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Panelist Papers

Session One
Nuclear Asia

Nuclear Asia: A South Korean Perspective

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Northeast Asian Nuclear Governance Facing Challenges

- Nuclear issues in Asia: nuclear proliferation and safeguards, nuclear security, nuclear safety (3S), and nuclear arms race and the possibility of nuclear war.

- Incomplete global governance and more incomplete regional governance: challenges to Nonproliferation Treaty (NPT), dangers of nuclear terrorism, and governance regarding civilian nuclear energy.

- North Korean nuclear problem: major issue for nonproliferation, and geostrategic stability.

- Growing rivalry between the United States and China: risks for nuclear arms race and the question of durability of the U.S. extended deterrence.

U.S.-China Relations and Strategic Nuclear Issues

- No immediate risk of nuclear arms race between the two, lower possibility of nuclear clashes on any scale in the foreseeable future: mutually interdependent, multi-level relationship between the two, based upon the prospect for "new model of great powers' relationship," reservations on actual use of military, violent means to solve the problem despite strategic competition (A2AD vs. Air-Sea Battle), cautions against escalation to the point of nuclear clashes.

- Increasing competition toward Asian countries between the United States and China: temporary positive-sum game between the United States and China, but increasingly zero-sum game regarding Asian, peripheral countries. China's peripheral strategy v. American rebalancing strategy.

- Relative decline of American power and rising doubts on American commitment: as nonproliferation in Asia has been dependent upon Washington's commitment and extended deterrence, the rise of China and decreasing American commitment might facilitate Asian countries' nuclear armament in the far future.

- The worst scenario will be the combination of evident decline of American power leading to U.S. withdrawal from the Asian scene, and highly assertive Chinese strategy, which will result in nuclear armaments in surrounding countries with failing extended deterrence from Washington.

Nuclear Security and Safety Issues

- The balance between the nuclear 3S (safety, security, and safeguards) is uneven in East Asia. While the Fukushima accident in 2011 created a distortion of focus as countries in the region became only concerned with nuclear safety issues, the challenge will be to find an equal focus on the nuclear 3S. An effective governance model in the region must include not only safety, but also security and safeguards.

- As the interest in nuclear power continues, the global and Asian nuclear industry faces a number of challenges in the future. These challenges are in the area of safety, nonproliferation, and fuel cycle management. At the same time, with the decline in the U.S. industrial leadership, U.S. leadership on global nuclear governance is becoming fragile. This trend is certainly not conducive to enhancing global nuclear safety and security, and nonproliferation.

- Operating 104 nuclear power plants, the United States is the largest nuclear power in the world. Currently, the United States produces 30 percent of the world's total nuclear energy and 20 percent of total U.S. power output. Despite accounting for such a large percentage of nuclear energy, the United States has not actually constructed a nuclear power plant since the Three Mile Island accident in 1979. The Obama administration's effort to build the first nuclear power plant in almost thirty years is currently at a standstill owing to the concerns on nuclear power since the 2011 Fukushima nuclear accident.

- China is pushing the use of nuclear energy in order to meet its massive energy needs and to solve various environmental problems such as air pollution caused by coal plants. China currently operates only fourteen nuclear power plants, but is expected to increase the number to become one of the largest nuclear energy producers by 2030 with more than one hundred plants. So far, twenty-five plants are under construction and more than fifty are in the planning stage.

- For effective nonproliferation, sharing norms regarding technological transfers and plant

exports will be important. It has been noted that Russians traditionally do not ask for higher standards of nuclear control when exporting nuclear plants as was witnessed in Iran. China is also known to be rather insensitive to such demands as was shown in its nuclear exports to Pakistan. China is conjectured to enter the global nuclear power plants export market with very cheap power plants possibly within a decade.

- Another issue is the possibility of proliferation by nonstate actors and nuclear security, meaning physical protection of nuclear materials. By design, the NPT does not address proliferation by nonstate actors. After the September 11 attacks, the UN Security Council (UNSC) adopted Resolution 1540, a legally binding instrument requiring all UN member states to enact and enforce measures to prevent nonstate actors from acquiring WMD. Nuclear security summits also assist the process of nuclear security, but in the Asian region, there are not serious attempt to build region-wide nuclear security mechanisms so far. Many states in the UN General Assembly, however, have argued that the UNSC did not have the authority to impose a binding resolution in this area.

The North Korean Nuclear Problem and South Korea's Dilemma

- Given the North Korean nuclear crisis and after hosting Nuclear Security Summit in 2010, South Korea felt the need to reinforce the domestic platform for nonproliferation. South Korea actually became the victim of the weak NPT regime because North Korea took advantage of a loophole of the NPT regime. South Korea also had the learning effect of enhancing its national interests by contributing to the global regime, especially with strategic cooperation with the United States.

- It is doubtful whether the NPT regime can prevent further proliferation under the current situation. Countries like Iran and North Korea endeavored to become de facto nuclear weapon states and this may repeat. Coping with these cases with more elaborate technical measures for nonproliferation is important.

- However, the motivation of developing nuclear programs and of proliferation is more than anything else political. In the example of North Korea, motivation for a nuclear program and proliferation is related to its survival strategy in Northeast Asian international relations after the end of the Cold War. Without giving due attention to the international political and domestic situation, efforts for nonproliferation are unlikely to succeed.

- In dealing with the North Korean case, for example, South Korean and global efforts of engagement needs to be combined with the efforts for nonproliferation. In that sense, reinforcing the NPT regime by connecting it with other bilateral and regional efforts for different cases will be important. Then, maintaining coordination between South Korea and global efforts will be critical.

- The "North Korean" problem is older than the North Korean "nuclear" problem. The latter is the necessary consequence of the former. The "North Korean" problem concerns the followings: how North Korea will survive in post-Cold War period when most socialist countries have been transformed into non-socialist countries; what kind of regime and system North Korea will have under these environments; and how North Korea will compete with South Korea and resist absorption by the South. North Korea developed a nuclear program, and militaristic diplomacy as the most plausible shortcut to solve the "North Korean" problem.

- A proper strategic option should include a vision for the future of North Korea which is desirable not just for North Koreans, but also most Northeast Asian countries. Long-term strategy aiming for the next decade should at least visualize North Korea under Kim Jung-un's leadership, nuclear but economically poorer, or nonnuclear with more international assistance. With this "shadow of the future" in which North Korea coexists with other powers in an appropriate way, Northeast Asian countries will begin to coordinate North Korean policy. To do this, the world must be clear about the nature of North Korean regime and system.

Panelist Paper: Nuclear Asia

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What are the most challenging nuclear security issues in Asia, and have these evolved?

The role and number of nuclear weapons in Asia is growing. While most nuclear powers elsewhere are reducing or sustaining the size of their nuclear arsenals, China, India, North Korea and Pakistan are expanding their nuclear arsenals and/or their ability to build more and improved nuclear weapons. This dynamic situation creates problems of crisis stability, arms racing and increases the danger that control over nuclear assets may be lost. The presence of the nuclear powers Russia and the United States in the region further complicates the picture.

A nuclear exchange between India and Pakistan remains a real risk. Both countries are engaged in an asymmetrical arms race, particularly since their nuclear tests in 1998. Crisis stability is fragile, not least because non-state actors may attempt to trigger or escalate a possible confrontation. The introduction of tactical nuclear weapons into deterrence postures as well as offensive conventional force postures can lower the nuclear threshold.[i]

China, India and Pakistan are diversifying their nuclear arsenals, moving away from smaller nuclear forces that were not on high alert, towards triads of land-, sea- and air-based nuclear forces that may include some forward-deployed nuclear weapons which can be launched with little or no preparation. These trends indicate a desire to increase the deterrence value of nuclear arsenals by strengthening second strike capabilities. The development and deployment of solid-fueled mobile systems, sea-based nuclear missiles and/or short-range tactical nuclear weapons all signify such shifts. Some of these weapons would likely be available for use on short-notice, requiring a change in the established practice of not mating warheads to delivery systems during times of peace. Such postures increase the risks of incidents or accidents, which may lead to the inadvertent use of a nuclear weapon or the loss of control over a nuclear device.

Compared to most other nuclear powers, the nuclear postures of China, India, North Korea and Pakistan are less transparent, making it difficult to assess how good nuclear materials and weapons are secured. The conflation of terrorism and nuclear weapons, particularly in Pakistan, creates additional concerns about safety and security of nuclear assets, but also about the ability of decision makers to control crisis escalation.

Are traditional notions of nuclear deterrence between states in Asia (still) viable?

China, India, North Korea and Pakistan want to strengthen the credibility of their nuclear deterrent forces by building more nuclear weapons and more capable delivery systems. However, diversification and expansion of nuclear forces may have unintended negative consequences for crisis stability and arms racing. It took the Soviet Union and the United States many decades (and a considerable amount of luck) before they established a deterrence relationship where Moscow and Washington believed they were able to adequately interpret signals by the other side.

Finding a stable equilibrium of nuclear and conventional forces – a regional nuclear order – in Asia will be difficult. Under conditions of a "security trilemma", all relevant regional powers and external nuclear weapon states would have to be part of such an undertaking.[ii] The problem is exacerbated by absence of arms control agreements, the weakness of regional security institutions, the lack of transparency and the secrecy surrounding nuclear doctrines.

Asian states should be cautious when mimicking Cold War patterns of nuclear deterrence. For example, the Soviet Union and the United States relied on the ability to launch nuclear weapons on warning and under attack. Such postures in the Asian context would increase dangers of miscalculation. Smaller nuclear arsenals that focus on retaliatory capabilities may be less dangerous in the complex Asian security landscape.

What impact has the rise of China and its growing strategic capabilities had on nuclear stability in Asia?

Like, India and Pakistan, China is currently diversifying and expanding its nuclear arsenal. A change of China's current nuclear posture, which is based on a secure second strike capacity and a no-first-use policy, could trigger reactions by India and the United States. Thus, India could accelerate its efforts to increase the number and types of long-range nuclear weapons. New Delhi might also invest more into missile defense efforts, which would likely affect Pakistan's nuclear program.

How does the changing balance of power between China and the United States affect the security considerations of other Asian regional powers?

It is not yet clear what a future nuclear balance between China and the United States might look like. Much will depend on the perception of U.S. missile defense capabilities in Beijing. Should China see a necessity to develop effective countermeasures to a U.S. strategic missile defense system, this could fuel new regional arms races. Thus, China may decide to develop Intercontinental and Sea-Launched Ballistic Missiles (ICBMs and SLBMs) with multiple independently targetable warheads. Such a capability could increase the likelihood that China can overcome missile defenses, but would also pose a risk to multiple targets in India. China may also feel compelled to conduct nuclear tests to validate and demonstrate the effectiveness of such new capabilities. A violation of the nuclear test moratorium could increase pressures in other states, including India, to also resume nuclear testing.

It is therefore important that China and the United States avoid such an offensive-defensive arms race. A new understanding of their deterrence relationship could be a basis on which to undertake additional confidence-, security- and transparency-building measures.

Will this evolving strategic balance lead to further nuclear proliferation in Asia?

The changing nuclear balance has already led and continues to lead to vertical proliferation, i.e. the qualitative improvement and quantitative expansion of existing nuclear arsenals. North Korea's nuclear program is a particular concern because of the aggressive behavior of the leadership in Pyongyang. The risk of horizontal proliferation increases if the unhindered build-up of nuclear forces by China, India, North Korea, and Pakistan persists. Some in Japan or South Korea have already raised question about whether their countries should develop nuclear weapons, too.

Another danger arises from the proliferation of nuclear materials or technologies from state-sponsored military programs to third parties, outside of Asia. The Pakistan-based A.Q. Khan network has in the past been a source of proliferation of nuclear technology. The risk of North Korea proliferating fissile material or nuclear technology is a concern. The engagement of regional nuclear possessor states in the global nuclear security regime therefore remains an essential non-proliferation measure.

Policy Recommendations

Given the lack of norms, rules, procedures and institutions that govern nuclear weapons polices in Asia, any effort to improve the situation would probably best start with a modest level of ambition. It should primarily aim to stabilize the current situation, building on shared interests among the nuclear possessor states in Asia. Such an effort could attempt to do three things:

1. *Begin a dialogue to create a common set of understandings on the parameters of a stable regional nuclear order.*
   Such an effort should be pursued on several tracks. It could involve an open-ended track 1.5 dialogue on nuclear stability among China, India and Pakistan. The current P5 dialogue

could in the future also involve India and Pakistan, for example to share and discuss the outcome of discussions on a nuclear glossary. A revitalized U.S.-Chinese nuclear dialogue could be a separate element of such an undertaking.[iii]

2. *Improve practical cooperation on issues of common interest.*
Preventing horizontal nuclear proliferation is one area where the interests of most Asian nuclear powers converge. China, India and Pakistan could share best practices on nuclear security, beginning with nuclear security measures on civil materials. A similar undertaking could be initiated to improve cooperation on the prevention and consequence-management of nuclear incidents and accidents. Continued implementation and revitalization of existing confidence-building measures is one element towards improving such cooperation.[iv] Additional transparency measures, such as an agreement on the non-deployment of nuclear weapons in border zones, may also contribute to improved crisis stability.[v]

3. *Commit to limits on nuclear arsenals.*
There are currently no agreed limits on the nuclear arsenals of nuclear possessor states in Asia. The lack of transparency combined with the fact that current nuclear doctrines do not specify what nuclear postures might eventually look like create uncertainty which in turn fuels suspicion. Nuclear possessor states should therefore commit to limit expansion of their nuclear programs, either unilaterally, through reciprocal measures or by acceding to existing arrangements. Unilaterally, states should outline what nuclear postures they aspire to. Transparency measures, for example on nuclear holdings, could underpin such efforts (and also strengthen the global nonproliferation regime). Crisis stability would be increased if the current practice of storing warheads and delivery systems separately could be codified. Multilaterally, ratification of the Comprehensive Nuclear Test Ban Treaty (CTBT) by all Asian nuclear states remains the most important step to cap a qualitative arms race.[vi]

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[i] See for example Krepon, Michael; Thompson, Julia (eds*.), Deterrence stability and escalation control in South Asia*. The Stimson Center. Washington, D.C. 2013.

[ii] Koblentz, Gregory D., Strategic Stability in the Second Nuclear Age, Council on Foreign Relations, Council Special Report No. 71, New York, November 2014.

[iii] Kulacki, Gregory, "Chickens Talking With Ducks: The U.S.-Chinese Nuclear Dialogue", *Arms Control Today*, October 2011, https://www.armscontrol.org/act/2011_10/U.S._Chinese_Nuclear_Dialogue.

[iv] The CBM record between India and Pakistan is patchy. Relevant accords include the 2007 "Agreement on Reducing the Risk from Accidents Relating to Nuclear Weapons", the October 2005 "Agreement on Pre-notification of Flight Testing of Ballistic Missiles" and existing hotline agreements to improve communication between both sides. For an overview see http://www.stimson.org/research-pages/confidence-building-measures-in-south-asia-/#comm.

[v] See for example Arbatov, Alexei; Dyakov, Anatoly; Topychkanov, Petr, Moving Beyond the India-Pakistan Nuclear Standoff, *Carnegie Endowment for International Peace* (Carnegie Moscow Center), Moscow October 2014.

[vi] China has signed but not ratified the CTBT. India, North Korea and Pakistan have neither signed nor ratified. Thus, half of the eight states that still need to ratify the treaty so that it can enter into force are in Asia.

Panelist Paper: Nuclear Asia

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Introduction

There is general agreement that nuclear weapons are fundamentally different from conventional weapons. This was stated at the outset of the nuclear age by scientists, strategic thinkers, and political leaders, and has been reiterated since. Differences begin to arise when varying objectives and roles are assigned to nuclear weapons in the security calculus. One school of thought maintains that because these weapons are different their sole purpose is to deter its use. In other words, nuclear weapons should only address the threat of nuclear aggression. A no-first-use policy would therefore be entirely consistent with such an understanding; it is both stabilizing and permits a posture that enhances the safety and security of the nuclear stockpile. Other schools of thought elaborate role of nuclear deterrence to address a wider range of security threats (such as full-spectrum deterrence and extended deterrence). Such an approach invariably leads to "first-use" and escalatory steps, which in turn lead to planning for escalation domination at each stage, and consequently, nuclear arms racing, hair trigger alert postures etc.

In an age dominated by two superpowers, the United States and the USSR, there was a degree of similarity in the kinds of arsenals that were developed by these countries, which simplified equations of deterrence into a nuclear dyad. This construct guided much of deterrence thinking. Other nuclear weapon states, even when professing different doctrines, had arsenals that were so much smaller compared to the bloated and oversized stockpiles of the two major powers, that these doctrinal differences got submerged.

Today, as the political center of gravity shifts from Euro-Atlantic to the Indo-Pacific, a number of new trends are in evidence. Notwithstanding the developments in Ukraine, the Cold War as we knew it, is a matter of history. Secondly, while the United States and Russian nuclear arsenals are

still significantly larger than those of other nuclear weapon states, the gaps have narrowed. Thirdly, the number of nuclear actors in Asia implies that it does not fit into the nuclear dyad model that dominated much of nuclear strategic thinking during the Cold War. And finally, doctrines are evolving in the region in keeping with modernizing arsenals contributing to a situation of doctrinal asymmetry which demands new thinking.

Developments in the Indo-Pacific

U.S. doctrine has been shifting after the Cold War and after President Barack Obama's famous Prague speech, the 2010 Nuclear Posture Review indicated that the United States is seeking to reduce the role of nuclear weapons and defined their role "to deter nuclear attack on the United States, its allies and partners; in extreme circumstances to defend the vital interests of the United States, its allies and partners." First-use has been retained and in order to provide "extended deterrence" vis-a-vis allies and partners, (especially Japan and South Korea), the idea of nuclear retaliation is considered feasible against conventional attack in "extreme circumstances." Deterrence by denial implies a greater future role for "missile defense," with its attendant consequences for other nuclear players.

Though the USSR professed a no-first-use doctrine during the Cold War years, neither the nature of its arsenal nor its deployment pattern was consistent with the declaratory posture and in the post-Cold War period, no-first–use was quietly dropped. Today, Russia envisages using its nuclear weapons in response to the use of nuclear weapons and other WMD against Russia and its allies; or conventional aggression where the existence of the Russian state is threatened.

Evolution of China's doctrine has been most significant. China has maintained a no-first-use policy since the beginning, though this is now a matter of internal debate which found reflection in the 2013 White Paper where this reference was first dropped, but then reiterated when its absence was questioned. Both Mao Tse Tung and Deng Xiaoping gave credence to "people's war," and had a different approach to nuclear weapons, considering them "paper tigers" or weapons of blackmail. During the 1970s and 1980s, China also took a more tolerant approach to proliferation. After the Cold War, China tightened its proliferation related export controls, except with regard to Pakistan whose nuclear capabilities it continues to aid by liberally using the "grandfathering" approach. In the early years, China's no-first–use was not considered credible because it lacked both survivability and consequently, retaliatory capability, vis-a-vis U.S. or Soviet first strikes. Since the 1990s, the significant shift has been in terms of modernization of the Chinese arsenal with development of long-range intercontinental ballistic missile (ICBM) and SSBN capabilities, MIRV (multiple independently targetable re-entry vehicle) and MaRV (maneuverable re-entry vehicle) technologies, deployment of rail-mobile ICBMs, moving from liquid fuelled to solid fuelled launchers, and development of short range or tactical nuclear weapons.

These capabilities have raised questions about whether China is shifting from "minimum deterrence" to "limited deterrence." Driving China's t thinking and modernization are two drivers: first, that domestic technological and financial constraints on designing new weapons and delivery

systems are no longer as restrictive, and secondly, U.S. development of Command, Control, Communications, Computers, Intelligence, Surveillance and Reconnaissance (C⁴ISR) and missile defense capabilities together with growing ability to undertake long range precision strikes with conventional warheads.

While Pakistan has decided to retain an opaque doctrine, it has stated that its doctrine is India-centric. It is intended to deter nuclear use by India and also to be an equalizer against India's conventional superiority. In its search for full spectrum deterrence, Pakistan has also taken much of the early Cold War terminology, associated with development of tactical nuclear weapons. Its use of jihadi groups as instruments of state policy and adoption of covert means to change territorial status quo in Kashmir, most recently in 1999 in the Kargil conflict add to concerns about its security practices and the risk prone character of the army, which retains control of the nuclear assets.

North Korea is a quintessential outlier, having announced its decision to quit the NPT in 1993, put the decision in suspension in return for two U.S. light water reactors and when the deal soured, renounced the NPT in 2003. With Chinese help, it had developed a fairly robust missile capability and expanded its access to enrichment and reprocessing technologies by trading know-how with the Pakistani metallurgist A. Q. Khan's "nuclear Wal-Mart." After having conducted three nuclear tests in 2006, 2009, and 2013, it is estimated to possess between six to eight devices but not yet the capability to make a warhead compact enough to fit onto its missiles. North Korea's nuclear policy is driven by regime-related existential concerns and together with Chinese influence, the extent of which is sometimes debated, increases the opaqueness of DPRK's doctrine.

India's doctrine is based on a "credible minimum deterrent" (numbers are not disclosed though calculations and projections on the basis of estimations of fissile material availability have been attempted), no-first-use, development of a triad to ensure survivability, and civilian command and control. The Indian doctrine reflects the political understanding that nuclear weapons are not for war-fighting and have the sole purpose of deterring nuclear aggression or blackmail.

Even this brief and partial overview (France, Iran, Israel, and UK doctrines have been left out) indicates that the complexity of Nuclear Asia is far greater than what existed during the Cold War. Attempts to constrain this into nuclear dyad scenarios are simplistic and often lead to alarmist scenarios. Risks of further proliferation depend on how U.S. allies perceive the credibility of its "extended deterrence" to be, which in turn depends on their threat perceptions in whose framework the 'security assurance' is to be tested. Doctrinal asymmetries make it difficult to engage in bilateral arms control, particularly when China's arsenal and its doctrine appear to be evolving. The India-Pakistan issue can hardly be assessed without factoring in the Chinese role. Finally, it is clear that nuclear stability gets challenged when nuclear weapons are controlled by leaders who are more risk prone, seek unilateral change in the status-quo and take recourse to nationalism which makes confidence-building or conflict-resolution difficult.

Policy Recommendations

1. The challenges of Nuclear Asia need to be clearly understood rather than mechanically applying "one size fits all" solutions of the Cold War.

2. A more realistic understanding of what constitutes stabilizing or destabilizing behavior is needed.

3. A better historical appreciation would indicate limitations of bilateral approaches (India-Pakistan CBMs, U.S.-China escalation doctrines).

4. Doctrinal asymmetries can only be addressed through multilateral and plurilateral approaches, for which dialogue platforms need to be created.

Session Two

New Geometry of Extremism and Instability: Responding to the Contemporary Developments in West and Southwest Asia

Panelist Paper: New Geometry of Extremism and Instability

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Southwest Asia is in turmoil. The epicenter of instability is a large area spanning Syria and most of central and northern Iraq. While the rise of the Islamic State of Iraq and Syria (ISIS) has been the main catalyst for regional and international action, the fight against this most extreme of Sunni Islamist groups unfolds against a wider background of sectarian strife in both Syria and Iraq. Sectarianism, and more specifically the deep rivalry and competition between Sunnis and Shias on the one hand and Sunni extremists and everybody else on the other has progressively become the main fault line around which conflicts for social status, economic benefits, and political power are taking place.

The crisis in Syria-Iraq is representative of a juncture where four different trajectories have eventually merged: the ethnic and sectarian divisions that have flared up in Iraq in the wake of the U.S. invasion and occupation of that country (2003–2011); the spread of radical extremist groups that aim to establish territorial sovereignty over significant portions of the region; the savage civil war in Syria, where the Alawite-dominated regime of President Bashar al-Assad faces a large but fractious rebellion spanning secularist and radical Islamist groups alike (including ISIS itself); and, finally, the underlying rivalry between Iran, Assad's main sponsor and an influential player in Iraq, and the U.S.-centered coalition of Arab countries (plus Israel and Turkey, though Turkey does not see itself as a rival of Iran in all respects), a dynamic that is also on display in the ongoing talks over Iran's nuclear program.

The crisis is of historic proportions, as attested to by the number of casualties (several hundreds of thousands), refugees and internally displaced persons (several millions), and the disintegration of once well-established states such as Syria and Iraq, whose common border now only exists on paper. Such is the severity of the crisis that experts and pundits have started wondering whether the area will witness a major realignment of alliances and partnerships. With the caveat that the situation is so volatile that predictions should be taken with a grain of salt, such a realignment is unlikely to take place. The region will remain divided between a U.S.-centered coalition and Iran

and its proxies, although U.S.-Iranian relations might in fact end up being less adversarial than they currently are.

Prospects for a U.S.-Iranian Rapprochement

The United States and the Islamic Republic of Iran have a history of antagonism and enmity. A number of experts, however, contend that politics rather than geopolitics is what keeps the two countries apart. According to this school of thought, recent events in the region have given the geopolitical factor such a magnitude that politics should adjust and a new course envisaged.

This "geopolitical factor" is in fact a combination of different elements. First it is the diminished capacity of the United States to use its military might following the long experiences in Iraq and Afghanistan, where the U.S. military has proven unable to bring about enduring stability. As a result, U.S. public opinion is anything but supportive of further large, open-ended deployments overseas. This diminished ability of the U.S. military to influence events on the ground has increased the appeal of cooperating with regional players.

Of such players, Iran stands out because it has influence on all theaters in which the United States and its allies are involved: Afghanistan, Iraq, and Syria. On all three fronts Iran is in a strategic competition for influence with the United States, but in Iraq and Afghanistan neither the United States nor Iran sees each other as the most urgent threat. They share an enemy in both countries, the Taliban in Afghanistan and ISIS in Iraq. Prior to the rise of ISIS (and with the exception of a short-lived period of cooperation in Afghanistan in 2001–2002) the United States and Iran quarreled—often via proxies—on a regular basis in both Iraq and Afghanistan. So, for instance, Iran provided some modest support for select Taliban and other groups in order to keep pressure on the United States, while in Iraq it supported the formation of anti-U.S. (and anti-Sunni) Shia militias and strongly backed the Shia-led government of former Prime Minister Nouri al-Maliki. For a while this policy paid off as U.S. influence in Iraq waned and Iran's grew, but the advent of ISIS has changed the picture because the Islamic Republic is unable to counter it alone (while Iraq's security forces have crumbled under pressure from ISIS' lightning advance). This is the second geopolitical change that might lead to a realignment of U.S. and Iranian policies. Elements of this alignment are already visible: Iran has facilitated the stepping down of Maliki in favor of Haider al-Abadi, who is considerably more forthcoming toward the United States than Maliki was; it has conducted military operations against ISIS; it has armed and supported Iraqi Kurdish peshmerga forces (who are also strongly supported by the United States); and it has benefited from U.S. air strikes in central-eastern Iraq. The United States and Iran are now waging two separate wars against ISIS, although they are officially not coordinating (but use Iraqi officials as liaisons sometimes).

The third novel element is arguably not of a geopolitical but of a domestic nature: the election of Hassan Rouhani as Iran's president has created an unprecedented possibility for the nuclear file to be successfully addressed through diplomacy. For the proponents of a U.S.-Iran rapprochement

the successful conclusion of the nuclear talks is therefore of prominent importance not only on its own merit but also because it could make up the basis of further cooperation on Afghanistan, ISIS, and Iraq. They also believe that a rapprochement between the United States and Iran would help bring Syria's civil war to an end, as an Iran that feels less threatened by the United States might be more willing to cut off aid to Assad and force him to engage the rebels in negotiations.

Prospects for Continued U.S.-Iranian Antagonism

While there are elements of truth in the above argument, the overall line of reasoning is flawed in several respects. First is the misplaced expectation that a nuclear deal would automatically trigger a normalization dynamic in U.S.-Iran relations, as Iran and the United States remain far apart on a number of issues—ranging from Israel to the U.S. military presence in the Gulf. Second is that a U.S.-Iran rapprochement would pose a challenge to the U.S. system of alliances in the region. Antagonism against Iran is after all one of the main reasons countries such as Saudi Arabia remain committed to Washington. A U.S.-Iran rapprochement would be premised on the recognition by the United States of Iran's regional role, which the Iranians see as preeminent (if not hegemonic), evidently an intolerable proposition in Riyadh and other Arab capitals, not to speak of Israel. For the United States this system of alliances is too valuable to be jeopardized. Finally and most importantly, a U.S.-Iran rapprochement would involve that the Iranian clerical leadership get rid of an anti-Americanism which is part and parcel of the regime's narrative about the legitimacy of the 1979 revolution itself.

In light of this, many experts argue that the United States should stick to its traditional alliances and keep Iran under as much pressure as possible. They favor the continuation of the nuclear talks but do not see in them any further meaning than ending the threat of a nuclear-capable Iran. They insist that Iran's influence should be checked, most importantly in Syria. Here, they see no other option than opposing Assad with the same resolve shown toward ISIS, although opinions about the means to do so diverge. Most refrain from calling on the United States to send ground troops. But all argue for major steps to empower non-Islamist rebels with the resources to fight against both ISIS and Assad forces, including by imposing a no-fly zone and creating a "safe zone" in northern Syria (ideally including Aleppo, as it is there that some of the residual secular rebels continue to hold some sway) in which refugees could be welcomed and protected and rebels trained and armed with the goal of fighting both ISIS and Assad. This policy involves a massive increase in U.S. involvement in Syria's civil war and much deeper coordination with U.S. allies such as Saudi Arabia (as far as funding and weapon transfers are concerned) and especially Turkey, which would be critical for logistics and direct military assistance. It would also meet strong opposition by Iran and Russia, Assad's other key ally, which would certainly block support from the UN Security Council.

Prospects for a Recalibrated U.S.-Iran Rivalry

The argument above seems to be more reflective of reality than the U.S.-Iran rapprochement thesis, yet it is also premised on the assumption that an eventual deal on the nuclear program and the rise of ISIS have no impact at all on regional alignments. In fact, the nuclear talks and the problem of ISIS have the potential to reorient U.S.-Iran relations, even though not to recast them in a cooperative mold. These two issues unfold on separate tracks: the end result of the negotiation is not dependent on U.S.-Iran cooperation against ISIS in Iraq, nor is the latter conditioned on the former. That said, it would be disingenuous to think of the two issues as wholly compartmentalized.

If the nuclear talks fail and Iran promptly resumes sensitive nuclear activities, the United States will no doubt try to tighten the noose around Iran's neck by way of harsher sanctions and pressure on allies to follow suit. The deterioration of bilateral relations could then turn the neutral approach adopted by the United States and Iran in Iraq into a more competitive one. But precisely because Iran and the United States share an enemy in Iraq and, more importantly, the interest in keeping Iraq united, they would have an incentive to exert restraint. A possibility is that, in the case of failure in the nuclear talks, Iran might keep a low profile on the nuclear front, resuming only the least controversial of the activities frozen under the interim agreement currently in force. The United States and its partners in the P5+1 (the group negotiating with Iran over the latter's nuclear program) could limit retaliation to the re-imposition of the sanctions lifted in the context of the interim agreement. Congress would certainly pass another sanctions law, but the Obama administration could work on the wording so that the law provides the president ample latitude to waive new sanctions. While the overall bilateral relationship would worsen, the negotiating forum would not so much be dismantled as interrupted, and contacts between the United States and Iran would not be discontinued altogether. This would make it still possible for the United States and Iran to keep their respective policy of a "separate but parallel war" against ISIS in Iraq. They could also work toward pressing the Kurds and the Shias toward the creation of a more enduring system of allocation of power in Iraq and redistribution of oil revenues, as this is a condition for both an eventual victory over ISIS and the long-term territorial integrity of Iraq.

The above scenario, it is worth underlining, would not necessarily be so much different from the one we would have if the nuclear talks were to succeed. A deal would certainly remove a major source of tension, but before reciprocal trust is rebuilt time would have to pass as trust would ultimately be a function of the degree of compliance with the deal's terms. In addition, a concerted solution to the nuclear issue would not change the strategic objectives of the United States and Iran in Iraq: both want ISIS degraded and defeated, and both want Iraq not to fall apart. But Iran's influence in Baghdad will continue to be perceived as being in an inverse relationship with that of the United States: the more influence Iran has, the less the United States has, and vice versa. Thus, the "separate but parallel war" scenario would fit a post-nuclear deal situation too. Over time, a nuclear deal would, however, help establish an environment more conducive to selective forms of U.S.-Iran cooperation. Thus, indirectly, a nuclear deal could pave the way for deeper interaction in Iraq.

Even if this were to occur, however, the final picture would not be that of a new region, as the lines of demarcation between U.S. allies and rivals would not change substantially. What would change is the nature of U.S.-Iran antagonism, which from a stage of deep mistrust and adversarial relations would shift toward an uneasy mix of underlying competition and pragmatic interaction, along a somewhat similar pattern to U.S. relations with China or Russia. As the case of Russia has shown eloquently, uneasy relationships carry the risk of sliding into open confrontation. At the same time, the history of recent U.S.-Russian estrangement also attests to the fact that much of it is imputable to the personal calculations of President Vladimir Putin, meaning that in a competitive-cooperative framework, governments' choices more than geopolitical necessities make the balance tilt one way or the other. The Obama administration has already conveyed the message that it is ready to coexist with the Islamic Republic, meaning that the president is ready to see the clerical regime as a legitimate, although unfriendly, interlocutor. The bet of Rouhani is that Iran's supreme leader, Ali Khamenei, can be persuaded that antagonism toward the United States should be softened whenever this entails greater strategic advantages for Iran. This outcome is plausible, although less likely, even in case the nuclear talks fail.

What about Syria's civil war? Here the United States and its allies have a different position from Iran, with the former supporting sections of the anti-Assad rebellion and the latter backing the regime with money, weapons, trainers, and troops on the ground (mostly provided by Iran's proxy Hezbollah). Yet the United States and Iran also apparently share the objective of defeating ISIS in Syria, even if Assad (and consequently its patron Iran) has an interest in keeping the threat of ISIS alive until the other branches of the rebellion—particularly the non-Islamist ones—are irremediably undermined as credible alternatives to the regime itself.

The United States is currently conducting air strikes on ISIS-controlled Syrian territory, but continues to abstain from attacking directly Assad forces (even though it has pledged to train, with help from the Saudis, up to five thousand "moderate" rebels to fight both ISIS and the regime). The paradoxical result, critics argue, is that the U.S. war on ISIS in Syria is actually helping Assad get rid of more troublesome (because internationally more palatable) rebels.

Obama determined long ago that major involvement in Syria's civil war carried many more risks for the United States than advantages. While his position may have shifted partly after the rise of ISIS in Syria and Iraq, he has not fundamentally changed his mind concerning the wisdom of committing U.S. forces to ousting Assad. Obama's priority is to avoid Iraq's breakdown, not ending Syria's civil war. His main objective is to degrade and eventually expel ISIS from Iraq and press Turkey to seal the borders so that the flows of fighters and ISIS-smuggled oil dry up. Syria would be left bleeding from the continued fight between a weakened ISIS and an Assad regime increasingly depleted of resources. Since last summer the administration has also stepped up support for select rebel groups, but it seems apparent that Obama is unwilling to go much further out of concern that the United States would be on the edge of a slippery slope toward another war in the Middle East.

Apart from the costs and the uncertainties of the war effort itself, Obama needs to deal with the problem of what would come after Assad. As of now, no party—neither the regime nor any rebel force—is strong enough to pacify the country and control the territory without foreign military assistance. Even if foreign powers—that is, the United States and some of its allies (Turkey first and foremost) —were willing to provide such assistance, the experience of the U.S. occupation of Iraq shows that the most powerful and technologically advanced army in the world is of little use if some sort of social contract is not struck by the main social and political actors of a country. Speaking of a "social contract" in Syria today may seem far-fetched, but that is what will be needed if a future of a Syria indefinitely divided into two parts controlled by Assad and ISIS (or three parts, if the United States does eventually heed Turkish calls for a safe zone in the north) is to be avoided. A social contract presupposes a process of national reconciliation accompanied by the marginalization of the extremist elements, first and foremost ISIS. As of now, the regime sees no advantage in national reconciliation, but this could change over time if support from Russia and especially Iran is cut off or made conditional, and this in turn is less attainable by coercion only on the part of the United States and its allies in the region and Europe than by a combination of pressure and diplomacy. Talk of national reconciliation backed by the United States and its allies as well as by Iran may sound, if not implausible, at least premature. But diplomacy should not necessarily aim immediately for the final status. U.S., European, Turkish, Arab, and Iranian efforts could coalesce around UN proposals to "freeze" combat in certain areas (starting with Aleppo) and put a brake on the shocking intensity of killings in Syria.

In conclusion, Southwest Asia is unlikely to undergo a major redrawing of regional alignments. However, the crisis in Syria-Iraq and the negotiation over Iran's nuclear program provide a platform for U.S.-Iranian pragmatic engagement, which might soften their reciprocal antagonism. The agenda for such pragmatic engagement has three main points: achieving a nuclear deal (or at least avoiding a complete breakdown of the negotiation); promoting a more inclusive government in Iraq while fighting ISIS; and making an effort to diminish the level of violence in Syria as a first step toward national reconciliation.

Panelist Paper: New Geometry of Extremism and Instability

Council of Councils Seventh Regional Conference
January 11–13, 2015
New Delhi, India

Oded Eran, Institute for National Security Studies

The ongoing battles between various movements and regimes in West and Southwest Asia have already caused political changes in the configuration of these regions. It is hardly likely that the "old order" can be restored. Several states keep, in an artificial manner, their names and formal borders. If the process cannot be contained and then reversed in a manner that will eliminate the major reasons for the current situation, we may witness the expansion of the current conflicts with further implications. While the collapse of the state system in Yemen or Libya may not have a serious impact even on the immediate vicinity, the fall of regimes in other states may initiate new conflicts with dire consequences to other regions and the global economy.

We are only at the very early stages of a process which may transform Central, South, and West Asia. The various states confronting the onslaught of different movements either do not cooperate at all or are still in the very early stages of trying to find the way to reconcile their old political or religious conflicting interests with the need to protect themselves. Various states and their political leadership still believe they can deal with their problems by just a token cooperation.

The indigenous forces which sought a regime change seem to have run out of steam beyond the first wave or have shown themselves to be unable to keep the state as a viable political entity. Into the vacuum stepped in movements which had no ideological links to those who fought for civil and political liberties and are based on an extreme and obsessive interpretation of religion mixed with deep senses of ethnic and religious strife and political alienation. The failure of the protesting forces in Syria to dislodge the government and to create a cohesive alternative even in the parts of the country they have wrestled away from the central government and the centrifugal forces in Iraq have created the space for the various jihadist groups and mostly ISIS to express their long-term political ambitions. The longer their entrenchment continues, the more difficult it will become to prevent these forces from expanding their influence both in the regions we are dealing with and beyond. What is clear is that we need to deal separately and differently with these two processes, though some of the answers may serve the battle against the two problems.

Understanding the reasons and the processes that have caused the current situation is of course a prerequisite to an attempt to contain and reverse it. But understanding is not an easy task. It is an oversimplification to maintain that economic conditions or oppression caused the "Arab Spring." The economic conditions of the individual citizen in Tunisia, Jordan, or Morocco are not that different and they are not sufficient to explain why only in one of the three there has been a regime change. In the same token it is difficult to explain why monarchies in West Asia and North Africa have weathered the protest movements while in other states the rulers have been removed. And yet there is no better option than providing the people a brighter political and economic horizon. It is of course a long process but the very beginning may restore some stability across the regions in question.

Dealing with the phenomenon represented by ISIS requires a different mix of answers .There is no alternative but to use military force in order to arrest the territorial expansion and the growing influence and ability to destabilize other states and regions resulting from visible and tangible successes. This struggle too has no immediate and clear success. It has to be also understood that this is a long-term effort, military and political, since the elimination of the ISIS control of large territories does not necessarily mean the successful empowering of a different government .

Policy Recommendations

Create a task force either independently or within the World Bank and other international financial institutions to support long-term, comprehensive reconstruction for individual and/or groups of states. The financial institutions will have to raise the funds from donor states. Oil and natural gas producing states will be required to contribute from national sovereign funds in spite of the slump in prices.

The recipient states will be required to submit a detailed five-year plan to progress toward greater democratization. The process can be monitored by the same forum which conducts the negotiations with Iran, i.e. the P5+1.

There is no alternative but to fight ISIS on the ground. That does not have to be carried out by non-regional forces. The experiment-experience in Iraq should be expanded in Iraq itself and in Syria.

States in the region should be brought to cooperate in terms of battling ISIS. This can be achieved by cooperating directly or indirectly under the umbrella of the international coalition, NATO, or a different formula. This cooperation can be expressed by willingness to deploy troops, equipment, and sharing intelligence.

Session Three

Great Power Dynamics in the Indo-Pacific

Panelist Paper: Great Power Dynamics in the Indo-Pacific

Council of Councils Seventh Regional Conference
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This brief memo discusses the divergence of great power interests in the Indo-Pacific. It focuses specifically on how China, the United States, Japan and, to a lesser extent, India compete in the disputed waters of the East and South China Seas. Both disputes are driven by nationalism, the exploitation of resources, as well as geopolitical considerations especially given how the rise of China has transformed the power distribution in Asia. In contrast to China and Japan, the United States and India are not claimant states in either of these disputes and have not taken sides in the sovereignty question. Still, the United States, in particular, is indirectly involved in light of its security arrangements with Tokyo and Manila and its interest in the preservation of the freedom of navigation principle.

East and South China Seas

The sovereignty dispute over the Senkaku/Diaoyu Islands in the East China Sea is arguably the most contentious maritime security flashpoint in Asia. Japan, China, and Taiwan have each laid similar claims to the Senkaku/Diaoyu Islands. Japan is hesitant to admit that the islands are in fact disputed by China and Taiwan. A new cycle of escalation started in mid-2012 with the nationalization of the islands by the Japanese government and later with the establishment of a Chinese Air Defense Identification Zone (ADIZ) over most of the East China Sea on November 23, 2013. While a sustained military clash in the East China Sea remains an unlikely scenario, risks of miscalculations or accidents that could lead to limited confrontation still exist.

Like the East China Sea, the South China Sea conflict plays a destabilizing role in Asia. The disputed islets in the South China Sea are extremely small but could enable claimant states to gain jurisdictional rights over the surrounding waters and seabed. At present, none of the claimants are willing to make concessions on sovereignty, leaving the territorial issue at an impasse. Additionally, in contrast to the East China Sea, the debates over the Spratly and Paracel Islands in

the South China Sea are affected by the complexity of the overlapping claims and the multilateral nature of the disputes. The claimants involved are Brunei, China, Malaysia, the Philippines, Taiwan, Vietnam, and possibly Indonesia.

Great Power Competition in Maritime Asia

The United States has consistently defined one of its core national interests in Asia to be the preservation of the freedom of navigation, including the mobility of its Seventh Fleet. It has become increasingly concerned over the rise of Chinese naval capabilities, and uncertainty remains over China's commitment to the freedom of navigation principle in the disputed waters. The build-up of the People's Liberation Army-Navy (PLAN), even if it is gradual, is a growing concern for the United States.

President Barack Obama confirmed the U.S. position on the Senkaku/Diaoyu dispute during a state visit to Japan in April 2014 when he stated that the bilateral security treaty covers the disputed islands in the East China Sea. The United States has, however, preserved its neutrality over the sovereignty dispute by taking no sides on the legal validity of the respective territorial claims. Still, Obama's statement in Tokyo angered Beijing and fueled the regional security dilemma. It is too soon to say whether the U.S. strategic commitment to the disputed islands will ultimately maintain the status quo by deterring China from using its armed forces to press its territorial claims or, instead, further escalate the situation.

The East China Sea dispute has also been influenced by power competition between China and Japan. Tokyo is in physical control of the disputed islands and has at this point superior defense capabilities relative to China. It also has the advantage of being a treaty ally of the United States. Still, the naval power balance is shifting as China continues to make advancements in strengthening its naval capabilities.

On the South China Sea, a statement made by then-U.S. Secretary of State Hilary Clinton at the ASEAN Regional Forum (ARF) in July 2010 declaring that the United States has a national interest in the freedom of navigation in the South China Sea angered China. Both the Philippines and Vietnam have responded positively to the U.S. rebalance to Asia due to their growing concerns over China's assertiveness in the South China Sea. The two Southeast Asian claimants have sought to gain from American military assistance to contain China in the South China Sea.

Another great power that could influence the course of the disputes is India. The latter is not a claimant state in the East and South China Seas. It has, however, an interest in the preservation of the freedom of navigation principle and it follows with suspicion China's naval build-up and its wider strategic aspirations in the Indo-Pacific. New Delhi is concerned that the maritime competition observed in the East and South China Seas could be extended into the Indian Ocean region. In response, Prime Minister Narendra Modi has already further deepened relations with Japan, Australia, and some Southeast nations as part of a wider "Look East" policy.

How has Beijing reacted to the great power focus on the East and South China Seas? The U.S. initiatives have caused great concern in Beijing. In particular, there is a strong perception in China that the United States is interfering in what it considers to be bilateral issues respectively with Japan and the four Southeast Asian claimants. China also perceives the United States as attempting to contain its peaceful rise in the region, with the U.S. rebalance to Asia and Washington creating an issue over the freedom of navigation as evidence of an American "containment strategy."

Scope for Cooperation

An improvement in bilateral relations and a relative stability in the East and South China Seas since August 2014 suggests that there might be some scope for regional cooperation. Chinese President Xi Jinping and President Obama had a successful meeting on the sidelines of the Asia-Pacific Economic Cooperation (APEC) forum held in Beijing in November 2014. President Xi and Japanese Prime Minister Shinzo Abe also held their first bilateral meeting on the sidelines of the forum as a result of a prior agreement to agree to disagree on the East China Sea situation. Prime Minister Modi had previously made a state visit to Japan in September 2014 while President Xi visited India that same month. At the institutional level, China and the members of the Association of Southeast Asian Nations (ASEAN) have continued to negotiate a code of conduct for the South China Sea. In short, these positive developments may lead to a series of mutual bilateral adjustments and more stable relations in the Indo-Pacific.

Policy Recommendations

- The United States should ratify the United Nations Convention on the Law of the Sea. This would provide Washington with an international legal basis for action, including its emphasis on the freedom of navigation principle.

- China should clarify its claims in the South China Sea in accordance with international law. The Southeast Asian claimants have sought to rely on UNCLOS to clarify their claims.

- Japan should recognize the East China Sea dispute. This could help deescalate the situation with China.

- All the claimants should be encouraged to consider international mediation or arbitration. This could be done through third-party state mediation. Arbitration would mean bringing the case in front of the International Court of Justice in The Hague or the International Tribunal for the Law of the Sea in Hamburg.

- Conflict management through regional institutions should be enhanced. This already

includes the negotiation of an ASEAN-China code of conduct for the South China Sea. A similar institutional process should be established to deescalate the East China Sea dispute.

Panelist Paper: Projecting Power to Protect Unity- Engaging in Indo-Pacific Geopolitics is a Grand Strategic Imperative for India

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Nitin Pai, The Takshashila Institution

The dominant view among the members of India's strategic community is that India lacks a strategic culture. Given the cacophony, rancor and partisanship in public debate, with policy discussions taking place within the high walls of the government apparatus, with political leaders seldom articulating the rationale behind foreign and defense policy decisions and with few grand ideas coming out of the academia, it may well appear that a strategic culture is absent.

Securing Unity

Those who lamented the lack of a strategic culture were perhaps looking for something that would be similar to what they thought was the strategic culture in other countries. Our reality is different. How can it not be? India's strategic culture exists in its diverse strands, but they have in common visions of a united India, maintenance of order within India, and ideas on how pluralism is to be managed in India. This strategic culture has suggested and pursued a grand strategy that can simply be described as "keep the country united."

Here, it is important not to conflate the government's decision-making processes with strategic culture. The latter only provides the context for various political and bureaucratic forces to interact and arrive at policy decisions. It is important not to overstate the importance of strategic culture in day-to-day policymaking. Its influence is at the level of grand strategy.

Indeed, uniting and keeping the country united has been the grand strategy of India's rulers from the Mauryas to the Mughals, from the British Raj to Sardar Vallabbhai Patel, from Jawaharlal

Nehru to Manmohan Singh. The pursuit of the same grand strategy by different types of governments over two millennia suggests that the roots of India's strategic culture are far deeper than we realize. India's strategic culture is not Alexandrian or expansionist, and concerns itself with maintaining national unity. That, however, is no argument to deny or understate its existence.

Beyond the Subcontinental Mindset

Unfortunately, this preoccupation with unity blindsided India to the need to be aware of developments beyond the subcontinent. As the historian and diplomat K. M. Panikkar observed, "[So] far as areas outside the physical boundaries of India were concerned, we were content to live with the attitude of complacent ignorance…This has been the weakness of India in the past, this sense of isolation and refusal to see itself in relation to the states outside the geographical limits of the subcontinent." Obliviousness to the state of affairs across the Hindu Kush and the Himalayas, across the Arabian Sea and the Bay of Bengal, led to the inability to anticipate invasions, and indeed, to prevent colonization. Fortunately, though, the ability to manage plurality allowed India to survive, albeit at great cost to Indian society and civilization.

We can no longer afford to be oblivious "about the balance of power across its national frontiers." Not only is it necessary to understand global politics and how it affects us, it is necessary to shape the global balance of power in a manner consistent with our national interests. The age-old grand strategy of keeping the country together must therefore shed its subcontinental preoccupation and also concern itself with maximizing and projecting national power.

Why India Must Project Power

In the twenty-first century, nations, above all, are defined by success. In a globalized world, the easy movement of people, capital and ideas means that successful nations preserve their unity, while failing ones fall apart. Success requires prosperity. Prosperity requires power. Kautilya's Arthashastra teaches us this. If India does not enter a virtuous cycle of achieving success, prosperity and unity, it risks falling into the vicious cycle of failure, penury, and ultimately, disintegration.

The emergence of China, a civilizational power with a clashing geopolitical worldview and a competing political model will use its power to change international norms in its favor, and attempt to make others, including India, play by its rules. To the extent that international norms are shaped by power, it is obvious that India can't afford to sit out of the competition.

The upshot is that India must project power abroad to stay united at home.

How?

- *First, act as swing power.* The United States will remain the preeminent global power in the next two decades. China, in second place, will continue to close the gap with the leader. If the United States were not involved in propping up the Pakistani military-jihadi complex, it might have made sense for India to align more strongly with the United States. Since Washington is unlikely to change course, India should dynamically swing between the United States and China. Swinging, unlike non-alignment, is neither passive nor rhetorical. It is an active approach, using diplomatic, economic, and military leverage to promote India's interests by exploiting the competitive dynamic between the two bigger powers.

  To be a swing power, India must have better relations with the United States and China than they have with each other. It must also develop the credible capacity to give pleasure or inflict pain on geopolitical and geoeconomic issues. From the military perspective, the former calls for the Indian armed forces to improve military-to-military ties with both countries, while the latter enjoins us to acquire the capability to influence the military balance of power beyond the Hindu Kush, in and around the Indian Ocean and East of the Straits of Malacca.

- *Second, break through the paradox of proximity.* The instability immediately across the borders makes it important for India to intervene but there are structural constraints on the ability to do so, despite possessing adequate military capabilities. The situation further afield is reversed: there are fewer constraints on the ability to project power, but there is a lack of appropriate military capabilities. Indian power can not only make a positive difference but is actually sought in regions like the Somalian littoral, the Gulf of Aden and the waters East of Singapore that Indian.

- *Third, reform, reform, reform.* It is impossible to project power unless the Indian economy is fully unshackled, and the once-promised and long-delayed second-generation economic reforms are implemented. It will be impossible to generate the resources, and indeed the consensus to allocate the required resources for defense, unless there is sustained, equitable economic growth.

  It should be amply clear that without structural reforms, the defense services will be unable to project power abroad, especially in theatres thousands of kilometers from the Indian frontier. The recommendations of the Kargil Committee report should be the starting point of reform of the defense services. The delay in their implementation is inexcusable and has set India back by a decade, even as the Chinese People's Liberation Army has leapfrogged into a next-generation force.

(This note is based on a lecture delivered by the author at India's Army War College, Mhow.)

Session Four

Internationalization of Internet Governance

Panelist Paper: Internationalization of Internet Governance

Council of Councils Seventh Regional Conference
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Thomas Gomart, Observer Research Foundation

In June 2013, Edward Snowden's disclosures were the most important disruption in terms of Internet governance. They had direct consequences not only on diplomacy, but also on technological markets. Internet governance was supposedly based on trust and cooperation; it has shifted to distrust and confrontation. Apparently, it has led to *The Global War for Internet Governance* as titled by Laura DeNardis (Yale University Press, 2014). One single whistleblower destroyed U.S. moral leadership on Internet governance; many states, among them some U.S. allies, strongly reacted to these disclosures, to say nothing about other stakeholders in Internet governance.

During the last eighteen months, Internet Governance has been deeply debated in many formats, and by numerous stakeholders. On March 13, 2014, Mark Zuckerberg wrote on his wall: "The U.S. government should be the champion for the internet, not a threat. They need to be much more transparent about what they're doing, or otherwise people will believe the worst." The day after, on March 14, 2014, the U.S. National Telecommunications & Information Administration (NTIA) announced its "intent to transition key Internet domain name functions to the global multistakeholder community." NTIA asked the Internet Corporation For Assigned Names and Numbers (ICANN) to convene global stakeholders to make a proposal for transition by following four principles: support and enhance the multistakeholder model; maintain the security, stability, and resiliency of the Internet DNS; meet the needs and expectation of the global customers and partners of the Internet Assigned Numbers Authority (IANA); and maintain the openness of the Internet. Directly supported by Dilma Rousseff, who strongly reacted to Snowden's revelations, the NETmundial meeting took place in São Paulo on April 23-24, 2014, to promote "an inclusive, multi-stakeholder, effective, legitimate, and evolving Internet governance framework". The Internet has been presented as "a global resource which should be managed in the public interest." From October 20 to November 7, the 19th the International Telecommunication Union (ITU) Plenipotentiary Conference took place in Busan, and concluded with a "renewed emphasis on the

need for affordable international Internet connectivity for all the world's people, as well as the importance of nurturing a truly multilingual Internet." On November 27, the European Parliament endorsed separating Google's search engine from its other activities.

As suggested by these various statements, Internet governance is a highly complex issue. It is very often presented in a simplistic way: multilateral versus multistakeholder; surveillance versus liberty; states versus individuals. One important point is certainly to accept that it would be misleading to think about an unique Internet governance, which would cover cybersecurity, technical standards, freedom of speech, privacy, relationship between states, relationship between states and companies, etc. There are indeed different types of governance according to the topics and stakes. Undoubtedly, the role of states needs to be clarified, namely the U.S. one. U.S. dominance in Internet governance is not only criticized by authoritarian regimes such as China and Russia, but also by its European allies, and swing states such as Brazil and India.

U.S. Digital Policy

Edward Snowden's disclosures have obliged President Obama to react publicly. On January 17, 2014, he declared: "As the nation that developed the Internet, the world expects us to ensure that the digital revolution works as a tool for individual empowerment, not government control. Having faced down the dangers of totalitarianism and fascism and communism, the world expects us to stand up for the principle that every person has the right to think and write and form relationships freely – because individual freedom is the wellspring of human progress." Question: Does the US adapt its digital policy to these high political expectations?

Domestically, many decisions have been taken to try to establish a better checks and balances system regarding the U.S. National Security Agency (NSA) activities. Internationally, the decision taken by the NTIA may be interpreted as a U.S. attempt to correct its dominance on Internet governance, and to contribute to its internationalization. The political purpose is to internationalize the IANA function and to avoid it being controlled in the future by any other country. In addition to that, the United States has consistently denounced the risk to see a balkanization of the Internet. The Internet is still presented as a public good, which should remain neutral, open, and adaptive. Question: is it sufficient to restore confidence towards the U.S. authorities?

Certainly not. Meanwhile, the U.S. authorities have continued to invest massively on cybersecurity, which has become a top strategic priority. The majority of Americans do believe that a cyber arms race is taking place, with China and Russia as the main opponents. Cyberattacks, including by other states, by organized crime, and by terrorist organizations are one of the highest priority for U.S. national security, and international stability. Technological supremacy remains the cornerstone of the U.S. dominating position on international affairs. However, technological supremacy can be turned into geopolitical impotence (Kissinger, 2014). In that sense, the balkanization of the Internet may also be understood as a slogan that reflects the real situation on

the international scene. Every state, company, and individual is now being enlisted in the technological revolution which has been the most transformative force on prospects for international order. It is worth noting the parallel very often made between nuclear deterrence and cyber deterrence, even if it is not possible to think in terms of symmetrical retaliation in cyberspace. Nevertheless, the need for cyber studies, in particular for deterrence theory and strategic doctrine in these matters, is increasingly requested.

As noted by Ben Scott (7th World Policy Conference, December, 2014), in three years, the perception on Internet and international affairs has shifted from "liberatory technologies" (mainly related to the Arab spring) to a "normative cynicism" (mainly related to lack of individual change after the Snowden's disclosures). Here is the most challenging issue for democratic regimes. Observing no real change in the NSA activities (and other intelligence agencies), citizens will become increasingly skeptical of technologies, and skeptical of their own governments. The balance between privacy and security policy should be at the core of the Internet governance debate in democratic regimes.

Policy issue: A crucial point is extra-territorial access to data by the U.S. authorities. Could we continue to accept that the US authorities go to an Internet service to get the personal data of non-U.S. citizens? It is certainly the most sensitive issue between transatlantic allies, which can only be solved politically. It cannot be done by market actors, given its sovereign implications. Some experts argue for national treatment and reciprocity. It is a way that deserves to be explored.

Internet Governance or Platforms Governance

The relationship between the U.S. government (and to a lesser extent other national governments) and the major Internet companies is highly critical. The real consequence of Snowden's disclosures was to point out the collusion between them and the NSA. Indeed, much data was obtained through cooperation with these companies (search, social networks, and interface cable producers) that originally held the promise of personal emancipation and democratization. It is obviously these behind-the-scenes agreements between U.S. intelligence agencies and these monopolistic companies that are the most challenging issue regarding Internet governance.

A telling example is Google, which holds 90 percent of the search market in Europe. It has been under scrutiny from European regulators since at least 2010. Google was forced to adhere to the EU's new right to be forgotten rule. There may be a change in the EU approach to Google, more politically driven. Prior to the Snowden leaks, European policymakers mainly dealt with Internet governance through a commercial point of view. They raised serious concerns about the US government accessing the data of European citizens kept by the servers of American companies, which dominate in the cyberspace. Europeans and Americans negotiated over intellectual property rights, standards or net neutrality. Things are changing. In November 2014, the European Parliament called on the EU Commission "to prevent any abuse in the marketing of interlinked services by operators of search engines," stressing the importance of non-discriminatory online

search. It has been said that "indexation, evaluation, presentation and ranking by search engines must be unbiased and transparent." In the long run, the EU Commission is asked "to consider proposals with the aim of unbundling search engines from the other commercial services." The non-binding motion passed by 384 votes to 174 with 56 Members of the European Parliament (MEPs) abstaining. The European Parliament has no direct power to break up Google in this way. However, there is an increasing consensus between MEPs to propose unbundling as an alternative to monopolistic companies.

Policy issue: Is this the right way to deal with Google (and other main platforms such as Apple or Facebook)? It can be difficult to pretend that Google has a monopolistic position when it is possible, by one click, to use another search engine. The same can be said for Apple and Facebook. Rather than personal data, the key issue is much more related to the exponential ability of these platforms to edit information, to frame knowledge, to chart perceptions, and consequently to promote a narrative. Here is a real political issue between transatlantic allies.

Europe's Main Options

It can be said that Snowden's disclosures have been beneficial to China and Russia. The U.S. authorities have been blamed for having let the NSA out of control, whereas Chinese and Russian authorities have also clearly used the Internet to monitor their populations domestically. As traditional powers, both countries have developed strong cyber capabilities—offensive and defensive—as national platforms able to compete with and to dominate U.S. platforms on their own soils. China and Russia have been actively promoting a counter-narrative on Internet governance to justify—differently—stringent controls, and to deny involvement or accountability in cyber operations. Given the recent events, the United States, China, and Russia will continue to face substantial obstacles in developing cooperative efforts on cybersecurity issues. In the short run, much more tension can be expected, and it is challenging for Europe, and swing states.

In fact, the EU shares a joint vision with the United States on Internet governance: the Internet tends to be a public good which should be protected as an open whole. However, according to the EU, this openness cannot be accepted with such a dominating U.S. position, which is increasingly seen as the main threat for the stability of the Internet. There are also rising criticisms on the multistakeholder approach given the lack of transparency and of clear rules in many bodies such as ICANN. In the transatlantic framework, there has been a strong convergence on the importance to preserve the Internet as a public good, but a strong divergence on the means to do so. The first political priority for the EU is to deal with Internet governance with the United States to ensure the legitimacy of Internet governance. That is clearly not an easy task. However, both sides share a common interest to restore confidence in this field. To do so, there is a strong need to be much more transparent on the intelligence policies—their main objectives, and their implications regarding privacy and public liberties.

Policy issue: What kind of diplomatic positioning could be taken by the EU in the coming years regarding the United States, authoritarian regimes such as China and Russia, and swing states such as Brazil and India? Which formats should be privileged? The EU must defend the principle of the Internet as a public good, which would benefit all states. It may also challenge the traditional multistakeholder approach by trying to bring cyberactivism to the policy arena.

Panelist Paper: Internationalization of Internet Governance

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How the Internet should be regulated—and who should regulate it—are the underlying questions in every conversation about global Internet governance. Add to that a few others: what will be the economic impact of any regulation? How should the critical Internet resources be managed? And in the absence of a common set of laws or rules, how is current case law guiding the development of the Internet?

Countries like India, which are neither the incumbents nor yet the biggest beneficiaries of the Internet, have an interesting road to navigate. They have engaged with the current global governance system but find it inadequate to address issues that concern them. They also find that big businesses, motivated by profits, and civil society groups, often universalizing the values they believe in, are fighting to preserve a 'multistakeholder' system of global governance, which doesn't necessarily provide a platform to discuss domestic concerns.

India isn't alone. Events taking place across the world are making it increasingly clear that national governments are not ready to let global rules dictate how the Internet functions in their territory. These moves range from the United Kingdom asking Facebook to let it directly access its platforms to monitor terror related activity, to Spain banning 'free shipping' from online retailers to help those offline compete, to Turkey passing a law to allow its regulators to block websites within four hours for national security concerns. The already complicated global governance landscape is made more complicated by these local laws.

Therefore, it would benefit countries like India to focus on progressive policies to foster the power of the Internet. The first is to engage in global multistakeholder processes as they attempt to evolve to accommodate the needs of sovereign nations. The second is to study the apportioning of jurisdiction in current cases concerning international digital transactions, and learn from developing case law around the world. The third is to strengthen international cooperation in

crucial areas like cyber crime investigations, and counterterrorism. Finally, while keeping in mind the needs of a developing economy, it must encourage laws and regulations that preserve the free spirit of innovation that has allowed the Internet to become a driver of the global economy.

Multistakeholder vs Multilateral

The truth of the matter is that *multistakeholder*, a term used so frequently that many experts complain it is starting to impact negatively on discussions, is a philosophy that goes beyond the structure of meetings at the Internet Governance Forum, ICANN (Internet Corporation for Assigned Names and Numbers) and other platforms. The idea that private individuals and corporations could share in the structure and management of the Internet—a network of networks—came out of the growth of the largely unregulated Internet. This network enabled unprecedented exchange of information between individuals. Not only has it enabled knowledge sharing, creativity, innovation, and trade, but also the creation of global companies which have profited from collecting and curating this data. For many users, some of these big tech companies have come to define the Internet for them, most notably those that provide social media tools, information search, and e-commerce platforms. Not surprisingly, these companies are now experiencing a pushback from governments, which seek to also benefit from their company profit revenue that Internet commerce allows. Governments, including India, are mulling regulation of e-commerce through taxation and other prudential norms. There is more. Questions about data privacy and security are now center stage, as cyberspace has increasingly become the new frontier for terror-related activities, cyber crime, and cyber war. Necessarily, governments are compelled to take action on all fronts.

The global reach of the Internet and the companies that predominantly influence it, postulates that regulating the Internet cannot be the result of discussions restricted to only between governments. Unfortunately, though, the current global governance debate seems to have pitted governments against everyone else. This is not constructive, nor is it realistic. Perhaps the suspicion towards government should also be seen in context to the aftermath following disclosures by Edward Snowden in June 2013, about global mass surveillance by the U.S. government, in collusion with its European allies and some telecom companies. Citizens around the world were aghast at the news. At the Netmundial multistakeholder conference, held in Brazil in April 2014, following Snowden's disclosures, the multistakeholder community met to discuss a common vision for the future of the Internet. At this meeting, the Indian government expressed reservations about signing the Netmundial outcome document that had failed to incorporate some of India's ideas on developing multilateral Internet governance mechanisms and global cyber jurisprudence.[i] Did that mean that India is opposed to a free and open Internet and working with various stakeholders to achieve these aims? Take for example that the country is working with the private sector—including multinational companies—to achieve its goals of last-mile connectivity, e-governance, infrastructure security, protection against online terror and crime, and preserving a free and open Internet. At the same time, it is being aggressively challenged by, and is responding to, civil society on issues of accountability and transparency.

In this scenario, why would a democratic country that does not have a dedicated centralized Internet ministry, and is already dealing with various stakeholders separately to discuss concerns related to the Internet, insist on a single multilateral mechanism for Internet governance? The answer could lie in the fact that, traditionally, the role envisaged for governments in the current multistakeholder model—that is to be simply be one stakeholder among the many—is at odds with the mandate that governments in developing countries, like India, see for themselves. It is also reflective of their view that the current mechanisms do not afford them the space they require. Indian government officials at Netmundial spoke of an 'equinet', in which all governments can have an equal say in global governance matters. Many developing countries, which are new to the Internet, are uncertain of where to go for the resolution of matters important to them. However, should this translate into creating one body to look over technical and trade issues pertaining to the Internet?

Therefore, the challenge is not simply for governments across the world to adapt to a decentralized, distributed, Internet governance landscape, but also for multistakeholder institutions to respond to the need of governments across the board. As can be seen by the IANA transition process at ICANN, there is currently an attempt to expand the management of the critical resources of the Internet. This is a positive sign, and governments like India must engage in the process. At the same time, a platform called the 'Netmundial Initiative' to discuss what are called 'orphan issues' of the Internet has been attempted by ICANN, the World Economic Forum, and the Brazilian Internet Steering Committee. Whether it can truly respond to the needs of governments and smaller businesses, and find solutions to their problems, needs to be assessed. The next few years will be the crucial testing period for the strength, responsiveness, and true democratic ethos of the distributed multistakeholder governance system.

"Free-Exchange Zone"

Many governments and technology companies are pushing to ensure the Internet remains free and interoperable, without barriers to the free flow of trade. In fact, one can argue that consequent to the growth of the Internet, countries that are now invested in the international e-commerce would certainly like to see it grow. The same is true of incumbent technology companies which are benefitting from the current system, thus are actively engaged with governments, across the board, to shape and comply with regulations, so as to retain market dominance.

Equally, it important to note that despite the impression that the Internet benefits even the smallest companies, in reality, big corporations, the intellectual property lobbies, which can bid on top level domains and the companies that have business models based on deriving profit from the private data of individuals, have in a sense already put in a centralized system of operating on the free and open platform. Governments which seek to impose 'restrictions' on communications and trade, could either help grow this 'free exchange zone' or limit it. The debate on net neutrality, taking shape in various ways in different countries, is one such example.

Other cues can be taken from current court cases between businesses and states, as they expose many of the gaping holes that exist in Internet governance currently. Digital jurisdiction is one such important issue that has not been resolved. How complex and challenging the issue truly is has been revealed by a case currently playing out in Ireland between Microsoft and the U.S. government. The latter obtained an order in July 2014, from a U.S. court which directs Microsoft to release personal data about an unidentified citizen, stored in a server in Dublin, Ireland. Microsoft has appealed the order on the grounds that cloud privacy would be endangered. Furthermore, the government of Ireland has supported Microsoft, on the ground that the case could have 'heavy consequences' for international sovereignty and data privacy.[ii] According to one European expert, U.S. conduct is tantamount to 'territorial encroachment' implying that data stored in an Irish server is akin to it being stored in a U.S. server. A fallout of the Ireland case has been the introduction of the 'Law Enforcement Access to Data Stored Abroad Act' (LEADS Act) in the U.S. senate which requires U.S. law enforcers to obtain a judicial warrant for data stored abroad, to comply with national laws of other sovereign countries, and to use existing inter-state legal mechanisms for the purpose of obtaining the required data. In the meantime, this case continues to raise questions about the larger ideas of national jurisdiction and digital sovereignty.

Recently, a similar question came up in the Ben Haim vs Islamic Republic of Iran case, when a U.S. court awarded damages to terror victims in the case in November 2012. In this case, the plaintiffs (victims) had asked the court to transfer in their favor Iran's country code top-level domain name (ccTLDs)—that is '.ir'—reserved for a country or sovereign state, so as to facilitate collection of the quantum of compensation awarded in liquidated damages. The request set off alarm bells. Could or would ICANN, a private organization registered in California, USA, handover the ccTLD belonging to a sovereign country (in this case Iran, '.ir'), to a group of private persons (in this case the plaintiffs), under a U.S. court order? As it happened, the U.S. court ruled in November 2014, that since the ccTLD was not *"subject to property attached under District of Columbia law[iii] it would not award .ir to the victims."* However, what if, in the future, an action is brought by claimants in the court of competent jurisdiction in which the registered office of ICANN is situated? It is reasonable to assume that there will be many other cases concerning domain names, in the future. The question is open.

ICANN and IANA

Internet resource management is equally, if not more, important to the smooth functioning of the Internet, as it calls for harmonious laws and values to guide its growth. ICANN—the Internet Corporation for Assigned Names and Numbers—that is the global coordinator for the Internet's domain naming system, IP addresses, and root server management—functions under U.S. oversight. Many countries have questioned the United States' extraordinary influence over this process, as much as the fact that a private organization is running the Internet. As a result, ICANN is engaged in a multi-stakeholder process to gather inputs on how the IANA (Internet Assigned Numbers Authority) functions could be handed over to a larger multistakeholder body in the

future. Presently, IANA functions under contract to the National Telecommunications and Information Administration (NTIA), under the U.S. Department of Commerce.

While the community works on these proposals, a few developments on the sidelines have reemphasized the relevance of the IANA functions. Politicians in the United States fear that giving up stewardship over IANA functions would enable authoritarian governments to censor the Internet through control of ICANN. The 2015 FY Appropriations Bill, passed in the US Congress[iv], has attempted to stop the NTIA's IANA transition, stating that, "none of the funds made available by this Act may be used to relinquish the responsibility of the National Telecommunications and Information Administration during fiscal year 2015 with respect to Internet domain name system functions, including responsibility with respect to the authoritative root zone file and the Internet Assigned Numbers Authority functions." However, some experts feel that since the NTIA was only going to relinquish oversight by simply not renewing its contract with ICANN, the Bill does not actually stop the process.[v]

In fact, the political significance of ICANN is growing beyond its original technical mandate of being an Internet registry. For example, controversies over domain names have revealed, in part, the political and economic aspects of its work. Peeved over issues pertaining to '.wine' and '.vin', France had earlier suggested that ICANN should adopt a new general assembly with a one country, one vote model.[vi] This is not a new critique of ICANN. Traditionally, except the United States, other countries did not have much of a say in ICANN functioning. During WSIS, governments sought to increase their role in Internet governance, including in the functions of names and numbering. Internal reform initiated by the international community has slowly been trying to move ICANN from a private regulatory entity to one in which national governments can further engage with the process. Much of the success of ICANN lies in an acceptable multistakeholder, bottom-up plan by the Internet community, for the IANA transition. This is crucial, as its success could potentially kill any future calls for ICANN to either answer to, or give up its functions to, a multilateral body.

The 'Balkanized' Internet

Fears of a balkanized Internet, or a broken Internet, or a splinternet, have been around for years. Iran had talked about building a 'halal Internet'—a national network not connected to the World Wide Web. In September 2014, Russian officials revealed that their country was working on a radical plan to be able to unplug Russia from the global Internet, should the occasion arrive.[vii] This was later denied. Countries like Brazil called for creating a national intranet after Edward Snowden's disclosures about the U.S. National Security Agency spying on citizens around the world. Brazil was joined by Germany in its call for data localization. Both ideas have not been acted upon. However, trust in the safety of data stored in other jurisdictions has been permanently eroded, and the moral leadership of the United States questioned. Brazil and Europe have agreed to lay an undersea cable from Lisbon to Fortaleza to reduce reliance on U.S. communication cables and, consequently, U.S. surveillance, in order to 'guarantee the neutrality' of the Internet.[viii]

What are the critical resources of the Internet? Often, people think of Internet resources which include IP addresses, affordable domain names, reliable root servers, bandwidth, affordable devices, and progressive policies.[ix] However, some experts restrict it to "Internet-unique logical resources" that meet the criteria of "globally unique identifiers," and not simply any infrastructure used for running the Internet. This would limit critical Internet resources to IP addresses, domain name system, and Autonomous System Numbers (ASNs), which is a network operator—"central currency of the Internet's routing system."[x]

Yet, China, which has its own IP address allocation service and domain name registry, has begun to participate at ICANN events and has indicated its willingness to join more global institutions that look at international Internet issues. All this, while still maintaining its "great firewall," which relies on content filtering, control over Internet service providers, clamping down on free speech (including jailing those who dare to dissent), and the interception of communications.

Therefore, one must consider if restricting information on the Internet constitutes its balkanization. For example, would regional filters that prevent netizens from watching certain content constitute balkanization? Those who point to China, preventing content for political reasons, might answer in the affirmative. Would they apply the same logic to corporations that could restrict content across geographies for economic reasons? Is customized search fragmenting the Internet? Ultimately, a common experience of content around the world would be impossible to maintain, for reasons that are beyond censorship, like language, local laws on content such as porn and hate speech, including local content creation.

However, there are economic implications to consider in the event of a balkanized Internet. As mentioned in Time Magazine, "netizens would fall under a complex array of different legal requirements imposing conflicting mandates and conferring mutually exclusive rights. And much like different signaling hampers the movement of people and the trade of physical goods, an Internet within such a complex jurisdictional structure would certainly hamper modern economic activity."[xi] Therefore, those who wish to reap benefits from a common Internet economy are incentivized to remain connected to the system, even as they attempt define digital sovereignty through investments in infrastructure. Further, a strategy to maintaining a common IP registry such as ICANN to ensure seamless coordination between computers around the world goes back to the question of reform of ICANN to ensure greater participation from the international community.

Sharing critical resources helps to preserve the safety and longevity of the Internet, although it would be unrealistic to expect the Internet experience to remain exactly the same across digital borders.

Policy Recommendations:

- India must actively engage in the IANA transition, and other Internet governance forums, embracing the global multistakeholder processes.

- India must invest in basic infrastructure required for the steady growth of the Internet, including investments in electricity, bandwidth and local language content.

- India must learn from international experiences as it seeks to develop its own laws and regulations concerning the Internet.

- International cooperation is crucial to developing a secure Internet, especially in the areas of cyber crime and counter terrorism.

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Panelist Paper: Internationalization of Internet Governance

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There is an increasing understanding in many countries that the existing formats for Internet governance are becoming outdated. However, new formats have yet to be developed, not to mention agreed upon.

The question of the legitimacy of the current system is increasingly a politicized issue. The efforts of a number of states to strengthen their sovereignty over the Internet are certain to continue. They are directed at tackling a broad range of tasks, including ensuring the stability of incumbent political regimes. The main focus is providing maximum possible control and filtration of information flows, as well as the financial streams that could support oppositional forces.

This has a direct impact on the cooperation of a state/government with its business community and civil society, varying by country in its scope and content. But this may give a new energy to emphasize a multilateral approach in dealing with the prospects of the Internet governance regime.

In the list of the top five changes in Russia in 2014, in addition to the collateral damage of the Ukrainian crisis, most experts have highlighted an offensive campaign for government control over Runet—the Russian segment of the Internet. Among other things, this has created anxiety in the business community and among civil society representatives.

This anxiety is provoked not only by limitations on online freedoms, but also by economic considerations. For example, a new law stipulating that personal data of the country's citizens be stored and processed strictly within the territory of Russia will result in enormous losses and may force many companies to leave the market. Their place will be taken over by major Russian state-affiliated companies.

Substantial enlargement of the list of sites (primarily information sites) blocked by the Russian state under different arguments has resulted in an increased number of court cases. But almost no court decisions have been made in favor of companies. The result is that many companies thereby try to strike deals with government structures responsible for such decisions.

The main problem lies in the fact that proponents of a free Internet do not have any substantial lobbying power. But such state efforts are gradually unifying both the business community and citizens using Internet. Also these efforts to implement restrictive rules on Internet functioning do not correspond to many realities, including technological challenges for the Russian government, including for example, that Russian operators rely on American vendors for 90 percent of their equipment. Some of these challenges may be a cold shower for present and possible initiatives in reformatting the Internet regime. This is also true for international initiatives fraught with the possibility of fragmenting the Internet regime.

The trend in thinking of several countries (including Russia) is the need to create a new organization for Internet governance under the auspices of the United Nations or the transfer of such functions to the ITU. This position is rationalized by the fact that the governance of key issues is spread among various organizations and their decisions are poorly coordinated. Among the proponents of reformatting Internet governance, those in support of allocating the ITU with greater authority have been more vocal.

Within this frame of thinking and of keeping in mind other platforms, they lay claim to ICAAN and the Internet Governance Forum (IGF). ICANN has been criticized in its pursuit of the multistakeholder model for not guaranteeing the protection of national interests, as governments do not have the right to vote in the organization's working bodies. ICAAN is not authorized to guarantee security of the DNS root servers' infrastructure. In the case that the government is "shut off" from foreign DNS root servers, the Internet ceases to work in a basic mode.

As for IGF, it is not responsible for the development and adoption of global policies for Internet governance, and it is unlikely that the IGF is prepared to assume such responsibility. Perhaps the IGF could be an effective independent participant in the WSIS process. In any case, it seems that certain reforms in the IGF's work would be useful for its assumption of such a role.

Further, contract conditions for IANA regard ICAAN as a self-regulated organization, whose key functioning principle is the participation of the administrations (representatives) of all countries in developing contract conditions and controlling the way they are implemented. The IANA transition process should not ignore these kind of complaints.

The "sovereignty" dimension is present in discussing challenges for capacity building. While recognizing the need to adopt measures to overcome the "digital gap" between countries of various levels of technological development, it is stipulated that guarantees should be sought to ensure that such aid programs will not be transformed into instruments for meddling in the

internal affairs of the recipient countries. One possible solution to this is that, as a part of efforts to internationalize the Internet, there should be a consideration of the sovereignty concerns of certain states so that they might become more receptive to the implementation of capacity-building programs.

Thus, some players advocating obvious reforms in Internet governance are confident that, in incorporating modern telecommunications into global Internet networks, states must preserve their sovereign rights to regulate their telecommunications. That actually means that states have to be able to regulate their national Internet segments.

In turn, for solving the problems of provision of integrity, sustainability, and security of national Internet segments, states must have equal rights to govern the Internet (including allocation, assignment and withdrawing numbering recourses, names, addressing and identification of the Internet, operation support, and development of primary Internet infrastructure), which should be guaranteed by a competent international organization. In other words, this seems to be more relevant to the ITU.

In this logic, one "minor" issue is ignored – the role of a state in a complex framework of cooperation with other actors—business communities, civil society, and individuals. Both on domestic and international tracks. Some states have obvious appetites to have more and more control, including content of information flows, even ignoring technological and other challenges for these endeavors. Taking into account this and all specifics of Internet functioning, the multistakeholder model should stay a driving force in possible improvements in global Internet governance and should play an important role in decreasing some states' ambitions to fully "dictate conditions" to other stakeholders.

At the same time, these improvements should take into account the concerns of many states about their regulatory rights. These concerns stimulate their interest in emphasizing multilateral approaches. However, these approaches, unlike the multistakeholder model, seem to be rather indefinite. So far.

There is a need to find compromises between sticking to a multistakeholder model and making improvements in Internet governance regime that adequately meet the concerns of many states about their rights. The multistakeholder model, being bottom-up and not limited by international treaties, is more flexible for meeting present and emerging challenges. And it should adapt to a new configuration of trends in global Internet governance.

Session Five

Challenges for a Post-2015 Climate Change Agreement

Panelist Paper: Challenges for a Post-2015 Climate Change Agreement

Council of Councils Seventh Regional Conference
January 11–13, 2015
New Delhi, India

David Welch, Centre for International Governance Innovation

What were the most important achievements and shortcomings of the recent COP-20 summit of the UNFCCC in Lima?

The primary achievement of the COP-20 summit in Lima was that, for the first time, all states committed to the principle of reducing greenhouse gas (GHG) emissions. Not only does this represent a symbolic turning point in the battle against climate change, it paves the way for a meaningful set of commitments in Paris in late 2015—commitments that would not have been possible if Lima had foundered yet again, as previous efforts had, on the question of whether all or only some countries should bear the burden of climate change mitigation. A secondary achievement was agreement on the "principle of common but differentiated responsibilities and respective capabilities, in light of different national circumstances" (what I will henceforth call the "proportionality principle," or PP).
[1] While this principle remains open to interpretation operationally, it nonetheless signals a willingness on the part of the developed world to accept a disproportionate absolute burden of responsibility. Those who trumpeted Lima as a success emphasized the importance of these agreements.

Meaningful and effective commitments in Paris, however, are not a foregone conclusion. Lima left open a great deal of room for disagreement and argument over exactly what represents a fair burden, and it postponed for yet another year specific national commitments. This, more than anything else, accounts for the disappointment of those who have characterized Lima as a failure.

Unnoticed was an important missed opportunity for linkage. Lima called for the conclusion at COP-21 of a binding protocol or other such instrument that will "address in a balanced manner, inter alia, mitigation, adaptation, finance, technology development and transfer, and capacity-building, and transparency of action and support."[2] The word "balanced" is an open-ended

invitation for special pleading and self-interested criteria. Ideally, Lima should have made funding for adaptation or technology development *contingent on* or *proportional to* mitigation targets. Lima provided no basis for penalizing laggards or free riders, nor did it incentivize proactive policymaking. It would not be a surprise if in Paris we witness a majority of countries low-balling their GHG emission targets or seeking to use more ambitious targets as leverage for concessions.

Admittedly, an agreement on linkage may well have been a bridge too far given the difficulty experienced even in reaching consensus just on the "everyone must contribute" and "contributions should vary" principles. But with the +2°C target increasingly unlikely to be met, it may well prove to be a fateful omission.

What are the main obstacles to North-South consensus on a binding climate change agreement at the 2015 UNFCCC meeting in Paris—and can these differences be bridged?

Given the way in which Lima has shifted the frame, the main obstacle now is how to interpret the PP. Unfortunately, there are many *prima facie* plausible operationalizations: capacity to pay, per capita GDP, absolute numbers of people living in poverty, availability of alternative energy sources, etc. It will be vital for climate change negotiators to tackle the operationalization issue early and aggressively so as to shape expectations and cultivate as much common ground as possible. Civil society organizations can assist here by brainstorming and modeling the outcomes of various possible fairness criteria.

Is such an international agreement the most effective means of providing signals to businesses and society, or are there other approaches to achieve desired mitigation and adaptation goals?

There is evidence that businesses are not waiting for governments, which may be a healthy sign. The September 2014 UN Climate Summit was notable not merely for attracting the largest popular climate change march in history (the People's Climate March), but an unprecedented level of interest on the part of business leaders who are finally aware of, and looking for solutions to, the potentially catastrophic economic costs of inaction associated with perils such as the following:

- Famine
- Political instability
- Mass migration
- Soaring public health costs
- Lost labor productivity
- Heightened international and intrastate conflict
- Soaring insurance rates for property loss or damage from severe weather events, sea level rise, and crop failures
- Stranded assets in the form of unexploitable fossil fuel deposits

- Untenable utility business models

At the same time, businesses are keen to take advantage of climate-friendly economic opportunities. These include green energy sources, distributed energy generation networks, climate-friendly transportation and urban design opportunities, and so forth.

What businesses crave above all else is predictability. There is growing awareness that the world must find a way off carbon; that the longer we wait to transition to a non-carbon economy, the higher the costs and more severe the dangers will be; and that while governments and global agreements can facilitate the necessary transitions, at the end of the day markets will do what governments cannot. The only question is at what additional cost.

Can any universal international agreement be aligned with national priorities?

Universal international agreements can always be aligned with at least some countries' national priorities. It is the rare circumstance (i.e., a condition of harmony of interests) in which international agreements can be aligned with all countries' perceived national priorities simultaneously. Arguably, however, a non-myopic understanding of national interests reduces the scope of disagreement.

How can "universal participation" and "equity" be addressed concurrently?

Not only can they be addressed concurrently—they must be. However, as I mentioned above, the concept of "equity" invites competing and incompatible conceptualizations and operationalizations. It is important to reduce the range of possible disagreement on operationalizations of the PP to encourage universal participation and reduce discord on the equity.

How can national governments be encouraged and incentivized to align domestic policy with international commitments?

In my view, there are two crucial, unexploited tools to accomplish this objective.

The first is selling the carbon tax. Among knowledgeable climate policy specialists, there is no disagreement that carbon taxes must be part of the policy mix to combat runaway climate change. However, much more can be done to paint carbon taxes in a favorable light. There is no evidence that jurisdictions with carbon taxes suffer economically, and they often benefit, even when carbon taxes are revenue neutral. There is no question that carbon taxes are environmentally beneficial.[3] Policymakers are commonly frightened of implementing carbon taxes because taxes in general tend to be unpopular. However, revenue-neutral carbon taxes are potentially an easier sell, particularly when receipts are used in part to fund subsidies and adjustment costs for distressed consumers.

The second is the carbon tariff, or its functional equivalent, the reciprocal carbon tax credit. Critics of carbon tariffs argue that they are difficult to calculate accurately, inconsistent with the current WTO trade regime, and likely to invite trade wars.[4] However, carbon taxes without carbon tariffs can be construed as self-penalizing from a global trade perspective. The reciprocal carbon tax credit is a reasonable stopgap on the road to a full carbon tariff regime and should be both part of the COP-21 action plan and an element of future free trade agreement (FTA) negotiations. Ultimately, the most powerful incentive would be a shift to full natural capital accounting.[5] Requiring businesses and governments to reflect all environmental externalities on their balance sheets is probably the surest way of incentivizing sound climate practice. This, however, will require a major gestalt shift of the kind that is probably beyond the reach of climate change negotiators in the foreseeable future.

Policy recommendations

1. A working group—in conjunction with civil society organizations—should immediately begin brainstorming and modeling various PP operationalizations, with an eye toward offering states party templates for preparing GHG emissions targets and subvention requirements for COP-21 Paris.

2. A second working group should generate country-specific carbon tax effects scenarios to encourage widespread early adoption of carbon tax regimes, either revenue-neutral or designed to fund green energy incentive programs. These carbon tax scenarios can then inform COP-21 submissions.

3. A third working group should explore the long-term implications of reciprocal carbon tax credits, carbon-reducing FTA principles, carbon tariffs, and transition scenarios to natural capital accounting practices, with an eye toward putting these on future UNFCCC meeting agendas.

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[1] "Further advancing the Durban Platform," FCCC/CP/2014/L.14 (13 December 2014), p. 2 (http://unfccc.int/resource/docs/2014/cop20/eng/l14.pdf).

[2] Ibid.

[3] http://www.carbontax.org/services/where-carbon-is-taxed/.

[4] Catherine Izard, Christopher Weber, and Scott Matthews, "Scrap the Carbon Tariff," *Nature Reports Climate Change* 17 December 2009 (doi:10.1038/climate.2010.132), http://www.nature.com/climate/2010/1001/full/climate.2010.132.html.

[5] Matthew Agarwala, Giles Atkinson, Christopher Baldock, and Barry Gardiner, "Natural capital accounting and climate change," *Nature Climate Change* 4 (2014), 520-522.

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Session Six
Future of Multilateral Trading Systems

Panelist Paper: The Future of Multilateral Trading Systems

Council of Councils Seventh Regional Conference
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A discussion on the future of the multilateral trading system convened exactly one year ago might have been suffused with optimism following the successful World Trade Organization (WTO) ministerial in Bali, December 2013, at which 160 countries agreed on a Trade Facilitation Agreement (TFA) after twelve long years at the bargaining table.

Seven months later that agreement lay in pieces with the "future of global trade" appearing gloomier than ever due to India's decision to reject rather than ratify the TFA by its July 30 deadline. The result: soul-searching among the WTO about its consensus-driven mechanism, its ambitions, and its ability to achieve agreements. That the TFA was rescued in November 2014 through U.S.-India negotiations helps some, certainly with the immediate objective of the TFA, but leaves untouched the larger questions about the WTO and what it can realistically expect to accomplish going forward.

Our meeting in New Delhi is therefore fitting for a more in-depth discussion concerning the objectives of the WTO and the global trading system. India's importance as a major economy in the global trading system, but one with intense misgivings about the current process of multilateral trade negotiations, has pushed WTO negotiations to the edge on several occasions in the last decade. This memo responds to the questions posed by the Council on Foreign Relations and the Observer Research Foundation to guide the discussion, and adds some emerging issues in international trade for further consideration.

The Future of the WTO

In the aftermath of the TFA upset, and given U.S. attention to two large free trade agreements (FTAs), the Trans-Pacific Partnership (TPP) and the Transatlantic Trade and Investment Partnership (TTIP), a new conversation about global trade has more aggressively questioned the

utility of the WTO.

In fact, this is but the latest iteration of a long-standing discussion on the merits of globally open trade versus more limited regional arrangements. Columbia University professor Jagdish Bhagwati represents the most consistent voice against regional agreements, arguing that they create a "spaghetti bowl" of discriminatory groupings instead of promoting more efficient, evenly distributed gains.[i] Yet the political constraints that make consensus global agreements so difficult to realize—look only to the fate of the ongoing Doha Round for confirmation—appear ever more intractable.

The purpose of hiving off trade facilitation in the WTO was to focus on matters largely non-controversial, since the inherent difficulties of resolving disagreements on agriculture, services, intellectual property, and other issues have stalled further progress in the Doha Round. Further WTO-wide progress on these more contentious matters, all of which implicate strong domestic lobbies in member countries, seems unlikely for the near future.

That said, more narrow sectoral agreements are in process, including one under the WTO, an expansion of the 1996 Information Technology Agreement, which now has [seventy-eight](#) members. The Information Technology Agreement expansion would extend tariff reductions to additional products; but China—the world's number one IT goods exporter—has yet to concur, leading to a [breakdown](#) at the most recent December 2014 talks. Outside the WTO, the new [Trade in Services](#) agreement under negotiation has twenty-three WTO members and the EU. The services agreement negotiation, based on the General Agreement on Trade in Services (GATS) is explicitly focused on developing principles that could be adopted by the WTO should a sufficient number of members join.[ii]

So the WTO continues to have an important role to play, even as the likelihood of dramatic new WTO-led global trade agreements looks more limited. Slow, incremental progress in sectorals suggests that voluntary plurilateral negotiations may end up as the only way to advance trade on a greater-than-bilateral scale for the coming future. Here I should note that India has elected against participation in the ITA extension as well as the deliberation on services—surprising, given the country's global competitiveness in both sectors. Taking the ITA to the next level and realizing a services agreement of consequence will need India's participation.

As for the WTO's future as an institution, in addition to its efforts shepherding trade agreements, the organization has proven its utility and merits as a global dispute-settling mechanism. Countries accept the decisions taken by WTO dispute panels, abide by their rulings, and actively take disputes to the WTO when bilateral discussions fail. This is an irreplaceable function in a very disputatious world.

- ▪ **Recommendation for the WTO:** *The WTO should revisit the principle of consensus, as well as the veto power of member countries to block plurilaterals, and allow large plurilateral*

agreements to lead the way.

- ▪ **Recommendation for India:** *Participate in the Trade in Services Agreement negotiation, given India's leading role in global services trade, as well as in the expansion of the Information Technology Agreement negotiation.*

The Future of the Global Trading System after the Trans-Pacific Partnership (TPP) and the Transatlantic Trade and Investment Partnership (TTIP)

The current news focused on Washington's efforts to advance trade through the TPP and TTIP has given rise to a new fear that these two large FTAs will alter the global trading system. But the system itself has already been altered. Bilateral and smaller regional trade agreements designed to enhance trade among neighbors (such as NAFTA, CAFTA, the EU common market, and MERCOSUR) have been in place for years. Against the idea that regional trade groupings by their very nature harm the larger goal of a global agreement, former U.S. Trade Representative Robert Zoellick argued that a strategy of "multiple fronts" provides the best leverage for promoting global free trade—with the smaller groupings putting pressure on other countries to liberalize. This strategy explains why the United States would focus on settling for less than global ambitions while still pursuing global agreements.[iii]

Within Asia, major economies like China, Japan, and India as well as emerging economies have been pursuing bilateral and regional trade negotiations among themselves. China and India have negotiated FTAs with the Association for Southeast Asian Region (ASEAN) to advance their own, and ASEAN's, interests. Both have separate bilateral agreements with Singapore. Looking across the Pacific, China has FTAs with Chile, Costa Rica, and Peru. India has been negotiating an FTA with the EU for nearly eight years, completed a Comprehensive Economic Partnership Agreement with Japan in 2011, and is in the process of negotiating a Comprehensive Economic Partnership Agreement with Canada.

Of course, one argument about Asian trade regionalism has been that its consolidation—that is, consolidation as a regional block *without* the United States—is very much against U.S. interests. It is worth noting in this context that the Regional Comprehensive Economic Partnership (RCEP), which does not involve the United States but does include China and India, is under current negotiation. The RCEP and the TPP have seven countries in common (see Figure 1).[iv]
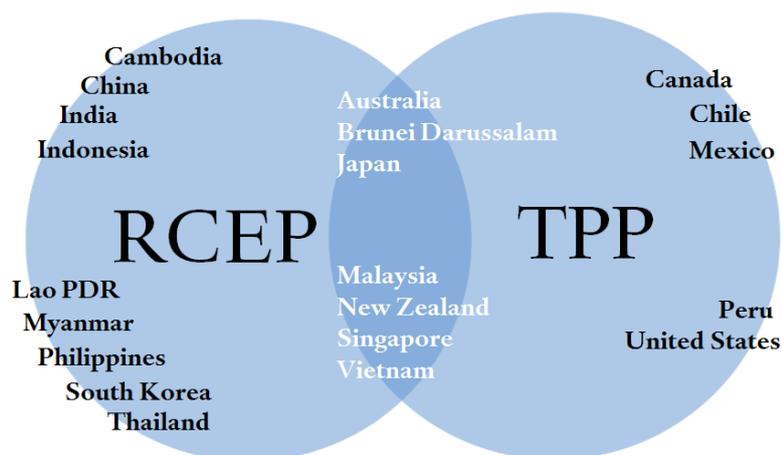
Figure 1: Overlap of Countries in Negotiations for Regional Comprehensive Economic Partnership and Trans-Pacific Partnership

The outcome of these two parallel but divergent trade negotiations will likely be a lower quality agreement among the RCEP grouping, covering a more limited number of goods, setting aside contentious matters like agriculture and services, and certainly side-stepping labor and environment provisions. These are exactly the issues that will make the TPP negotiations difficult to conclude, but will produce a higher-quality agreement once reached—and it may take longer to get there. That said, TPP's major flaw lies in the development of an Asia-Pacific trade arrangement that leaves out two enormous Asian economies, China and India, representing $9.2 trillion and $1.8 trillion in economic output, respectively. Given that the RCEP and TPP groupings share five members already, it would benefit overall U.S. trade promotion goals as well as narrower export promotion interests to find a pathway for China and India into the TPP process.

- **Recommendation for the United States:** *Washington should place a high priority on developing a pathway for China's and India's eventual participation in the TPP negotiation.*

Emerging issue for discussion

The rapid emergence of China (and increasingly India) as a major provider of economic assistance to countries throughout Asia and Africa, often through low-interest financing, has brought with it a new focus on development financing. This type of south-south economic cooperation typically takes place in conversations about development, not in the context of trade. If tied to trade through lines of credit or other arrangements, however, such financing clearly plays a role in trade. The U.S. Export-Import Bank chairman recently noted that U.S. export financing has reached $590 billion over its entire history—while Chinese financing institutions had underwritten $670 billion in just the last two years.[v]

The global institutional arena for discussion and information sharing on development has long been the Organization for Economic Cooperation and Development (OECD), particularly through its Development Assistance Committee. The OECD notably excludes both China and

India, although both are "outreach partners." It would be worth discussing the utility of norm-setting on development assistance through an organization which excludes two of the world's largest economies, both of which are increasingly active development partners for emerging economies. No other information-sharing mechanism exists to provide transparency on development assistance worldwide.

Relatedly, the OECD also plays a role in international energy conversations through the requirement that membership in the International Energy Agency (IEA) must be preceded by OECD membership. At a time when China and India represent two of the world's largest energy consumers, their exclusion from the IEA makes little sense.

Recap of Recommendations:

- **Recommendation for WTO***: Reconsider the principle of consensus in agreement adoption, and the veto provision against plurilaterals, allowing for more limited large plurilateral agreements to come into force and guide a path to consensus agreements.*

- **Recommendation for India:** *Participate in the Trade in Services Agreement negotiation, given India's leading role in global services trade, as well as in the expansion of the Information Technology Agreement negotiation.*

- **Recommendation for the United States:** *Work with both China and India to develop a roadmap to TPP membership, should they be interested.*

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[i] For example, see Bhagwati's *Termites in the Trading System: How Preferential Agreements Undermine Free Trade,* New York: Council on Foreign Relations and Oxford University Press, 2008.

[ii] Current participating countries: Australia, Canada, Chile, Chinese Taipei, Colombia, Costa Rica, the EU, Hong Kong China, Iceland, Israel, Japan, Korea, Liechtenstein, Mexico, New Zealand, Norway, Pakistan, Panama, Paraguay, Peru, Switzerland, Turkey and the United States. India does not participate.

[iii] As reported by Bernard K. Gordon, "A High-Risk Trade Policy," *Foreign Affairs* July/August 2003.

[iv] Figure 1 compiled by Alyssa Ayres. Data from Asian Development Bank and Office of the U.S. Trade Representative websites.

[v] Barney Jopson, "ExIm Warns US of Export Risk From China," *Financial Times,* October 20, 2014.

Panelist Paper: The Future of Multilateral Trading Systems

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The Information Technology Agreement as a Case Study of the Dilemma

In December 1996, twenty-nine countries signed on to create the Information Technology Agreement (ITA) to use this as the vehicle through which tariffs and other trade restrictions on items related to information technology would be brought to zero. Today, eighty countries representing 97 percent of global trade in information technology items are signatories to this accord. In the middle of December 2014, negotiations to expand the ITA collapsed due to a dispute between South Korea and Taiwan on the one side and China on the other. The former two are major producers of liquid crystal display panels and so wanted tariffs on these products reduced; China has a budding industry in this segment and so opposed the tariff reduction.

This is not the first time China has sought to use trade policy to nurture its high tech information sector. It had opposed an expansion of the ITA in 2013 as well. In November 2013, the United States and China agreed to eliminate tariffs (bilaterally) on about two hundred items, not including the liquid crystal display panels. Effectively, the assumption among Chinese trade officials was that the agreement with the United States provided the outer bound to what it would be willing to concede in any other trade forum including the multilateral ITA.

This episode illustrates just how pervasive is the influence of regional and bilateral trade agreements on the multilateral system. These have become the tail that wags the dog. But with about 585 notifications of regional trade agreements received by the WTO, of which over 375 are in force, the tail is a big and bushy one. The question for this panel at the Council of Councils meeting in New Delhi is whether the regional agreements are supplanting the WTO-centered multilateral trading system, or whether a fruitful and mutually supportive co-existence is still possible.

Regionalism within Multilateralism an Original Sin

The conundrum of reconciling regionalism with multilateralism is an original sin, embedded in the processes that created the WTO. At Bretton Woods, the issue did not loom as large in the discussions concerning monetary matters or development and reconstruction. But in the trade arena, preferential colonial trade arrangements such as the Imperial Preference and its French equivalent were exempted from the Generalized System of Preferences for two reasons. The first was political. In the rivalry between the United Kingdom and the United States at Bretton Woods, granting the exemption for the Imperial Preference created the space for the United States to extract concessions from the UK in other areas, mainly around the design of the International Monetary Fund (the UK fully abandoned the Imperial Preference only in 1973, and then not because it favored multilateralism but because of its more recent regional commitment; membership in the European Economic Community.)

The second reason regional trade arrangements trumped the multilateral spirit at Bretton Woods was due to an intellectual gap in the understanding of trade theory at the time. It was not until six years later, in 1950, that Jacob Viner would publish his seminal work distinguishing between trade creation and trade diversion, thus advancing beyond the hitherto prevailing view that any reduction in trade barriers, even those that were not universally imposed, was welfare improving.

Thus, article twenty-four of the GATT acquiesces to the creation of regional trade arrangements so long as the common external tariff of the regional trade area is no higher than it was before the bloc was created.
Throughout the post-Bretton Woods period, regional trade agreements have been seen in a relatively benign light. This is partly for pragmatic reasons: it is widely understood that this sort of regionalism has political imperatives, almost every country indulges in it, it can be "GATT compatible," and so there is no meaningful constituency to vehemently oppose it. But the indulgence is also grounded in the beliefs that trade creation exceeds trade diversion in many regional trade areas, and that regional trade agreements can be the "hot house" within which experimentation and innovation can occur, to be scaled up to the multilateral level later.

But surely the numbers of actual and probable regional trade agreements cited above are indicative of something more than a lust for creativity among trade officials and politicians. The long and painful death of the Doha Round has dealt the multilateral process a serious blow, one underscored by the emergence of negotiations around the current two "mega deals", the Trans-Pacific Partnership (TPP) and the Trans-Atlantic Trade and Investment Partnership (TTIP). Both cover significant shares of global trade and include several significant countries.

TPP and TTIP

The odds of either reaching fruition much less success are still long. In TPP, Japan and the United States are at an impasse over unsurprising issues–agriculture and automobiles. In TTIP, a long list

of vexing issues remains to be sorted out between countries with very different perceptions of economy and society. The BRICs are missing from both endeavours and most importantly, the U.S. president lacks the political incentive or technical authority to conclude and implement an agreement.

Still, it is worth considering what the implications of either agreement might be should it ever come to force, if only because of the size and scope of each. Under current membership, the TPP group[1] accounts for about one third of world trade, while the U.S.-EU trade that forms the core of TTIP amounts to another one third. With two thirds of world trade covered by two agreements within which the United States is the anchor, the implications for the current global trade order are twofold.

First, the center of gravity for trade negotiations will shift from the current equilibrium of expending long periods of time to negotiate small changes in the WTO system to acquiring and/or maintaining membership in one or the other mega-agreement. It remains to be seen, however, if either agreement, particularly TTIP which is very much a U.S.-EU enterprise, will be open to new entrants. The WTO would be forced to operate at a different plane than currently, dealing with truly global issues rather than the mechanics of trade flows between countries (of which more below, in section four.)

Second, the options for the countries outside these agreements will be three-fold: marginalization, seeking to enter one or both blocs, or joining a (distinctly weaker, perhaps China- or Russia-centered) third bloc.
None of these is appealing except if one buys into the thesis that the enhanced provisions around intellectual property, investment, and environment standards that characterize TPP and TTIP discussions will lead to deeper and wider liberalization than anything a global round of talks is likely to deliver *and* that this is desirable. There is controversy over whether these provisions are development-friendly. Based on the little, often leaked, information available about the provisions in the agreements, there is concern that access to medication and the room for states to operate in some areas such as investment, environmental, and labor management will be limited.

What the critics of TPP and TTIP most hope for is that current impasses are fatal.

Multilateralism as the Operating System, and Coexistence With Regionalism

The size and complexity of the regional agreement eco-system is vexing the WTO-centered multilateral trade system. However, there is still room for—indeed a need for—a multilateral system that not just co-exists with its numerous regional cousins but complements and indeed re-enforces them. The elements of such a co-existence might be as follows.

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[1] Australia, Brunei, Canada, Chile, Japan, Malaysia, Mexico, New Zealand, Peru, Singapore, the United States and Vietnam.

- The global economic crisis is not over; indeed it is becoming entrenched in the economic and political fabric of many countries. If the quantitative easing programs in the US, Europe and Japan result in a currency war, then the WTO will have to insert itself into the macroeconomics and global finance domain, in which it has historically been absent. Although the WTO cannot influence how these programs play out, it has to be ready to respond to the short-term currency volatility and long term currency misalignment that characterizes global finance currently.

- A cold hard look at the "single undertaking" approach that has characterized multilateral trade negotiations since the start of the Uruguay Round in 1986 is in order. The current list of issues that might be tackled via the trade regime route is an impressive and daunting one. It includes the commercial dimensions of the internet, intellectual property, investment, carbon pricing and technology transfer. Each deserves to be treated on its own merit, not unlike the imperative that drove the creation of the ITA.

- More broadly, the WTO has to take the lead in rebuilding the constituency for multilateralism in trade. Here the WTO might draw lessons from the IMF and World Bank, each of which have impressive training, research, and outreach arms. Through these avenues, a global constituency for these institutions and the issues they work for has been built in ways that has not been the case for the WTO.

Underpinning this all is the WTO's dispute resolution system, which my colleague Paul Bluestein describes as the "evergreen, perpetual benefit of the WTO." It is a success. The number of cases brought to it and the range of countries using it speaks to this. The body of "case law" created here that is subsequently used in international and intra-national disputes in trade is growing.

Roberto Azevêdo, the current head of the WTO, likens the multilateral trade regime to that of the operating system of a computer, something that enables the machine to run all of its other facets. This is not a bad analogy. The global public good attribute of a functional multilateral trade regime is as germane today as it was in 1944, as are the very real threats to it. Managing coexistence is not just possible but highly desirable.

Panelist Paper: Future of Multilateral Trading Systems

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There is a global trend of a large and rapidly growing number of free trade agreements (FTAs). Ever since the failure of the Doha round of global multilateralism, almost all the major economies are negotiating and concluding FTAs at an accelerating rate. FTAs are taking over as the main loci of global trade governance, significantly eroding World Trade Organization (WTO) centrality. Trade liberalization has progressed with historically unprecedented speed, thanks to competitive liberalization via bilateral agreements. But in the world of power asymmetries (bilateral and minilateral settings), rich and powerful states write new trade rules.

As Richard Baldwin (2012) points out, twenty-first century international trade is conducted through global/regional supply chains and it involves not only trade in goods but also investment and infrastructural services. The trade-investment-services nexus requires twenty-first century trade rules including intellectual property rights protection, investment and capital flow assurances, movement of people, infrastructure provision, government procurement, environmental protection, and labor standards. This means that the bargain in a twenty-first century trade agreement involves a wide range of stakeholders affected significantly by such deep rules, presenting a new geometry of political economy.

The Trans-Pacific Partnership (TPP) and Transatlantic Trade and Investment Partnership (TTIP), initiated by the United States, are the case in point. Both include rules and disciplines for traditional and twenty-first century trade issues that require domestic reforms as well as market access. The TPP aims for a "high standard" because it aims to liberalize nearly all goods and services and include commitments beyond those currently established in WTO rules. TPP chapters are "comprehensive" as stated above. The TPP is scalable as new members agreeing on the chapters are allowed to participate.

There is the potential for the TPP to begin knitting together bilateral FTAs and harmonizing rules in the region and to promote integration that overcomes the "noodle bowl" problem. The TPP

would be able to enlarge existing agreements, add new members, or supplement existing agreements with new agreements.

One potential problem comes from the fact that these agreements are pursued by those nations that possess technology for offshore production and that have the leverage to demand massive domestic reforms. They are the United States, European Union, and Japan. Some middle powers like South Korea and Taiwan may fall into that category. Lacking the legitimacy that comes from multilateralism (i.e., the WTO) and consensus, it is unclear that the new rules and norms would be universally respected. In particular, emerging markets such as China and India can prosper without signing high-standard agreements. They are not in a position to set up their own rules, but they certainly can withstand the pressure of revising domestic laws by the United States. On the other hand, developing countries find it difficult to abide by such high-standard rules.

Among the advanced industrial democracies, resistance to neoliberal globalization and liberalization is increasingly substantial. Eighteen months after the launch of TTIP negotiation and seven rounds of talks between the United States and the EU, everything remains up in the air. TTIP is more sensitive politically in the EU than in the United States. The European slump and currency crisis of the last five years have sapped confidence in government elites and sow fear of neoliberal globalization and a mistrust of the corporate world (MNCs). Likewise, resistance to the TPP is acute across Asia and the Pacific. While Washington expressed hope that the TPP could reach a deal in the coming spring, Japan has indicated otherwise. Any significant breakthrough on the major sticking points of Japan's protected auto and agricultural sectors is unlikely at this point.

Strategic considerations equally affect FTA negotiations. Across Asia and the Pacific, the proliferation of FTAs has been driven by what Ravenhill (2009) terms a "political domino effect," with governments' primary concern being their potential exclusion from a new dimension of regional economic diplomacy. Once the FTA bandwagon starts rolling, rival countries competitively rush for trade agreements. What is apparent in the region is an increasing rivalry in the making of regional (or mega-regional) trade architecture between the United States and China.

The United States views the TPP as the best way to (1) increase its economic engagement in East Asia and serve as a central pillar of the economic architecture in the region, as well as (2) counteract China's economic sway in the region (Capling and Ravenhill 2011). Together, at a time when former U.S. Secretary of State Hillary Clinton formulated the U.S. "rebalance" to the Asia-Pacific, the TPP was used to develop effective transpacific linkages and institutional ties for security as well as economic reasons. The TPP could begin to reverse the advent of a China-led, Asia-only regional trend, and eventually extend to the Free Trade Area of the Asia-Pacific (FTAAP).

Although the regulatory emphasis of the TPP arrangement makes China less likely to join, the country is keeping a close eye on TPP development because the TPP agenda is regarded by many Chinese experts as a force that would divide the East Asian economic integration pursued by

China. It is also viewed as U.S. strategy to economically contain China (Wen 2012). To counter such an initiative, China made an FTA with Taiwan (ECFA) and with South Korea. Beneath the surface of recent developments, there is a deep-seated political motivation vis-à-vis the United States. Together, Beijing demonstrated a strong stance in favor of a region-wide FTA called the Regional Comprehensive Economic Partnership (RCEP) under the Association of Southeast Asian Nations (ASEAN). China has worked closely with ASEAN, worried about marginalization by the United States pushing the TPP.

Very recently, China prefers the FTAAP, which is seen as a sort of bridge between the TPP and ASEAN's RCEP, which would unite ASEAN with the six countries it already has FTAs with (including Japan, India, and China). The FTAAP would create a substantially larger FTA than either of the other currently negotiated pacts such as the TPP and RCEP. Chinese President Xi Jinping said that "I don't see any of the regional free trade agreements as targeting China. China is committed to open regionalism and we believe the various regional cooperation initiatives should positively interact with each other" during his press conference with U.S. President Barack Obama.

However, the United States is uninterested in cooperating with the FTAAP as it sees the agreement as detrimental to the TPP, not to mention challenging the United States' central role in any regional FTA by including China. This sounds simply pragmatic. The TPP negotiations are close to being finalized, but recent deadlocks have stalled progress. Under these circumstances, the Obama administration likely feels that introducing a new, even larger trade proposal would sap what little momentum remains for the TPP. FTAAP negotiations would be a long, messy process (as seen by China's original target date of finalizing negotiations by 2025) and may ultimately end in failure given the number of countries and divergent interests involved.

Plus, the Obama administration wants to use the TPP to ensure that other countries meet the United States' "high standards" in defining free markets. A parallel agreement that is both more inclusive and less stringent in its requirements would kill any impetus for regional governments to strive to meet those standards.

To conclude, would the TPP and TTIP offer a chance to break the deadlock and fasten down high standard of trade rules that China and emerging economies will be forced to emulate? While FTA trends will continue, increasing liberalization but further eroding WTO centrality, it will be a world where trade rules, regionally or mega-regionally defined, will remain contested by rival countries.

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