

THE BROOKINGS INSTITUTION

GLOBAL IMPLICATIONS OF DATA FLOWS
BETWEEN THE U.S. AND EU

Washington, D.C.

Wednesday, October 22, 2014

Moderator:

JOSHUA MELTZER
Fellow, Global Economy and Development
The Brookings Institution

Panelists:

MEREDITH BROADBENT
Chairman
U.S. ITC Commission

ANTONIO DE LECEA
EU Principal Advisor for Economic and Financial Affairs
EU Delegation to the U.S.

STEVE STEWART
Director, Market Access and Trade
IBM

* * * * *

P R O C E E D I N G S

MR. MELTZER: Good morning. Thank you all for braving the terrible weather this morning to make it here today.

We're going to talk this morning about the importance of cross-border data flows and the internet for U.S. and EU trade and investment.

The internet and the free movement of data globally is a growing driver of economic growth, jobs and welfare. The internet is providing opportunities to improve productivity, reduce trade costs and to stimulate international trade.

In fact, cross-border data flows are themselves a form of international trade. For instance, a range of services can be now purchased and delivered online to anyone with internet access. This includes services ranging from financing, consulting and royalties for intellectual property use. Consumers are also benefitting from the ability to move data freely across borders as they are able to access new and increasing innovative services.

There are, of course, other cross-border data flows that are not themselves forms of international trade but are important sources of growth and enablers of trade. For instance, businesses really on cross-border data flows to communicate internally and with customers and suppliers, manage global supply chains and collaborate globally on R&D and design projects.

According to the United States International Trade Commission, digital trade is increased the United States' GDP by approximately 3.5 to 4.8 percent and creating up to 2.5 million jobs. And we're going to hear more about this from Chairman Broadbent shortly.

The internet and cross-border data flows are also providing opportunities for small and medium-size enterprises to participate in the global economy. SMEs can

now use the internet to reach customers globally, wherever they have internet access, process international payments and, for a range of digital products, have them delivered online. For instance, SMEs on eBay are as likely to export as large businesses and have a survival rate which is almost twice that of businesses which are, in fact, offline.

The internet is also giving SMEs the opportunity to improve their own productivity by accessing business services. This includes things like Google Search, which allows SMEs to develop market intelligence and learn about laws and regulations in other countries, access to the cloud provides opportunities to download software, and cross-border data flow allows for regular updates and security patches.

It's also providing opportunities through the internet to plug in and become part of global supply chains.

We also see businesses using the internet to do increasingly innovative things. For instance, companies can now use the internet to harness the intelligence of users by interacting with customers, suppliers and other stakeholders in product development efforts.

Crowd-sourcing, which is another evolving internet opportunity which is allowing people situated globally to contribute tasks and to become co-creators.

All these new business models require the ability for data and information to flow freely across borders.

The U.S. and the EU are the world's two largest economies. Together, they represent about 50 percent of global GDP, 25 percent of global exports and 30 percent of global imports.

And, in fact, the most significant bilateral relationship is also between the U.S. and the EU. Each is the other's largest market for goods and services, which in 2013 were worth approximately \$650 billion.

In addition to this, there's a stock of over \$3.8 trillion invested into each other's economies, and an increasing amount of this trade and investment relationship is underpinned by cross-border flows of data.

If you look at graph one, you can see this demonstrates the importance of cross-border data flows between the U.S. and the EU, which are 50 percent higher than data flows between the U.S. and Asia and almost double data flows between the U.S. and Latin America.

The internet and the ability to move data globally is providing new opportunities for international trade, particularly when it comes to services that can be delivered online. In fact, growth in services world trade is going to have a significant impact on U.S. economic growth. The services sector is already a key driver here and contributes most to U.S. growth than all other sectors, and in 2012 the U.S. private services sector accounted for approximately 69 percent of U.S. GDP and 68 percent of U.S. employment growth.

Services exports from the U.S. are worth approximately 34 percent of total exports, and this is actually about the same for the EU.

But, if we also take into account the value added of services in the product (sic) of goods for exports, we see that this increases U.S. services exports to about 50 percent of total U.S. exports, and for the EU this increases, in fact, to over 54 percent of total exports.

Now there are no statistics that actually measure whether trade happens online or not. One approach to getting at whether this happens is taken by the Department of Commerce, where they measure what is referred to as digitally deliverable services which is understood as services that may be, but are not necessarily, delivered digitally. So this includes services such as businesses and professional services,

royalties and license fees paid on intellectual property, financial services, insurance services, communication services, of course, including e-mail and internet access services.

Focusing on the services that can be digitally delivered talks about, and reveals to us, a capacity for the internet to drive U.S. and EU trade.

In 2012, U.S. exports of digitally deliverable services to the EU comprised approximately 72 percent of bilateral services exports, and for the EU this was worth about \$86 billion of exports to the U.S.

If we look at the figure globally, U.S. exports of digitally deliverable services were worth over 60 percent of total U.S. services exports, approximately \$384 billion, while EU exports globally of digitally deliverable services in that same year were over \$465 billion.

It is also the case that digitally deliverable services such as consulting, engineering and finance are input into the production of other goods and services. Looking at this graph, you can see that when these products are then exported, so are the digitally deliverable services used in their production.

So, if we take into account the value of digitally deliverable services in the goods and services exported from the U.S., this actually increases U.S. exports of digitally deliverable services to the world from \$380-odd billion to over \$569 billion, which is worth about 32 percent of total U.S. exports. And, for the EU, this increases their exports of digitally deliverable services to approximately \$750 billion worth, or 25 percent, of total EU exports.

It is also the case that a significant amount of U.S. imports of digitally deliverable services from the EU are used in the production of other goods and services which are then exported, and this is obviously also true of EU imports of digitally

deliverable services from the U.S. which are then incorporated into the production of goods and services for export.

This graph disaggregates that, but essentially, the key point here is that about 62 percent of the imports from the EU of digitally deliverable services are incorporated into the production of other goods and services for export. And this is also true for the EU; that figure is around 52 percent imports from the U.S. of digitally deliverable services.

This sets the stage today for a discussion of these issues.

Before I ask Chairman Broadbent to first come onstage, I want to briefly run through each of our panelists' biography.

After we hear from Chairman Broadbent, we're all going to come up onto stage, and we're going to hear then further from Antonio De Lecea and from Steve Stewart, who are going to make brief remarks.

After that, I'm going to moderate a discussion with the panelists, and then we're going to open up to audience Q&A.

Chairman Broadbent is Chairman of the United States International Trade Commission, where she has served since 2011. Prior to being nominated by President Obama to this position, she was at the Center for Strategic and International Studies. And, from 2003 to 2008, she served as Assistant USTR for Industry, Market Access and Telecommunications, where she led the U.S. negotiating team for the Doha Round to reduce tariff and nontariff barriers, among other significant responsibilities.

Chairman Broadbent has also served as a senior professional staff member on the Republican staff of the Committee of Ways and Means in the U.S. House of Representatives.

She has a Bachelor of Arts degree from Middlebury College and an MBA

from George Washington University.

Antonio de Lecea is the Minister and Principal Advisor for Economic and Financial Affairs at the Delegation of the European Union to the United States, where he's been since 2009. Prior to joining the delegation, Dr. de Lecea served as Director for International Affairs in the European Commission's Director-General of Economic and Financial Affairs with responsibility for economic relationships with non-EU countries and also with other multilateral and regional economic institutions such as the G-20, the World Bank and the IMF. And from 1999 to 2004, Dr. de Lecea was the Economic Advisor to the then-European Commission President Romano Prodi.

Steve Stewart is Director for Market Access and Trade in IBM's Governmental Programs Office here in Washington. He has global responsibility for the management of public policy issues that affect IBM's ability to operate effectively in the global economy. His responsibilities cover a broad range of issues in international trade policy, including market access, service delivery and global supply chain operations.

He serves on the Board of Directors of the U.S. Information Technology Office which represents the U.S. IT industry in Beijing. He served as Chairman of the U.S. Department of Commerce ITECH Committee on Technology Services and Electronic Commerce from 2004 to 2010. And he's also a former member of the Board of Governors of the National Center for APEC, which is the business advisory group to the U.S. Government regarding APEC issues.

He has a Master's degree in technology and policy from MIT and a Bachelor's degree in industrial and systems engineering from Georgia Institute of Technology.

Chairman Broadbent.

MS. BROADBENT: Thank you, Josh. It's great to be here.

I work for the U.S. International Trade Commission. We're a small agency that does studies for -- one of the things we do is studies for the USTR as well as the Senate Finance Committee and the Ways and Means Committee.

And we had just recently completed a study on U.S. digital trade in the U.S. and global economies. So, as a way of a disclaimer, I'm just one of six commissioners, and this is a study that my staff would probably cringe at me presenting, but I'll give you some of my highlights of what I took away from it because I think it's kind of valuable sort of statistical background context for the discussion that the panels will have today.

At the International Trade Commission, we approach digital trade not trying to measure data flows themselves in terms of bits and bytes but, instead, focused on digital trade from a commercial standpoint, and we analyze the business aspects of data flows when we approached it as cross-border services.

So we employed both Bureau of Economic (sic), BEA, statistics and then also did our own survey of 10,000 firms to get sort of a snapshot of what they're doing in this economy.

The U.S. is a huge market for the internet and digital trade, as is the EU.

And so let's see if I can start this.

(Pause)

MS. BROADBENT: And just by profile and category, things that we looked at, this list just gives you the ubiquity of all of these things -- social media, search engines, communication services, software services and data services, processing, analysis, storage, cloud computing, platform services.

And I apologize; this is -- not apologize, but our study was kind of U.S.-centric, and it would be interesting to go beyond this in later studies.

But these are the big organizations, our leading online firms, which are kind of the significant players, starting with content on cloud computing and so forth.

The U.S. firms are leaders in the U.S. economy as well as in Europe, and I thought this was sort of an interesting kind of take on the U.S.-EU relationship in the sense that you see (inaudible) to web properties tend to be some big U.S. companies.

As you go down the list, you're seeing less and less integration, and I don't think it surprises any of us that Russia and China are pretty close to penetration by U.S. and EU internet companies.

What I thought was interesting was Japan there is more relatively open, and that would be a cultural barrier as well in the nature of some of those companies, but still Yahoo and Google are doing pretty well there.

Numbers here in terms of total exports -- \$356 billion of U.S. exports and \$221 billion of imports.

But the interesting thing, I think, maybe from these graphs you might pick up is the U.K. is our biggest bilateral trading partner in digital trade -- huge flows between the U.S. and U.K.

But really, U.S.--European flows are dwarfed and are really much, much larger than Asia in the sense that the ties here are really deep between U.S. and Europe versus Asia. So I think that's an interesting takeaway.

Internet use permeates all businesses in the broader economy -- retail, healthcare, not just digital communications. So it should be included in negotiations; I think in any sort of bilateral negotiations. TTIP is an enabler of commerce as part of the infrastructure of the modern economy.

More specifically, although many firms do not use the internet to sell their products, they often use it for other functions.

And we were surprised -- and this is back on the domination of Europe investment flows. We were surprised to see here the role that the internet played in other functions that were increasing productivity and efficiency of U.S. companies -- internal communications, business-to-business communications, ordering products.

The right side here is often using the internet for things that we didn't expect. It's not just straight over the internet, but it's internal trade among companies that's building on efficiencies.

These are some of our economy-wide findings. Digital trade has a significant positive effect on the economy by enhancing productivity and lowering trade costs in digitally sensitive industries.

Though our survey found a likely increase -- in our survey, we found a likely increase in the U.S. GDP of between 3.4 and 4.8 percent and then higher real wages, 4.5 to 5 percent increase in wages, an increase of 2.4 million jobs as a result of digital trade.

I am assuming that the EU would find similar benefits.

Therefore, it seems to me that there's a lot to be said for the internet being an engine of growth.

This is just a couple of interesting points on SMEs, which is also a good theme going through this relationship. SMEs using the internet succeed by using online platforms to reach new customers and secure payment systems like PayPal. They use social media for customer connections. Cloud computing services are scalable for small businesses; they can get services they couldn't afford to have in-house.

And we also surveyed on what the biggest trade barriers were, and of course, the different privacy regimes come up fairly prominently as one of the top trade barriers that they see with the EU and worldwide.

On the issue of the NSA disclosures, that was kind of just breaking when we designed our survey. So we didn't discuss it extensively in this report.

I think there is a mention in the report of an ITIF study which found that there is a business impact in foreign sales to U.S. companies because of the NSA disclosures.

So we've come up with some data points here; I think good points for discussions. And we'd like to work with private sector think tanks to expand the statistics and the insights that we might be able to gain.

Digital trade is really a fundamental infrastructure for governments, businesses and individuals, and it's important that we get the rules right in any trade negotiation.

MR. DE LECEA: Thank you. Thank you for your introduction and thank you for giving me the opportunity to be here and share with you some of our views and our thoughts on data flows and trade flows, more particularly.

So, first of all, let me welcome both reports -- the one by Joshua and Brookings and the one by Chairman Broadbent, a representative from the ITC.

In fact, they confirm our beliefs and our own analysis that EU-U.S. data flows contribute very, very significantly to productivity and growth.

They also confirm that the benefits of these data flows are not confined to data-intensive companies but that they underpin the growth of small and medium-size companies, of investment and cross-border investment, because they help company management.

They also underpin the supply chains, the global chains that are so important for increasing growth and trade and well-being.

They also confirm that these benefits transpire and are horizontal across

the economy.

So they are very important for us.

Another point that we see is that they also contribute to innovation, which is also crucial for climbing in the value of the chain, and bring more growth and more stable growth to Europe and more probably to the global economy.

Our own analysis, as I said, also showed there is an enormous potential in further incorporating the information technologies and data flows into the economy. For instance, in the recent statement by the President-to-be, Juncker, to the European Parliament, he said that -- he quoted studies that show that the digital single market in Europe can generate up to \$250 billion of additional growth over 5 years and create hundreds of thousands of new jobs, notably for young seekers which are the problem in some of our own member states, and they also contribute to a vibrant knowledge-based society.

So we need data flows. We need that growth that will be entailed by digital technologies.

And not only do we acknowledge that and we believe that we need them, but our policies are consistent with this assessment. The outgoing commission has made a point of removing the obstacles that hinder the development of cross-border data flows within Europe. A number of measures have been taken already to promote the development of the digital economy within Europe and also abroad, and some of our trade agreements -- for example, the one with Korea -- include provisions on data flows related to financial services.

So not only the outgoing commission, but even more, the new commission that will take over on the 1st of November has signaled the digital economy is one of its priorities.

I'm quoting President Juncker, who said that within the first three months of his mandate he will present a jobs growth and investment package, and broadband development and interconnections will figure very high in this investment program. So moreover, again, that's one of his priorities.

He says, "I intend to take, within the first six months of my mandate, ambitious legislative steps toward a connected digital single market, notably by swiftly concluding negotiations on common European data connection rules; by adding more ambition to the ongoing reform on our telecoms rule; by modernizing copyright rules in the light of the digital revolution...and by modernizing and simplifying consumer rules for online and digital purchases."

He acknowledges that "Enhancing the use of digital technologies...should become a horizontal policy, covering all sectors of the economy and of the public sector."

So we are aware, and we are putting the means toward that.

And not only these are principles and objectives, but again, the new commission has adjusted its own cabinet formation and the cabinet portfolios and the departments within the European Commission to meet those objectives. For instance, there will now be a vice president with responsibility for the digital single market, there will be a vice president for growth, and there will be a commissioner for the digital economy and society that will be reporting to both.

So we are adjusting, and we mean it. We not only talk about it, but we are putting the means toward achieving those objectives.

But we cannot neglect that this has huge opportunities but also some serious challenges, and as policymakers we cannot neglect those.

So digital flows also involve serious challenges. They cover security

primarily, or cyber and also data privacy and protection.

And, in fact, it is a matter of trust. One of the reasons why the cross-border market for digital services has not developed so far as we would like is because of mistrust. If this mistrust is not addressed properly, then the development of data flows will be hindered by this lack of confidence of both citizens and politicians. And we have seen some signals of that in the recent past.

So a clear framework will provide also certainty, legal certainty, for firms to develop those flows and those systems and to flourish and to seize the opportunities.

And, as I said, there are challenges. We hear from time to time about cyber-attacks, both to public agencies and to private companies.

We learned recently about the huge data hacking at a major bank, involving the data of 76 million households and 7 million small businesses. So it's not to be taken lightly.

A few months earlier, it was a major retailer that also had problems with its data.

And we learned from a software company that each time you click on the web site of a major newspaper or a major clothing retailer, more than 50 companies are tracking your movements on the web.

Again, if you click the web site of a major social media company or one computer services company, around 70 companies are tracking your movements.

Even think tanks are not spared. A major think tank web site is tracked by more than 30 of those.

So this means that you are having all these uninvited people to your room where you are, in your home, watching you and what you do and reporting -- not only watching but reporting -- to other people that you don't know and are creating

profiles that they either use or send to others.

And these profiles may involve your race, your religious beliefs, your political stance, your sexual orientation, what you read, what you do, where you go, what you see and what you fancy.

And these people -- I mean this first round of people -- may keep it for themselves or they may pass it to others that we don't know.

So it is important to ensure that we have a framework that protects our rights so as to inspire this confidence and avoid the backlashes both from our politicians and our citizens.

Now in this respect I was surprised seeing in the ITC conclusions that data privacy and protection is listed as a barrier or impediment to digital trade alongside property rights infringements, or localization requirements.

Frankly, data privacy and protection is not an infringement to any rule. It is a fundamental right that is enshrined in our EU Charter of Fundamental Rights.

Protection of fundamental rights is protection. It's not protectionism.

Now we want to size the future opportunities and ensure that the rights are respected. We want to strike the right balance that enables this flourishing part of the business and that, at the same time, respects the privacy and the right of our citizens.

So what are we doing?

For instance, on cyber security, the most recent EU-U.S. summit agreed to build on the proprietary work and decided to launch a comprehensive EU-U.S. cyber dialogue to strengthen and further our cooperation, including on various cyber-related foreign policy issues and including also data protection.

More precisely on data protection and privacy, we are currently in talks with the Department of Commerce and the Federal Trade Commission on the review of

what we call the Safe Harbor Framework. In this respect, we welcome significant progress made on almost all provisions. This involved mainly transparency redress and enforcement. And we look forward, frankly, to bringing results soon for the remaining stumbling blocks.

Now, frankly, just to sum up, we are aware of the opportunities. We want to seize them, but we want to seize them in a stable way, in a way that both provides the legal certainty to our companies, our citizens, and that protects the rights of them so as to, as I said, make it stable and to give the legal certainty and the comfort that will help consumers and companies to flourish in this framework.

Thank you.

MR. MELTZER: Thank you, Antonio.

Steve.

MR. STEWART: I'd first like to thank Josh for inviting me to participate in this panel to provide one industry view on the importance of cross-border data.

I think, as is probably clear from the first three presentations, cross-border data is a fundamental prerequisite for international trade and investment in today's economy.

And this is, as has been stated already, an issue that is important across all industry sectors. It's not just an ICT or an internet industry issue. In fact, any company today that engages in international trade and investment is, at least in one sense, an internet company.

IBM is a global company that operates in over 170 countries. So we have a lot of experience with moving data around the world to run our business.

We know that we need to move data to manage our global supply chains, both internally and with our supplier network.

We move data to facilitate the physical delivery of goods.

We have to move data to manage our global workforce and to deliver services to clients around the world.

We communicate internally with our clients over the internet and other private networks.

We have a network of 12 global research labs around the world, and to be able to do collaborative research, we have to move data from one research lab to another lab.

We also have software development labs around the world, and there is a lot of coordination in developing software products where teams in different places around the world work together. Obviously, they have to move data to do their work.

And, finally, we move data to provide technical support and remote maintenance to our clients.

We know that security and privacy are very important issues, and we take that very seriously at IBM. So we invest heavily in creating the technology to secure our customers' data. We work with our clients very closely to make sure that they understand the importance of implementing the right procedures, and we provide services and the technology to help them to do that.

We've worked very hard to earn the trust of our clients so that they will entrust us with their data, and our data centers are working with them and using our technology in their own data centers. And we know that it is our responsibility to maintain that trust and do whatever we can to help them protect data.

We know that we can't operate in this economy without moving data back and forth. And the U.S. and European economies are so closely integrated, as has been pointed out from the previous presentations, that there's no way that we can

operate transatlantic trade and investment without moving data.

Josh's report, in particular, highlighted a number of statistics that show how closely linked the U.S. and the EU are. We're the largest trading partners. We're the largest economies in the world. We are each other's largest markets for goods and services.

We're the largest exporters of services to the world. If you look at the U.S., the single largest country exporter, and the EU collectively, it is the largest economy exporting services.

Likewise, we're the largest exporters of digitally enabled services that Josh talked about. And, as his map showed, we have the largest data flows between our two regions compared to any other regions in the world.

So we're closely linked, our economies rely on cross-border data flows, and we couldn't operate without them.

But both of our economies now are threatened data localization rules that we see popping up around the world, and this has come in the last couple of years from a variety of countries. So we see India, China, Brazil, Russia, Vietnam, Nigeria and others proposing and, in some cases, implementing restrictions on cross-border data flows.

Since we have so much at stake as the world's largest exporters of digitally enabled services, the largest trading blocs, it's really in our best interest to ensure that there is a good, solid framework for protecting data privacy, such as looking at the Safe Harbor and enhancing that and concluding that review quickly, and in setting model rules and new trade agreements that we are participating in.

And for those, obviously, we have the bilateral agreement, the Transatlantic Trade and Investment Partners, TTIP, and the Trade and Services

Agreement, TSA, in which we're both participating. The U.S. and EU should be collaborating and coordinating to make sure that those agreements set a good model for global trade in the digital economy.

We also have to deal with these restrictions as they crop up in third countries, and I would look for even closer cooperation between the U.S. and the EU in addressing those issues. And a lot of this is educating the countries, the governments and the businesses in those countries about the importance of data flows.

I think often when politicians or government leaders look at data issues they have legitimate concerns about privacy and data security; that's very understandable.

But the reaction is often, well, I want to store the data locally.

And I think that gives a false sense of security. It's not where the data is stored. It's how it's stored.

So it's the technology that's implemented. It's the procedures that are put in place. It's the training of the personnel who have to maintain the data and then making sure those procedures that are put in place are strictly enforced.

You can look at major hacking attacks into this country from other countries, and you can realize that having data located on U.S. soil doesn't protect against that. It means we need better security procedures and better technology put in place.

As countries look at putting barriers in place, I think they're really not thinking about the economic consequences. So they're not looking at what the negative impacts will be on their own economies as data flows are restricted -- so, access to leading services that are delivered via the internet.

And, again, this cuts across all sectors that look at digitally delivered

services as inputs to their own manufacturing and services production process.

I think also one of the points made earlier about small and medium enterprises, or entrepreneurs; those small businesses are going to be most heavily hit by restrictions on data flows because they won't have the resources like maybe an IBM would have to be able to put data centers in many other countries where they want to operate. So that's a specific, or a particular, issue for small businesses.

And restricting data flows also is a major problem in stifling innovation. One example of that is what's possible with big data and analytics today. There's a lot more that companies can do in terms of gaining insight and developing innovative business models if they can work with global data sets. Individual country data sets are going to be a lot less powerful in promoting innovation.

There's another think tank in Brussels, eSight, that has done some analysis on the costs of data flow restrictions, or data localization, and it looked at drops in GDP of roughly 0.5 to 1 percent and reductions in investment and in exports of anywhere from 1 to 4 percent, typically, considering some of the types of restrictions that have been proposed.

So, in conclusion, again from IBM's standpoint, we would look for the U.S. and the EU to continue to work together and conclude the Safe Harbor review and implement an enhanced Safe Harbor to set a good template and example for the rest of the world there.

We would look for the U.S. and the EU to cooperate very closely in negotiating trade agreements to ensure that strong provisions on data flows are included.

And we believe that we should work together in addressing some of these barriers that are cropping up in other countries around the world as well.

Thank you.

MR. MELTZER: Great. Thanks.

I should say that the graphs that I used before are all in the report that I think most of you picked up from outside, in addition to other information in there, and it's all online as well if you want to look at it a little bit more closely.

I want to say thank you, everyone, for great presentations.

I think we've got an enormous amount of information to talk about, and one of the things that I think springs out from the discussion and the presentations so far is, in a sense, some of the different approaches that come out from the U.S. and the EU to this issue.

Chairman, you picked up in your report the -- I think this was the survey data from what are the key barriers, in a sense, and there was a list there which included data localization, privacy, IP issues.

And, Antonio, you talked about this from quite a different perspective when you were talking about issues related to what essentially you described as trust, which had components of security as well as data privacy.

So I just want to pick up a little bit on this trust issue and ask a question firstly.

What are we talking about when we talk about mistrust?

Is this a consumer issue; is it a government-level issue; is it a business-level issue, in the EU?

Do we see that as well in the U.S. at all because this doesn't seem to be part of the narrative that we have in the U.S. around this issue?

And then I want to ask you to think through -- Antonio, you talked about some of the government-to-government efforts between the U.S. and the EU on this issue. You talked about, obviously, the review of Safe Harbor and the cyber dialogue.

Do we need additional avenues to discuss this?

Do we need other government-to-government forums?

Or, Steve, you talked about the role of education which might include other stakeholders and other actors here to get at some of these trust issues.

MR. DE LECEA: On your first point, whether it's a consumer or a government concern, well, it's both. And we see nongovernmental organizations and consumer groups expressing their concerns about some of the issues, and we see also our parliaments.

The European Parliament was very clear when the commission announced the review of the Safe Harbor and that they would not agree to something that didn't protect sufficiently the privacy and that they had this very clearly in mind when assessing the transatlantic agreements. And they have a say, rightly so, in the final stages of the signature of TTIP.

So it's both and, again, rightly so. I mean, they are meant to represent the opinion of consumers and producers at large.

So it's both.

On your second point, whether we need other channels, I mean all channels are good to provide the information transparency on what's going on and also transparency on what is being done already, which is a lot and maybe not enough.

But a lot is being done. So this is always good.

We have channels. We think that they are doing their job, but any help is useful, provided that it provides the right picture and the right balance because, otherwise, we know that if we mislead our people at some point it's going to backlash.

MR. MELTZER: Chairman or Steve?

MR. STEWART: I would just pick up on the education point you raised,

Josh. I think there's a great opportunity for government and industry to work together to educate the public and other businesses that perhaps are small businesses and haven't focused on this issue.

It's very important that we get a good balance. We know that we need government policies that can promote data protection and data security, but most of this is going to come from the proper implementation of technology and procedures within organizations that are using data. That's what IBM is focused on.

But I think the education piece of this is, first of all, to help others understand the economic importance of data flows and that you can't just cut off data flows and expect economies to run. We're too closely integrated. So we have to find ways to transfer data, to use data, in a secure way.

And, second, I think the common approach in many places and in many countries has been to think about data localization laws when, again, the location of the data -- what country it's stored in -- is not going to be what protects it, but it's getting the right technology in place.

MR. MELTZER: Great. Thanks.

One other question I think that has to be asked in the context of the discussion of U.S.-EU data flows and particularly trade investment is the Transatlantic Trade and Investment Partnership negotiations which are underway.

Antonio, you specifically referred to what the EU has done with your FTA with Korea.

As I'm sure you know, the U.S. FTA was also an important agreement for making some innovative progress on data flow commitments as well.

I'd be very interested in any of the panel's views on whether the transatlantic negotiations is a place where the U.S. and EU governments can have a

discussion about these issues, possibly include commitments on these issues.

And I want you to frame your response also in terms of the ambition of both the U.S. and the EU for this agreement to be not only about bilateral trade and investment but also a model for how this might evolve globally.

MR. DE LECEA: Yes. On TTIP, on the Transatlantic Trade and Investment Partnership, yes, I mean, we see it as an opportunity to really foster trade flows, including data, but we have also made clear that data protection issues are outside the TTIP; they are not going to be included.

So we try to work as far as we can but knowing that this, the same as in other areas, is carved out of trade agreements, but there is plenty to do even without that.

MS. BROADBENT: Wouldn't you say a common understanding would be a prerequisite to having a successful trade agreement even if it's not legally in the letter of the agreement?

MR. DE LECEA: I mean, politically, the European Parliament has said that until they see some adequate progress on that front, on the front of data privacy, they withdraw their approval. They will withdraw their approval of the eventual draft treaty that will be sent to them.

But, we hope. As you said, we are very actively engaged with the U.S. administration so as to bring a positive outcome to these talks. We have made a lot of progress on all but two of the provisions that were identified, and we hope that the remaining two will come to fruition in the near future. So this should not be a stumbling block or a shackle on TTIP.

MR. STEWART: If I could add, I think TTIP is the best opportunity we have for setting good global trade rules for the digital economy. As we've seen from the two reports discussed, no two economies depend so much on data flows and the

internet. So, with two very advanced economies, sophisticated economies, it would make sense for the U.S. and the EU to work together to try to set a good template for the rest of the world.

So I see TTIP as the best opportunity for that.

TPP may be a little bit further along. You know, we don't know how the schedules are going to work out for trying to wrap that negotiation up.

But, again, TTIP -- with the two economies, we can't miss that opportunity.

And on the regulatory issues related to privacy, I would note that trade agreements historically -- the GATS and the -- well, the GATS in this case specifically has the general exceptions language that provides governments the right to regulate specifically to protect public privacy, but it also has caveats in there that these should not become unnecessary barriers to trade.

So we want to find the least trade-restrictive ways to meet the very important privacy goals, and we think that that can be worked within the framework of using the framework like the previous GATS exceptions.

MR. DE LECEA: And we fully agree with that. I mean, the proportionality and necessity are our paramount principles when trying to tackle this issue, as with many others.

MS. BROADBENT: It seems to me that the U.S. and the EU, I think as I've heard you say, Steve, have a lot of common perceptions on barriers to data flows that exist in third-country markets. And I think if you looked at a list of barriers that were vexing EU companies, they may be very similar to the list of the barriers that our companies list as problems and barriers to them succeeding in third-country markets.

MR. STEWART: I could highlight one area where I know there's

common ground here -- looking at Vietnam; that is one country that has proposed an IT services decree that would potentially restrict data flows.

And the U.S. is negotiating with Vietnam as part of TPP. The EU is pursuing a free trade agreement with Vietnam. We have the same objectives here, wanting to make sure that our businesses are able to access the market in Vietnam and provide these digitally delivered services.

MR. MELTZER: I want to open it up now to the audience for Q&A.

Can you please -- when there's a microphone around, can you please introduce yourself, where you're from?

And make sure that anything ends in a question mark would be appreciated.

Here at the front and then here afterwards.

QUESTION: Hi. Thank you.

Jim Berger from Washington Trade Daily. I just want to ask about Safe Harbor.

What exactly in the European point of view is wrong with the Safe Harbor? Has it not -- is it too old and doesn't contain some provisions that address the modernization of the internet, or is it just that it hasn't been followed, or abandoned, over the last 20 years?

MR. DE LECEA: It's both. I mean, we have seen that the enforcement of some of the rules has been less than ideal; that's one. And, secondly, it has rained a lot since 2000 when the agreement was put in place.

I mean, many of these developments are very recent. So, yes, it needs some modernization, and it needs also some better enforcement.

MR. MELTZER: Yes, this lady here.

QUESTION: My name is Mi Young.

I'm sure internet and hi-tech and communication are really important for our economy and for our civilization.

However, the same evil can exist before and now because accountability is so important. But if there's no accountability, then all competitive (sic) and all the good features (inaudible) free market mechanisms.

So I just wonder if any study about a disservice (inaudible) or all those obstructions of internet and communication, whether it's broadband or whether it's a town hall meeting or whether it's a termination of the social media account or obstruction of their communication or (inaudible).

Is there any study of this sort because it's very important to not only obstruct the providers' services but also obstruct the good features of a study, wherever they come from, because it's very important to have good authors and to have good studies?

So, if we don't have all this, the whole thing is very misleading.

And the other thing is when people want to come into the World Bank or IMF or some think tank, they are all obstructed.

And this accountability also occurs in every segment of our lives, whether it's transportation or whether it's maybe even in your Metro bus or Metro (inaudible) services because they can take away your services and they can take away your money.

So I think it's very important. And, if we don't have a good measurement and if we don't have true, honest studies, I always say it's very misleading.

MR. MELTZER: Thank you.

MS. BROADBENT: I may have one point on that.

Just as a trade barrier, I mean, we listed in our survey we got back from companies -- I think we surveyed 10,000 companies, and they gave us the top 10 list of market access barriers that they were facing, and they all mentioned concerns with government measures that try to intervene in the internet and stop data flows and moderate what communication can go forward.

So I think the political and the commercial world overlap there a little bit in terms of government involvement in this sector.

MR. MELTZER: Here at the front, behind this gentleman. And after the second --

QUESTION: Brian Beary --

MR. MELTZER: You can go and then the lady behind you.

QUESTION: Brian Beary, Russian correspondent, Euro Politics.

Just a question; I think it was Mr. Stewart was talking about it doesn't really matter where the data is stored; it's how the data is stored.

But just to sort of push back on that, if you have a system or law in the United States, the existing law, where the companies are required, or can be required, not to encrypt their products by the U.S. Government and also to then bulk data to the government and that that's permitted under U.S. law where in other countries it is not permitted, doesn't that kind of quash your argument that it makes no difference where the data is stored?

MR. STEWART: Well, as I said, IBM works with our clients very closely to make sure that we can secure their data. And right now, I'm not aware of particular laws that are preventing us from encrypting our clients' data. So I question, you know, the premise there.

But, again, it comes -- you know, we're not prevented from implementing

technology that protects our clients' data and they're not prevented from using that technology right now.

And I come back to, again, just saying if you're able to put that technology in place, make sure you do it well. That's what's going to protect the data more so than where it's stored.

I would also say that earlier this year IBM's senior vice president-general counsel put out an open letter to our clients, saying very specifically that IBM has not provided data to government agencies under PRISM, under mass surveillance programs, and we would continue to fight any such requests from the government if we received a request, for example, to provide client data that's stored in another country, we would take that to court and use judicial means or other means to make sure that we could prevent that.

MR. MELTZER: The lady at the back.

QUESTION: Okay, hi. I'm Sarah. I'm a student from Copenhagen Business School.

I was wondering; if we make the data transfer negotiation, or we make data transfer and Safe Harbor agreements in a bilateral negotiation between the EU and the U.S., how do we make sure that developing countries can reap the benefits of data transfers?

Wouldn't it be an idea to negotiate this within the WTO instead?

MR. MELTZER: Any of the panelists like to take that?

MS. BROADBENT: Why don't you start?

MR. STEWART: Well, if the WTO were functioning better at the moment, multilateral process would be the best place to take negotiations on cross-border data flows, but it's not producing right now.

So, from a business standpoint, we look at what can work, and the plurilateral process in TISA taking in place in Geneva is, right now, as close as we can get to a good multilateral process.

We're hopeful that, over time, more countries will join and eventually that can move into the multilateral process in the WTO, but we will move forward with TISA and with our regional and bilateral agreements as the best available fora in the meantime.

MR. MELTZER: Antonio, did you want to --

MR. DE LECEA: As you rightly said, I mean, we try to make this TTIP and our own bilateral agreements a kind of template or models for other agreements to come.

So, in this respect, we are the closest economies. We are those that are more advanced where, if I may say so, we know better what the problems are and we can take the opportunity of these agreements to lay down some of the principles that we have learned, that are the consequence of what we have learned with our own practices.

And, of course, this can be extended later and, hopefully, within the WTO.

MR. MELTZER: Can I say quickly I think it's a great question?

And part of this discussion that we're certainly having today is focused on the transatlantic context, but clearly, we're all talking about being in a globally integrated world here where data moves seamlessly between the U.S. and the EU but also, obviously, between other countries. So, in a sense, a bilateral fix on data privacy can have spillover and other implications for countries that aren't part of that agreement.

And what you do about that, I think, is a really key question going forward.

Did you have a question?

QUESTION: Mati Amatur. I work at the World Bank in the Research Department.

I think what you said just now, Josh, is important to recognize -- that even though the focus here is on the EU and the U.S., that there is a far -- sort of, there's a shared stake and a shared interest in free data flows.

If you look at services trade, there's no doubt that the EU and U.S. dominate, but the most dynamic, the fastest growing, exporters are in developing countries.

And I think in a way the excellent work that you've done to try and measure data flows has one sort of deceptive aspect because even data flows between developing countries must travel through the EU and U.S. Therefore, the pictures that you have don't adequately reflect how much developing countries have a stake even as exporters.

I had a question about protection. How much of this protection, whether its localization or privacy, is actual protection, and how much of it is a worry about potential protection?

Second, if we were to think of addressing this protection, how far can we rely on traditional trade negotiations and extracting binding commitments, and how far is it going to be through regulatory cooperation, precisely like arrangements like the Safe Harbor?

How much, Steve, for example, have you benefitted from GATS commitments in ensuring free data flows, and how much really did you get finally get assurance through the Safe Harbor agreement or be able to provide assurance to the Europeans through the Safe Harbor agreement?

And, finally, I think the question that the lady from Copenhagen said is crucial.

And -- as Josh and I have been working on this question -- if you do have regulatory cooperation, how can you make sure that developing countries are not excluded from the benefits?

MR. STEWART: On your first point of potential versus actual protection, I think there are legitimate concerns about data privacy and data security, and governments are thinking about how best to deal with that. We can pick up the papers and read about data breaches frequently now. So we know that it's real and we need protection now.

So there are legitimate concerns in looking at how best to deal with that in the future.

We think that, again, the economic consequences have to be taken into account, that just locking down data within a country is not going to solve the problem, and it has very real economic consequences. So, again, there has to be some good balance there.

The GATS sets a very good framework on cross-border delivery of services, and I think in those commitments in cross-border services there's an implied ability to move data.

There's nothing in the GATS that says it has to be through the physical mail or you're going to ship it across in a shipping container, if you can ship a service that way. But it doesn't talk about telephone. It doesn't talk about fax or internet, or telegraph for that matter.

So it's a cross-border commitment to deliver services, and the implication in that is that the internet is one of the ways to do that.

I think that the negotiators weren't thinking about that back in the late 80s, early 90s, when they negotiated the GATS, but that's there. And we shouldn't forget that we do have commitments in place where countries have committed in the GATS, for certain sectors, cross-border delivery. That implies the ability to move the data.

The Safe Harbor is important for IBM. We are Safe Harbor-certified, and we do use that.

We also use binding -- well, we're looking to use binding corporate rules moving forward, and we certainly using model contract clauses.

So all of those are important.

And I think the internet economy has developed so quickly, though, that it has developed quickly because there haven't been barriers in place. And so, if governments start putting barriers in place, maybe in a knee-jerk reaction, then we'll pay the consequences in reduced innovation and reduced growth.

All the innovation and growth that we've seen in the internet economy has basically been because there has been pretty much global free movement of data, with some exceptions.

MR. DE LECEA: On this actual versus potential, this is a very sensitive and difficult issue. Indeed, I mean, the primary concern is actual; so, what we know. But it's also legitimate to look beyond this and see what may happen in order to anticipate some of the risks.

How far you go, yes, it's a matter of weighing the costs of anticipating too far and the costs of not anticipating enough and having a hiccup down the road.

And the example of financial regulation is quite vivid in our minds. I mean, the soft-touch regulations during a number of years enabled the huge growth of the financial services industry but just to go down the cliff, I mean, sometime later. So we

must strike the right balance.

You may find some kind of difference of attitude between this side and the other side of the Atlantic in that on the other side of the Atlantic we are much more sensitive to what we call the precautionary approach whereas here, if I may oversimplify things, it is, well, let's see if it works and let's not fix it until the problem comes.

So, in between, you may find the right balance so that you reconcile the ideal, I mean the proper and legitimate need for anticipating and preventing problems, and the not less legitimate and important objective of not hindering growth beyond what is necessary.

QUESTION: Thank you.

It's Dana Marshall with Transnational Strategy Group, and I appreciate this panel.

I wanted to see if I could bring this discussion a bit into the larger economy.

I noticed in one of the slides that Meredith had put up about the employment generation impact of this; as I recall the number, it wasn't particularly helpful because it went from zero to 2.4 million jobs created depending on; I think you mentioned, wages or the response there.

So we don't know what the number is, but there's a lot of jobs here for the larger economy -- say the real economy that uses this data.

And then the question really is for the representative from IBM. I wonder if he could explain a little bit the real risks, not for firms like IBM or Google but for firms that are architect firms, law firms, consulting firms, firms that really use the internet not as their business but as a means to work.

What are the risks that U.S. companies face with the kind of

precautionary principles that the EU is facing?

That might help, I think, to understand how this links into the real problems that the country is facing in terms of employment generation and that sort of thing.

MR. STEWART: Okay. I'll start on the risks to architecture firms or other firms where the internet is not their primary business, but it's a way, it's a channel, for them.

Many firms today are found on the internet because they're on the internet and customers, potential customers in other countries, can locate them, can compare offerings from different firms and then reach out to them that way. Many of the services may, in fact, be delivered that way.

So restrictions that may not be intended to affect that type of business -- there's the unintended consequences as data restrictions, local server requirements or other restrictions, that maybe a company starts to think: I need an army of lawyers to understand this and there's too much risk to try to get into international trade because I don't know what's going to happen to me as I try to reach out to customers and markets in other countries.

So I think the effect could be to dampen the ability to go after these markets in other countries. That's just one example.

Again, so many companies are relying on the internet today that any restriction is going to impact them, and the smaller companies are less able to deal with it than larger companies like IBM.

MR. DE LECEA: (Inaudible) -- from finding you.

MS. BROADBENT: His company.

MR. DE LECEA: It depends on what you do with the personal data. If

you don't deal with personal data, then there should be no problem.

QUESTION: What is personal data --

MR. DE LECEA: Personal data is --

QUESTION: -- in this context?

MR. DE LECEA: Well, it is being reviewed, and that's in the process, but its data related to the, I mean, names and characteristics of the person.

As we said, there are provisions on data flows, on financial data flows, that provided that they are not related -- I mean they cannot be traced clearly to a person; they are fine, and the same as for intercompany data.

So we cannot go now into the detail, but the definitions of this personal data are there. Sure, they are being reviewed, but there is legal certainty that would reassure you of whether or not you are complying or not.

And, as for transatlantic flows, the Safe Harbor regime also states the conditions of you must disclose what are you doing with the data that you receive on specific clients. You must disclose what are you doing and to whom are you giving that.

So there are a number of reasons that provide you with legal certainty and remove the Damocles Sword of being fined for misusing.

MR. STEWART: Actually, if I could just add one thing, to give one practical example, you're right to ask about what is personal data. It's not very well defined, but to give a practical example of what might become a barrier, a small company has a client in Europe and wants to check the credit history of that potential client to make sure that they're credit-worthy. You know, do they want to do business with them?

If the availability of that credit history is restricted because of data privacy restrictions, that's going to get in the way of international commerce between the U.S. and the EU.

MR. MELTZER: I just want to actually underline the point. I think this comes out in all the presentations. It certainly comes out in the work, Chairman, that you've done at the ITC and is certainly front and center in my report, which is that this is clearly not just an IT industry sector issue.

I mean, focusing on digitally deliverable services, or however you want to calculate it, I think is both about the export potential for delivering digital service and other goods using the internet, but crucial -- and I think this is your point -- is that this is an important import into the broader economy, whether we're talking about manufacturing sectors which you don't normally think of as being IT or internet are, in fact, deeply now relying on the internet to conduct business, to engage in trade, communicate with suppliers, et cetera.

So a very important part of this is the access that the internet provides to cutting-edge services, whatever they might be, which improves productivity and the capacity of other businesses to then work. And that is economy-wide. So the implications then become quite significant.

I think we've got time for a couple questions -- one up here at the front, Carl, and then next to you.

QUESTION: Thank you.

My name is Carl Schonander with the Software and Information Industry Association.

I think one of the great things about your report, Josh, is that it shows just how close the U.S.-EU relationship is and just how large it is.

One of the things we haven't talked about that much is foreign direct investment. But one of the things that you mention in your report is that since 2000, I think, it's 56 percent one way, 56.2 the other way. I can't remember which is which.

But I'm wondering if you can talk a little bit about the relationship between free data flows and continued high levels of foreign direct investment.

Thanks.

MR. MELTZER: Sure. I guess I'll just say two points briefly on that.

I think the first is that, just quickly on the data points, there's a lot -- it's important to realize the extent of bilateral investment between the U.S. and the EU, which significantly dwarfs that of any other economic relationship. And I mentioned before there's over \$3.8 trillion of investment in each other's economies in total.

From one perspective in many respects, that entire investment, which covers the entire range of sectors relies on data flows of different sorts, whether it is basically the ability, essentially, for the companies now to communicate with each other and read just simple e-mail, for instance, but increasingly the complex ability to move HR data, which I think you were talking about before, Steve, the ability to collaborate and to do design and R&D.

So, in a sense, from an intracompany perspective, data flows are crucial to the way that transatlantic investment works today, and that's across the entire sector.

It's also true that these investments in each other's economies themselves provide what I refer to in the report as digitally deliverable services. So, in many important respects, the investments are becoming very key vehicles actually for the delivery of these services.

And, of course, underpinning that as well is data flows.

So you've both got -- when we talk about the significance of these from a transatlantic perspective, you've got the trade side which is crucial, but you've also got the investment side and both those dimensions to that.

Just this gentleman here, and then we'll go -- yes.

QUESTION: Hello. My name is Richey Able. I'm a student over at American University, and I have a question about TTIP and overall transatlantic trade.

So there's been some talk as a result of the crisis in Ukraine that this largely going to be used for energy purposes and energy trade.

Would you say that TTIP is becoming more and more about goods trade and less and less about services or digital trade in any respect?

MR. DE LECEA: Not at all. We keep the intention and our ambition of having a comprehensive and ambitious trade investment agreement. These elements -- as I said, data privacy is out of it, but energy is an integral part of it, certainly.

But now, I mean, both market access and regulatory convergence, and the point that was mentioned earlier, laying down the grounds for the overall setting a template for future agreements so that our experience can also be of benefit for agreements with other countries. This is still very much in our mind when proceeding with the negotiation.

MS. BROADBENT: My only comment on that would be that energy is one part of a comprehensive agreement and will be a very important part. All those issues will move together would be my expectation.

QUESTION: Rob Warren, DACOR.

I'd like to ask both the EU delegate representative and the ITC representative; what are the prospects for TTIP today?

You read a lot about how difficult negotiations are.

What is your assessment of their accomplishment?

MR. DE LECEA: We knew from the beginning that they were going to be difficult. We have been discussing for quite some time, and whatever was easy was already written.

So it will be difficult, but there is momentum; there is motivation, to really reach an ambitious and comprehensive agreement.

Now having said that, okay, we run into some of the stumbling blocks at the technical level.

On the political side, well, there is some kind of standstill on both sides of the Atlantic -- this side because of, we understand, that there are elections, the mid-term elections next month; on our side, there was the transition of leadership to the new commission. This is natural. But in the meantime the negotiations have proceeded.

And we need political decisions and political choices, but we need a lot of technical work in the meantime, and this is what has proceeded without pause during all this time. So they are on good track.

There are, of course, pockets of opposition; we knew that. It's natural.

We believe that TTIP is a win-win. It's a win-win for both sides of the Atlantic. It's a win-win for our side of the Atlantic.

But it's clearly not win-win for every single person or every single sector or subsector of the economy, and some of these are more vocal than others. Okay, that's natural.

What we need is to proceed and to explain and to explain and to explain and to convince so that we reach our objectives.

MS. BROADBENT: I mean, I wouldn't want to handicap it, but I think there's a lot at stake here. So I think it increases the chance.

And I think you see issues in the WTO that could go forward if the U.S. and the EU could reach agreement first in bilateral. So there's a lot of interest in getting this done, I think.

So I'm optimistic. I think the next (inaudible).

MR. MELTZER: One final question, the gentleman at the front.

QUESTION: Thank you.

Joseph Falada with Oracle.

The question I had actually went to the ITC research as well as the Brookings research.

When I was looking at the slides, a lot of the companies listed had a more consumer orientation than B-to-B orientation, and I was just wondering; do you think that the research has correctly captured what might be intracompany and intercompany data flows and the value that is arrived at from those because it may not be that that's sufficiently reflected in the statistics?

MS. BROADBENT: That's a great point, and we did reveal some of that in our survey, where companies came back to us and said, we're using it for all these reasons, but we're also using it for the (inaudible).

I think a lot more work could be done in that area. So it's a good (inaudible) talk to you about it further.

MR. MELTZER: Great. I want to thank the panelists for their fantastic contribution and for the conversation today and everyone for attending. Thanks.

(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