At-Large's Subsequent Procedures Scorecard:
Geographic Names at the Top Level

CPWG SubPro Small Team

Post At-Large Consolidated Policy Working Group (CPWG) Call
Wednesday, 19 August 2020, 19:00 UTC

APPLICATION EVALUATION/CRITERIA

Topic/Area:	[21.1] GEOGRAPHIC NAMES AT THE TOP LEVEL [WT5. 2.7.1.1]	Priority:	HIGH	Settled On:	15.09.2020 (indicative)

Related:	• Definition of geographic names • Geographic Indicators • Non-AGB Terms • Preventive versus Curative protections • Translations • Geographic Names Panel
Key Issues:	Key policy issues for At Large • What constitutes a geographic name? • Geographic Names Panel – expertise, lists, source of reference basis etc • Continued reservation of all 2-letter-letter strings as ccTLD • Non-availability of 3-letter strings matching Alpha-3 codes listed in ISO 3166-1standard – make them available with conditions as to who can apply? • Geographic names versus generic terms – should and on what basis can geographic names be prioritized? • Preventive versus curative mechanisms – which is better for public interest? • Treatment of applications for strings matching capital city names versus non-capital city names – requirement for letters of support/non-objection • Treatment of applications for strings confusingly similar to geographic term • Other terms not included in 2012 ABG for increasing predictability – geographic features, additional sub-national and regional places, geographic in nature, geographical indications • Additional 'geo-related terms' not included in 2012 AGB – ISO 4217 Currency code Key policy goals for At Large • Geographical-names are recognised by the people who live and work there and identify with that name. Their interest in, and indeed moral right to influence the use of their geo name should be recognised and respected by the ICANN community. In most of the world, the general public is not yet aware of and probably could not afford to participate in the DNS today. This does not justify third parties pre-empting their future interests by registering gTLDs. Contrary to all other uses, a geo-name in the DNS is unique and its registration may prove to be irreversible-

	• In the interests of stable diversity over time, policy for geo names should be consistent across jurisdictions, languages and scripts and relevant communities. In this context, Policy should respect available international law (WIPO) and applicable local law. In the absence of formal legal protections today, ICANN should prevent third parties from pre-empting future local use by registering their names for so-called non-geographical use. This objective applies both to speculative accumulations of geo-names and to applications for .brands • There are large numbers of generic terms in all languages that may be applied for new Registries, without pirating other peoples' geo-names. In any event .brand applications have to be based on a pre-existing trademark.
Policy Goals:	• SubPro policy goals, see: Work Track 5 Final Report to the SubPro PDP WG dated 22 October 2019
Assigned CCT-RT Rec's:	None
References:	• 02. Indicative At-Large SubPro Input – CPWG Consensus summary, 19 August 2020 • 05. SubPro WT5 Geonames – CPWG Consensus summary, 19 August 2020 • 03A. SubPro WT5 Geonames – CPWG consensus building, 27 July 2020 • 01. SubPro WT5 Geonames as at 24 September.2019 for CPWG • Work Track 5 Final Report to the SubPro PDP WG dated 22 October 2019 • ALAC Statement on WT5 Geonames at the TL – SubPro Supplemental Initial Report, 28 January 2019 [AL-ALAC-ST-0119-02-01-EN] • 02. SubPro WT-5 SIR ppt 16 January 2019

What has SubPro PDP WG concluded?	**What will SubPro PDP WG recommend?**	Is this acceptable? What else needs to be done and by/with whom?
The WT5 report will be integrated into the PDP Final Report, as is, en block. There will be no further discussion of geo-names in the PDP, unless obliged by community pressure or the ICANN Board. This emerges from the report on the ICANN66 (Montreal) session on 2 November 2019. Under the 'Report from WT5' we find: 'No action captured'. Nothing more!		
1. Definition of geographic terms / geographic names	No expansion of definition. No expansion of AGB Terms, only added clarity on existing AGB Terms from 2012 round.	No, but with the continuing non-consensus situation within WT5 (carried over to SubPro PDP WG), there is insufficient ability for At-Large to change this.

2. Non-AGB Terms: WT5 could not establish strong support for any change.	• No change.
	
	• Also, insufficient support for relevant government and/or local public authorities to receive (early) notice on any applications submitted on strings which exactly match any terms they contribute to a limited pool
		• No, but with the continuing non-consensus situation within WT5 (carried over to SubPro PDP WG), there is insufficient ability for At-Large to change this.
		
		• However, At-Large sees no reason why a Notification Tool should not be implemented. This can take <u>one or both forms</u>
		  o An open Notification Tool with no limiting criteria, on an opt-in basis
		  o A Notification Tool limited exclusively to GAC Members

3. Preventive versus Curative protections:	No consensus on protecting the names of extremely large non-capital cities -- e.g. Shanghai, therefore no recommendation for changing treatment for non-capital city names.	We have indicative support to call for greater protection for <u>Non-Capital City Name</u> under the following criteria: • Letters of support/non-objection should be necessary whenever an applicant applies for a non-capital city name irrespective of the use to which it is to be put • <u>Provided that</u> the non-capital city has a cut-off point in terms of number of inhabitants and an international airport: • Preventive protection to extend to such non-capital city names extended to that non-capital city name in ASCII, native script, in current and historical forms (eg. Kolkata/Calcutta) • Registry commitments resulting from
4. Translations: Insufficient consensus to change applicability of "in any language" rule to country and territory names and capital city names	Maintaining rules in 2012 AGB: • String unavailable if is translation in any language of existing categories of country and territory names in ISO 3166-1 standard • String is subject to letter of support/non-objection requirement if is a representation in any language of the capital city name of any country of territory in ISO 3166-1 standard	ALAC does not need to get involved with the translations issue. Current position is that translations in all languages refers back to the 2012 AGB, which we accept.

5. Geographic Names Panel	Retaining the Geographic Names Panel	Yes, such an entity is no doubt necessary. The principal issues are the knowledge and expertise of the panel members, who should be identified on a case by case basis in the light of the issues arising. The cost of the entity should be included in the new gTLD evaluation budget.
PENDING ISSUES:	SubPro PDP WG reaction	What else needs to be done and by/with whom?
6. No consensus on changing rules for resolving contention sets involving geonames	Any recommendation to change rules on string contention resolution	
7. Geographic indicators (GI)	There was no substantive discussion. So, defaults to 2012 AGB: No Protection. There is discussion of GI within the GNSO Rights Protection Mechanisms PDP WG.	

Position:	We are limiting our input to just 2 areas:
	
	[1] In respect of "**2. Categories of Terms Not Included in the 2012 Applicant Guidebook**" (at pages 17-21 of the WT5 Final Report), we noted the 3 proposals that were made and discussed but none of which were determined to have received sufficient support to produce a recommendation.
	
	After extensive discussion, the At-Large resolved to propose that ICANN org develop and implement the Notification Tool, which could conceptually take one or both of the following forms:
	
	• An open Notification Tool with no limiting criteria, on an opt-in basis
	
	    A larger portion of the At-Large group that was consulted preferred an open Notification Tool, one that should be open to anyone on an opt-in basis, with no limiting criteria on eligibility to opt-in.
	
	    Given the added complications with the contemplated early bid submission aspect for Auctions as a mechanism of last resort to resolve contention sets, even if this Notification Tool could be implemented prior to the launch of the next round or more

foreseeably, only made available after the start of the next application submission period, it should not function to compromise any need to withhold the identities of applicants until "Reveal Day" takes place.

We see this version of a Notification Tool as supplementing the idea captured in Implementation Guidance 20.5, i.e. the valuable suggestion that Community Members have the option of being notified on application change requests that requires a public comment to be opened.

- A Notification Tool limited exclusively to GAC Members

A smaller but not insignificant portion of the same group that was consulted believes that the concept of a Notification Tool which was discussed within WT5 is a valuable proposition. In particular, members of this grouping propose that an adapted version of the Notification Tool concept be introduced, which would encompass the following features and/or implementation guidance:

(1) A database-driven tool managed by ICANN Org where the database would be populated in 2 ways --

(a) exact matches of adjectival forms of country and territory names in accordance with the ISO 3166-1 list, in the official languages of the relevant, and

(b) other strings matching terms with geographic meaning as submitted by participating GAC Members that exercise an option is to submit such terms where (i) there exists an official document (eg of founding or incorporation of an administrative division) giving a geographic place its name, or (ii) it is attested that a geographic place or feature has the name from time immemorial

(2) ICANN Org can publish the database contents to enhance predictability in that applicants can refer to this published list to check for strings that are considered to have geographic meaning

(3) The notifications would be automatically triggered by applications for exact matches of strings in the database. This removes the burden from an applicant having to contact the relevant GAC Member or local public authorities.

(4) The notification does not in itself place any obligation on an applicant because the purpose of this tool is solely to put a submitting GAC Member on notice. What actually happens if a notification is triggered is entirely up to the submitting GAC Member.

(5) This tool is very similar in intent to ICANN Org's implementation of a dedicated webpage for GAC Members to view, download and track 2-character ASCII SLD registration data - ie exact matches to 2-character country codes - for requesting compliance action in the event of a perceived misuse.

[2] In respect of "**3. Non-Capital City Names**" (at pages 21-24 of the WT5 Final Report) there is significant At-Large support for stronger protection to be placed on Non-Capital City Names. The current situation where little to no protection for Non-Capital City Names leaves too many such cities in peril of having TLDs matching their city names being applied for and possibly delegated without so much as the need to consult the relevant local public authority on whether they might support or oppose applications for their city name string.

The At-Large believes that Non-Capital City Name strings must be subject to preventive protection in the following manner:

(1) Letters of support or non-opposition must be obtained from the relevant governments or local public authorities for strings matching Non-Capital City Names found in a definitive list, and whether they be names in their current or historic forms (eg. Kolkata/Calcutta) or in native scripts or otherwise

(2) The definitive list would be a composite of externally sourced lists, namely:

(a) the United Nations list of non-capital cities with 100,000 or more inhabitants (found at https://unstats.un.org/unsd/demographic-social/products/dyb/documents/DYB2018/table08.pdf) as well as

(b) the list of non-capital cities with an IATA international airport code (derived from https://www.iata.org/en/publications/directories/code-search/)

(3) Registry commitments resulting from negotiations with the relevant government or local public authorities regarding the use of the string both at the top level and for second level registrations, must be incorporated into the applicant/registry's Registration Agreement and stipulated to be carried forward in the event of a disposal or assignment of the TLD.