

UPDATE & CONSULTATION ON New gTLD Subsequent Procedures Work Track 5

GEOGRAPHIC NAMES AT THE TOP LEVEL

CPWG SubPro Small Team
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Geographic Names at the Top Level (Geonames)

What is a Geoname?

- Refers to a string used as a Generic Top Level Domain (TLD) which is “geographic in nature” according to GNSO Policy.

Existing 2007 GNSO Policy

- String must not be a reserved word
- Per expert panel: If application for string receives substantial opposition from a significant portion of the community to which string may be explicitly or implicitly targeted
- No geographical reserved names
- 2-letter names as ccTLDs only

Versus

2012 Implementation (per AGB v4)

- Strings in ASCII must be of 3 or more visually distinct characters; 2-letter strings not permitted to avoid conflict with ccTLDs per ISO 3166-1 standard
- Certain strings considered as country and territory names and not available in 2012 application round
- 4 categories of strings required letter of support or non-objection from relevant governments or public authorities (**preventive protection**)

ICANN Geonames – AGB Terms in 2012 Round

- ICANN does not decide what is a country / territory / capital city / non-capital city / region
- Adopted certain lists as authoritative resources, including from ISO – International Standards Organization, UNESCO
- Per 2012 implementation, limited categories of strings recognized as “Geonames” i.e. “AGB Terms”

Country and Territory Names

1. ISO 3166-1 standard lists

- Alpha-3 codes
- Long-form country name + translation
- Short-form country name + translation
- Short-form or long-form name exceptionally reserved

2. Separable Country Names List + translation

3. Commonly known Country Names per intergovt or treaty organization recognition

4. Sub-national place names per ISO 3166-2 standard list

5. UNESCO M-49 regions++

+ permutations
and transpositions

City Names

6. Capital city name of countries in ISO 3166-1 list

7. Non-Capital city names

Different Treatments for AGB Terms in 2012 Round

Treatment of AGB Term strings depended on category the string fell into

NOT AVAILABLE, per AGB s 2.2.1.4.1

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2. Separable Country Names List + translation
3. Commonly known Country Names per intergovt or treaty organization recognition

AVAILABLE, SUBJECT TO PREVENTIVE PROTECTION per AGB s.2.2.1.4.2

Country and Territory Names

4. Sub-national place names per ISO 3166-2 standard list – exact match only
5. UNESCO M-49 regions++
 - A string listed as a UNESCO region or appearing on the “Composition of macro geographical (continental) regions, geographical subregions, and selected economic and other groupings” list
 - Docu. of support required from at least 60% of nat. govts in region + no more than one written statement of objection from relevant govts in region and/or PAs assoc. with continent/region.
 - Where the 60% rule is applied, and there are common regions on both lists, the regional composition in the 2nd list takes precedence.

City Names

6. Capital city name of countries in ISO 3166-1 list – any string in any language
7. Non-Capital city names – 2 limb test, i.e. only if
 - (a) TLD used primarily for purposes associated with the city name; AND
 - (b) string is city name as listed on official city documents.

GAC on Geonames in 2012 Application Round

GAC also addressed use of geonames at the top level

- GAC Principles and Guidelines for the Delegation and Administration of Country Code Top Level Domains (2005), paragraphs 4.1.1. , 4.1.2. and 8.3.
- GAC Principles Regarding New gTLDs (2007), sections 1.2 , 2.1 ,2.2, 2.3, 2.4 , 2.7 and 2.8.
- GAC Nairobi Communiqué (2010): Application of 2007 Principles.
- GAC Beijing Communiqué (2013): GAC Objections to Specific Applications.
- GAC Durban Communiqué (2013): Future application of 2007 Principles.
- GAC Helsinki Communiqué (2016): 3-letter codes.

This list is non-exhaustive. Additional resources and documents on this topic from the GAC and other sources can be found on the Work Track 5 wiki page.

Geonames in 2012 Application Round

What happened in 2012 Round?

- 66 applications self-identified as geoname applications
- The Geographic Names Panel determined:
 - 6 of the 66 were not geonames per AGB s.2.2.1.4 criteria (VEGAS, ZULU, RYUKYU, SCOT, IST, FRL)
 - 3 other applications were geonames even though not self-identified as such (TATA, BAR, TUI)
 - Therefore, there were 63 geoname applications
- Of the 63, 56 found to have acceptable letters of support or non-objection, where 54 have been delegated
- An additional 18 were subject to one or more GAC Early Warnings (concerns related to geo nature of string) (ROMA, AFRICA, SWISS, PERSIANGULF, PATAGONIA, CAPITAL, CITY, TOWN, VIN, YUN, 广州 [GUANGZHOU], SHANGRILA, 香格里拉 [SHANGRILA], 深圳 [SHENZHEN], ZULU, AMAZON, DELTA, INDIANS)
 - Of these, The Geographic Names Panel determined ROMA, AFRICA, 广州 [GUANGZHOU], and 深圳 [SHENZHEN] to be geonames per AGB s.2.2.1.4 criteria

What did WT5 reach consensus on for SubPro?

1. CONTINUE TO RESERVE as ccTLDs

(No change to 2007 GNSO policy)

- All 2-char letter-letter ASCII combinations at TL, for existing and future ccTLDs

2. MAINTAIN AS NOT AVAILABLE, with clarification on permutations and transpositions to ISO 3166-1 Alpha 3 codes * (Updates 2007 GNSO policy)

Country and Territory Names

1. ISO 3166-1 standard lists

- Alpha-3 codes *
- Long-form country name + translation
- Short-form country name + translation
- Short-form or long-form name exceptionally reserved

2. Separable Country Names List + translation

3. Commonly known Country Names per intergovt or treaty organization recognition

* Strings resulting from permutations and transpositions of Alpha-3 codes listed in the ISO 3166-1 standard are available for delegation unless the strings resulting from permutations and transpositions are themselves on that list.

3. MAINTAIN AS AVAILABLE BUT REQUIRING GOVT SUPPORT, with update to M49 regions ** (Updates 2007 GNSO policy)

Country and Territory Names

4. Sub-national place names per ISO 3166-2 standard list – exact match only

5. UNESCO M-49 regions++

- A string listed as a UNESCO region or appearing on the ***“Standard country or area codes for statistical use (M49)” list, current link at <https://unstats.un.org/unsd/methodology/m49>
- Docu. of support required from at least 60% of nat. govts in region + no more than one written statement of objection from relevant govts in region and/or PAs assoc. with continent/region.
- Where the 60% rule is applied, and there are common regions on both lists, the regional composition in the 2nd list takes precedence.

What areas did WT5 additionally deliberate on?

1. Languages/Translations

- No agreement on any of the proposals submitted, so the recommendations suggest **maintaining “in any language”**

2. Categories of Terms Not Included in 2012 AGB (i.e . Non-AGB Terms)

- Could not establish strong support on any of the 3 proposals submitted, so **NO recommendation on Non-AGB Terms.**

3. Non-Capital City Names

- No agreement to pursue either of the 2 proposals submitted, so **NO recommendation on Non-Capital City Names**

4. Resolution of Contention Sets Involving Geonames

- No agreement on any of single proposal submitted, so **NO recommendation to change rules on string contention resolution**

5. Implementation Improvements

- None of the proposals were ultimately included in final recommendations.

Which areas might we be keen to review?

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2. Categories of Terms Not Included in 2012 AGB (i.e . Non-AGB Terms) - WT5 Additional Deliberation

- Should additional categories of terms not included in the 2012 Applicant Guidebook be subject to special rules or procedures going forward?
 - WT5 members considered what specific, and ideally finite, list of additional geographic terms should be protected, including the basis for protections and the proposed protection mechanisms. This suggestion was based on the fact that previous discussions were broad and ambiguous, which could lead to confusion and uncertainty for applicants and the parties seeking to protect geographic terms.
- Proposal #1: require applicants for certain strings to contact the relevant public authorities to put them on notice that the application was being submitted
 - Affected strings would include (a) Exact matches of adjectival forms of country names (as set out in the ISO 3166-1 list), in the official language(s) of the country in question and (b) Other terms with geographic meaning, as notified by GAC Members states or other UN Member states to the ICANN Organization. The country would need to provide the source in national law for considering the relevant term as especially protected. ICANN would publish the list of terms covered in part (b) of the proposal.
- Proposal #2“Early Reveal Process”: where ICANN would reveal to relevant governments if an applicant had applied for an exact match of an adjectival form of a country name (as set out in the ISO 3166-1 list) in the official language(s) of the country in question.
- Proposal #3: require a letter of support/non-objection from the relevant regional or autonomic authority for an autonomous area/region of a country. It was noted that while there is not a single authoritative list of such regions, it could be possible to create a list from existing resources available.
- WT5 could not establish strong support on any of the proposals submitted, therefore **NO recommendation on Non-AGB Terms**.

A dissenting view on rejection of notifications for Limited Non-AGB Terms? (excl. Non-Capital City Names)

- Much deliberations took place in respect of whether a non-AGB Term but with geographic meaning should be accompanied by a letter of non-opposition or support from the appropriate administration of the place that the name refers to.
- A modified proposal was submitted that, instead of asking for a letter of non-opposition, sought that **a notification of the intention to apply for/use the string with geographic meaning be sent to the appropriate administration.**
 - A straw poll indicated that this proposal had support in the group. Even that was not accepted by WT5.
 - A mention of this proposal made its way to the Montreal communiqué of the GAC, but not as a consensus advice: *“In order to facilitate the processing of future applications for gTLDs, many GAC members expressed interest in the development of a tool that would provide timely notifications to GAC Members of strings that consist in geographic names, drawing inspiration as appropriate from the existing tool for the 2-character codes.”*
- Several At-Large members who participated actively in WT5 were - and are - also interested in a “tool” (which could be automated) that would fulfill the need of what could be described **an elementary courtesy from the part of the applicant - not only towards the appropriate administration of the place concerned, but also the internet end users and the entire local multistakeholder community for whom local and regional names have a special significance.** If the intended use of the string/name is associated with the place and its inhabitants, such an approach would seem a natural part of good business practices.
- A major lost opportunity for ICANN and internet users in general and wish to register our extreme disappointment.

3. Non-Capital City Names - WT5 Deliberation

- In the review of public comments, WT5 revisited the issue of whether there should be changes to rules contained in the 2012 ABG for non-capital city names.
 - There was no unified theme in the public comments that pointed to a clear path forward.
- Proposal #1: amend AGB s. 2.2.1.4.2 part 2(a) by specifying:
 - For the avoidance of doubt, if an applicant declares in their application that they will 1. operate the TLD exclusively as a dotBrand; and 2. not use the TLD primarily for purposes associated with a city sharing the same name, then this is not a use of the TLD for “purposes associated with the city name” in order to provide greater clarity and certainty for potential applicants by elaborating a specific circumstance where support/non-objection requirements would not be applicable.
- Proposal #2: revise AGB s. 2.2.1.4.2 part 2 to require letter of support or non-objection
 - If it is clear from applicant statements within the application that the applicant will use the TLD primarily for purposes associated with the city name and it is a non-capital city name listed in <http://unstats.un.org/unsd/demographic/products/dyb/dyb2015/Table08.xls>
- WT5 could not establish agreement on either proposal, therefore **NO recommendation on Non-Capital City Names.**

A dissenting view on rejection of Non-Capital City Names needing stronger protection?

- Under current conditions, anyone can apply for a non-capital city name string which would not be subject to preventive protection if applicant SIMPLY states that it WON'T USE IF FOR GEO-PURPOSES; however
 - Applicant is not prohibited from then selling TLD to the relevant city (or anyone else) at a profit
 - We also don't really know to what extent policing against SLD registrations which in effect "makes use" of the TLD for geo-purposes, is in effect
- Should we consider supporting rec.#1 (prev. slide) in order to provide further clarity
- What constitutes a city? There are lists that can be relied upon, or parameters set (eg. population size as a % of national population) can be set to accommodate SOME uniformity in applicability

4. Resolution of Contention Sets involving Geonames

- WT5 Additional Deliberation

- In the 2012 application round, the method of last resort for resolving contention between two or more applications was an auction. The full SubPro PDP WG is addressing auctions of last resort between two or more strings that are not geographic names.
- AGB s.2.2.1.4.2 rules,
 - §If there is more than one application for a string representing a certain geographic name, and the applications have requisite government approvals, the applications will be suspended pending resolution by the applicants.
 - §If a contention set is composed of multiple applications with documentation of support from the same government or public authority, the set will proceed to auction when requested by the government or public authority providing the documentation.
 - §If an application for a string representing a geographic name is in a contention set with applications for similar strings that have not been identified as geographical names, the set will proceed to auction.
- Proposal: update AGB Module 4 with,
 - “In case there is contention for a string where one application designated the TLD for geographic purposes, preference should be given to the applicant who will use the TLD for geographic purposes if the applicant for the geoTLD is based in a country/or the TLD is targeted to where national law gives precedent to city and/or regional names.
 - In case a community applicant is part of the contention set, and it did not pass CPE, the geoTLD will be granted priority in the contention set. If the community applicant passes the CPE, it will be granted priority in the contention set.”
- WT5 could not establish agreement on proposal submitted, so **NO recommendation to change rules on string contention resolution**

Is there another solution that could be supported?

RE: **Proposal to update AGB Module 4** with,

- “In case there is contention for a string where one application designated the TLD for geographic purposes, preference should be given to the applicant who will use the TLD for geographic purposes if the applicant for the geoTLD is based in a country/or the TLD is targeted to where national law gives precedent to city and/or regional names.
- In case a community applicant is part of the contention set, and it did not pass CPE, the geoTLD will be granted priority in the contention set. If the community applicant passes the CPE, it will be granted priority in the contention set.”
- Do we support this proposal or some variation of it which would clarify what we wish to happen?
- If yes, what statement do we want included as At-Large’s position on this?
- If not, what can we tweak it to produce a consensus position?
- Can we support offering a bonus point to a geoname involved in CPE to help it meet the requirements -- this would be a variance from proposal 2 (prev. slide)

Overarching Issues and Lacunae in WT5 Report

The principle of 'absence of a new 'consensus' the provisions of the 2012 AGB would continue to apply' is a poison pill.

- One object of review should have been to undertake substantial reforms that would prevent recurrence of incidences like the .AMAZON case, which – incidentally - was not even determined by the 2012 Geographic Names Panel to be a geographical name, at all!

The overarching circumstances

- Registries shall only be obliged to respect the law of the jurisdiction of their incorporation
- No limitation on the numbers of applications by a single legal entity, allows constitution of speculative portfolios of geonames
- Approval of relevant local authority of non-capital city names only required if a name is to be used for 'geographical purposes'
- No protection for Non-AGB Terms even is names have geographic meaning to some stakeholders

Impact?

- Taken together, these lack of rules/protections have deliberately created a situation where it will become impossible for local authorities and governments to protect the interests of their future users' communities in many geographical areas around the world.
- Precedent for concerns - recall that numbers of ccTLD Registries were initially and opportunistically registered by individuals and enterprises, who occupied those national name spaces against the interests and wishes of relevant public authorities.

Expect to see mostly “status quo” in next AGB

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