligence who are encouraging Jihad against the United States because that would invade their privacy, at the same time that they are disclosing the names of all the companies that responded when their country called and asked them to do something. So, the expectation that there will be pain associated from working with the U.S. Government is at an all-time high.

The other Intel diplomacy issues that we've, sort of, heard about already, data sovereignty is not just bad for business it's terrible for intelligence, because, and indeed, that's exactly why it's being pushed. It is something that if you are a Brazilian, or German intelligence agency, you want that data stored in Brazil or Germany, not just to protect the privacy of your citizens, but so that you can invade it at will. I am indeed, so that you can keep the United States from invading it, or have something to trade when the time comes for the brutally reciprocal relationship that is intelligence cooperation.

And therefore, there's a kind of unholy alliance between the privacy groups and the security ministries of many of these countries, both of whom have an interest in bringing that data to the -- to their country. And, interestingly, there's a major privacy issue for Americans which no one wants to talk about, which is that the Germans, without a court order, without anything -- without any requirement for a gag order, are going to go into German providers, and just ask them if they are willing to volunteer information about Americans, and of course the providers are going to say, yes sir, and I

don't need any paper, thanks.

And all the things that people assume the U.S. won't do, they can assume that even the Germans will do, and so if your data ends up stored there, which it could easily, you are in deep trouble.

Last thought on this, there's a risk aversion crater where the National Security Agency used to be now. We are going to see a decade of reluctance to be creative, reluctance to be aggressive, scrutinizing every collection possibility, through a lens that says, well, I can but what some presidents sometimes say, I shouldn't and -- or if it leaks, how will it look. And that is not good for intelligence. The CIA has been through five risk aversion episodes in the last 40 years, but NSA is making up for all the ones that it missed.

And so I think we were -- we will lose intelligence capabilities that we won't even know we've lost until we send troops someplace and they end up deeply surprised, and hurt in ways that we are not used to having our troops hurt.

The last question, is there anything good about this? I guess, there is an element of -- well, I notice -- I noticed this when I was in NSA, that our targets went from thinking, they couldn't possible, to I can't help it, I'm totally (inaudible). There's a kind of capitulation a -- to use a market term, where people go from -- they want to believe first they can't be targeted, then they say, oh, I'm targeted, I have to do a bunch of stuff, and they start doing the stuff, and then at some point you hope they say, ah, I did all that stuff and it didn't work, I give up, I'm just going to have to recognize that they are listening to me.

And I think there's an element of that in this that a lot people who are now of the view that they just can't keep the United States from finding out what they think. And maybe there's a little bit of payoff in that. A desensitization, all of the things, you know, we've learned this from watching really good politicians. There's a point at which you can say, that's old news. I am -- now, many of the scandals that otherwise would have turned up in the last -- in the next 15 years, we'll be able to say, that's old

news, didn't you read Glenn Greenwald's book?

And so maybe that takes the edge off future disputes because people now have a pretty good idea of what our targets are, how we do it, and the extent to which other -- even allies can be targets. A pretty cold comfort, but there's a little something there.

MR. SINGER: Right. So I'm going to pose the next question but ask the Panel to give just a shorter, quicker response because we've got more people and less time. So, essentially what do you see as the long-term legacy of this? What are the issues that are going play out in your area, in the year, the five years, the 10 years ahead, and how might we navigate the negative side of that. Ian?

MR. WALLACE: So I think on the Internet Governance side, it is -- it's not entirely clear how it will play out, but one of the key factors will be the extent to which the United States the United States can marshal its allies, both governance and in the private sector. And I'm a little bit more concerned about that than I might have been a few months ago, given the continuing European concern in the transatlantic sort of divide on these issues.

Given, I think, the President -- or the administration's reaction was quite poor to start with, but the President gave an opportunity for the Europeans to climb the ladder that they climbed up, and that they don't really seem to have taken it. It's not clear where they go next, and therefore how you close that gap. And as that relates to Internet Governance, you know, these are the people that the United States needs to be working with, in order to bring alongside swing states, and to build a sort of bold work to a fairly significant group of countries not, just sort of authoritarian states, but fragile democracies who are not even more concerned about the idea that people from outside can cause them trouble through this thing called the internet.

Where will this play out? I think the sort of international meetings, there's an ITU kind of (inaudible) meeting in career in October, November, and will get us -- and that could involve the -- unless action is taken we could have a new telecommunications

treaty, which the law, in itself, doesn't mean much could change subtly the way in which telecommunications, which has an impact on the Internet. There will be an ICANN process, to work out the U.S. moves away, and how that place forward will be an indicator. There will be issues of the extent to which new governance regimes impact on how authoritarian states take legitimization for the way in which they impinge on the Internet freedom of their own people, and I think that's something that's relevant here.

And probably fourth and more significantly, is this idea of Internet fragmentation which is an overblown concept that to a large extent the private sector runs and operates the Internet, and it will route around problems, but the internet, like any other Internet, is more valuable the more nodes that's connected to it, and if countries are able to close themselves off from the internet under, and have authority from international organization, perceived authority from international organizations to do this, then it -- not only are they ultimately the losers, but the rest of the people left on the network also get less benefit, and that has an economic as well as a social implication.

Where do we go from here? I think working with other states, building, trying to create the evidence for a common interest in working together is important, but I also think getting the U.S. private sector, despite their angst, to work with private sectors overseas, in places like India and Brazil, and particular Europe to, sort of, persuade them they need to talk to their governments and work together, is going to be ultimately the way that we work through this.

MR. SINGER: Okay. Bruce?

MR. JONES: Well, having been fairly response, let me be slightly more upbeat in this, because if I look out over several years, I'm -- and even a shorter term that I'm more inclined to -- your last point about, there's an old news phenomenal now, or at least there can be. It's well-timed, there's about to be Brazilian elections, and there just been Indian elections, when you look at the swing states and some of the other actors who are in this, they are not U.S. allies, but they are not adversaries so kind of friend -- neither friend nor foe country.

I think you've seen relatively quickly now, a sense of, look, it's just too costly to sustain tension with the United States, so let's find ways to move past this. And elections are helpful, either bringing in new actors or by sort of demarcating we can say, well that was that phase, and now we'll move on. Harold talked about that in the Brazilian context, I think we'll see that in the Indian context, a sense of, okay, that was that, let's move, let's move onwards.

And I think the kind of, used phrase, mutual self-interests, but when you look at these actors and what they are looking at in big-picture terms with China, with Russia, with the frame of different regimes, and they look at the United States, the mutual self-interest is pretty rapidly putting this one back in a box at a very strategic level at least.

MR. KERRY: Yeah. So, about three months into this, I reminded people that a foreigner, and Alexis de Tocqueville said, that the greatness of America lies not in being more enlightened than any other country, but in her ability to repair her faults.

And I think we have seen that at work over the past year, the first, and I went to a Cabinet meeting to talk about privacy issues, it was clear then, and that I was the only person in the room, who had really devoted any substantial time to thinking about those. Over the past year, that has certainly changed. The President, John Podesta, members of the Cabinet have spent an extraordinary amount of time thinking about these issues.

We have a product, a President, a declaration of January that we are going to extend protections to foreign citizens.

MR. SINGER: Mm-hmm.

MR. KERRY: The decision that I alluded to internationalize ICANN, and the number of assignment functions that it performs. There is more to be done, and we need to just (inaudible) implement a lot of those steps. I think more can be done to delineate limits on the use of some of the tools that we have. For example, the encryption standards and (inaudible) with those we are exploiting vulnerabilities in the

systems. All, you know, have helped, and will help to regain the moral high ground both in terms allowing -- being clear about, you know, what we regard as, if you will, moral surveillance. Being clear about what surveillance we do and why and on what basis.

That's something that was lacking. I think also it turns the table a little bit, as other countries that, you know, all acknowledged that they do the same. Face the questions, (inaudible), what do you do? What do you do? What protections to do you give to your own citizens, much less to the citizens of foreign countries. And I think all of this has helped to emphasize, you know, privacy is part of American values, and the Americans do care about it, notwithstanding perceptions overseas.

You know, Karl-Theodor's successor, Thomas de Maizière met with American companies here a few weeks ago, went back to Germany and said, it's clear to me that American Internet companies care about privacy. So getting that message across has been important I think, in asking legislation to fill some of the gaps in our system would help.

MR. SINGER: Mm-hmm.

MR. KERRY: But, you know, the other piece is engagement, it's going to take continued leadership, on the part, you know, United States, on the part of the American President and other high leaders to articulate our values in this area to articulate why the model of Internet Governance that was spawned here, that we've supported, is important.

You know, Karl-Theodor talked about data successionism, I like that term, and I mean I we need to -- you know, data, Abraham Lincoln sort of stand up for what's important about this. At the end of the day, I agree with the other speakers that this is going to come down to economic and other self-interest. But it is in the self-interest of Europe in support of its economic growth, of its trade relationships, and the support of other countries that want access to the world economy to support these values.

It's complicated, because the mechanisms that we have are not strong

NSA-2014/06/04

enough, but I'm, you know, as Churchill I think he once said about democracy, it may be the worst system aside from every other one, and I think that applies to the system of Internet Governance that we have.

MR. SINGER: Bob?

MR. BUTLER: Yeah. From the U.S. industry and kind of global industry perspective I think there are three trends that we need to keep track of. One is encryption, Cam mentioned it, bulk encryption in terms of where we are, how we are taking care of data is going to become increasingly important. We hit an inflection point with the RSA breach, I think we are hitting another point here as the industry moves forward in the space in light of the Snowden revelations, who has the keys, right, that's a really important issue.

The second is -- and again, I think others referred to this, is custody, data custody assurance, how we do that, we see the beginnings of that. The Electronic Frontier Foundation has put out surveys. You watch companies like Google putting out transparency reports. I don't think we are going to be able to continue with the service-level agreements and the contractual language that we have today, over time, especially as more and more of this gets reviewed. And I think that's something that begins to balance the transparency and the security discussion, encryption of course being a part of that security discussion. The custody assurance being a part of the transparency discussion.

The third area is regionalization. I think we are definitely going to be moving into that space and how companies, and not just tech companies but companies that are large within the United States and globally deal with that, is going to be an important thing to look at. I would say we are going to see more U.S. foreign partner relationships. I mean you saw that with Microsoft recently announcing the migration of the (inaudible) cloud using a channel partner, 21Vianet, to help them with business in China.

And that wasn't completely driven by Snowden revelations, it was driven



by, you know, a long -- a kind of longstanding discussion internal to the company about doing business in China, but I think those kinds of relationships begin to evolve. I think this -- another second-order question then becomes, as you begin to look at -- positioning yourself differently through regionalization, some of these other things, that we -- that I've talked about, now you are in a space of changing your business continuity plans, not only business continuity as you deal with it from a client perspective but also from the standpoint of you own internal workings.

And so I think those all get rolled into a discussion, and extended -- a supply chain comes in, your suspended enterprise is going to begin to change a bit in light of this, so I think there is a series of discussion, some of them already taking place, some still to take place. And I would agree with Ian and others, it really will be impacted by what the public sector, what the government say, and what they don't say. But I would agree that the private sector will be -- has been, but will continue to be much more engaged in this discussion because it is about business.

MR. SINGER: All right. Stewart?

MR. BAKER: Looking out a ways, I think. Obviously this is just -- pushes people in the direction they were already moving in, and the only really troublesome thing, if you look five years or eight years out, the relationship I think is troublesome, is with Europe; because this issue has allowed the Europeans to take their data protection assumptions to new level. And their enthusiasm for squeezing the U.S. on that issue to a new level, and it's going to cause real pain to important national security interests.

It is in Brussels' nature to twist the United States' tail, a confrontation with the United States improves their turf, improves their prestige, and gives them ideas for things that they can be proposing internally in Europe. So there's always going to be tension. The tension only ends when we make it absolutely clear that they have gone across a red line for us. And so far we have not done that. We have not said, you know, if you keep this up maybe we really don't need a TTIP, because frankly I don't think we

do.

And if it -- certainly if it's not going to address this process of holding industry segment after industry segment hostage to get changes in the U.S. Government Policy, which is something that's been going on since about 2004. I think if we can't resolve that in TTIP, I don't think we are resolving our principled trade barriers with Europe. So we really need to indicate that this is causing us to rethink what had been automatic support for closer European unity and unification, and a reluctance, and we try to walk Cameron back from raising questions about the relationship that the United Kingdom has with Europe.

I think we should not be doing stuff like that if Europe is going to be pressing us on issues that have such an impact on our national security, whether that leads to a breach or a final sobering up in Europe about this issue, I can't tell, but my money is on sober.

MR. SINGER: All right. We've got time for a couple of questions. So same rules as before, please raise your hand, wait for the mic and introduce yourself. Right over there, yes?

SPEAKER: (Inaudible) with the Voice of America. Several of you mentioned that China has cut business with or reduced the contracting opportunity for several U.S. giant tech companies. I was -- I'm wondering whether -- do you think it's going to be just isolated sanctions against these U.S. companies such as Google, Apple? Or, do you think this might develop into a wide range of trade war with the United States? Thank you.

MR. KERRY: So I think that's an open question. I think typically in the U.S.-China relationship there's a very reciprocal reaction. So the United States does something that China doesn't like, it engenders a response some form of retaliation, and then things tend to move on, and hopeful that that will be the case here. But, you know, there -- clearly this is wrapped in a number of other things, that could continue to -- that could cause it to continue. So issues of the overall U.S.-China relationship to date, you

NSA-2014/06/04

know, a set of protectionist policies, as well; responses to the recent indictments. So, you know, all of those, I think, could sort of exacerbate this particular issue.

MR. BAKER: I might disagree a little with Cam. We could do much more to China and they would kick us out of their tech sector as fast as they could. We could do nothing to China, and they would kick us out of their tech sector as fast as they could. This is over-determined. They have an industrial policy reason, and a security reason to try to move up value chain and to displace as many U.S. companies as they can and they have a shot at doing it, so they are doing it in some areas.

And they are going to push that as fast as their market and their customers, especially their sophisticated customers, are willing to be pushed, and I'm not sure that what we do here has as much impact. And they should -- they will try to sell it as, this is a retaliation for the last thing you did, which you need to roll back, but they are doing it as fast as they can do it consistent with keeping their economy on track.

MR. JONES: Just building on the points. I agree with both Cam and with Stu. I think there's a political interplay but there's a supply and demand and tech-readiness piece, and as you look at readiness of companies in China, they are rapidly approaching tech readiness in many different dimensions of what the U.S. is doing, but there are certain key areas that, as we kind of go forward. Especially in the area of operational efficiency, that we have an opportunity to take advantage of. I'm not sure how well organized we are to take advantage of it, but I do agree it's fleeting.

MR. SINGER: Take one last question, right there?

SPEAKER: Steve Bender, Local Researcher. As I heard from Former German Ambassador of the U.S. (Inaudible) this morning, a court case, the Germans are taking the U.S. to court to try and hold the U.S. legally responsible for the spying on Ms. Merkel's phone. This seems a pretty extreme. Any reactions to this from the Panel?

SPEAKER: I'll let the lawyers handle that.

MR. SINGER: Anyone what to handle it, or we've got a lawyer right here. So go ahead.

NSA-2014/06/04

SPEAKER: Yeah. The last time I saw it, unless this is very recent, prosecutors they don't have enough evidence to charge anybody in particular, which sounds like the right outcome, but yeah, I don't know who you sue for that, or who your witnesses are.

MR. BAKER: I was going to say I thought it was probably politically helpful, the recent revelation, and I can't remember who revealed this revelation, whether it was us or them. But the revelation that the Israelis had tapped Bill Clinton's phone. That's probably fairly useful to kind of highlight, like allies too.

MR. KERRY: The Germans gave us a list of 300 targets that they were working on, and 30 of them were Americans.

SPEAKER: Right. There we go.

MR. KERRY: So I -- you know, nobody's hands are clean on this. So maybe, yeah, we should threaten counter claims.

MR. SINGER: Okay. Well, that's a -- we'll leave that court case or courts cases to play out in the next couple of years.

SPEAKER: I'll pass out my card over here.

MR. SINGER: Yeah. But I want to thank not only this Panel, but the prior Panelists for joining us for this discussion, as well as all of you for coming out, and you've got the hash tag up there for the conversation to continue. And I think the one thing -- takeaway is that it will continue in whatever shape or form. So thank you, again.  
(Applause)

\* \* \* \* \*

## CERTIFICATE OF NOTARY PUBLIC

I, Carleton J. Anderson, III do hereby certify that the forgoing electronic file when originally transmitted was reduced to text at my direction; that said transcript is a true record of the proceedings therein referenced; that I am neither counsel for, related to, nor employed by any of the parties to the action in which these proceedings were taken; and, furthermore, that I am neither a relative or employee of any attorney or counsel employed by the parties hereto, nor financially or otherwise interested in the outcome of this action.

Carleton J. Anderson, III

)Signature and Seal on File)

Notary Public in and for the Commonwealth of Virginia

Commission No. 351998

Expires: November 30, 2016