



UPDATE & CONSULTATION ON New gTLD Subsequent Procedures **Work Track 5**

GEOGRAPHIC NAMES AT THE TOP LEVEL

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SUMMARY OF
THE FINAL REPORT OF
SUBRPO PDP WG'S WORK TRACK 5
ON
GEOGRAPHIC NAMES

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

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

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.

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

Existing Overarching ALAC/At-Large Positions

ALAC statement (AL-ALAC-ST-0119-02-01-EN) in response to WT5 Supplemental Initial Report of Dec 2018 public comment call

- Need / desirability of expansion of gTLDs aside, **more predictability required for non-AGB terms with geographic significance / relevance**
- Approach towards applications for ‘non-AGB Terms’ should be:
 - First, prevent harm to end users
 - Secondly, respect end-users’ connection - many strings, codes or names with historical and economic significance, or cultural values and sensitivities should also receive consideration as geographic names
 - Each gTLD is a unique piece of Internet real estate; delegation grants exclusive control (where no-sharing applies)
 - Even if governments / peoples may lack rights under any international legal framework, there is still something to be said for the intention to use a geographic name string as being irrelevant.
 - Therefore, would **normally prefer a preventive protection mechanism** over any geographic name string
 - Where applicable, expediently exercised by respective government or public authority by way of informed consent
 - Exception being? **Non-capital city names: no clear consensus on whether declared use of TLD matters or not**

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.

Overarching Issues and Lacunae in WT5?

The principle of “absence of a new ‘consensus’ the provisions in 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 geographic name at all !

The overarching circumstances

- ❑ Registries shall only be obliged to respect the law of the jurisdiction on their incorporation
- ❑ No limitation on the numbers of applications by a single entity, allows constitution of speculative portfolios of geonames
- ❑ Approval or 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 if 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 national name spaces against the interests/wishes of relevant public authorities

Which areas might we be keen to review?

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.**

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2. Categories of Terms Not Included in 2012 AGB

WT5 Additional Deliberation

- Should additional categories of terms not included in 2012 AGB be subject to special rules or procedures going forward?
 - ❖ Is there an ideally finite list of additional geographic terms to be protected, including the basis for protections and the proposed protection mechanisms? Previous discussions were broad and ambiguous, 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 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 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.**

Should we support concept of notifications for Limited Non-AGB 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.

Adapted “Notification Tool” Concept

- **Automated by ICANN Org using a database triggered by exact match application – removes burden from applicant to contact**
- Database populated in 2 ways:
 - (a) Exact matches of adjectival forms of ISO 3166-1 country names, in the official languages of relevant country, AND
 - (b) Other terms with geo-meaning submitted by participating GAC Members (“submitter”) –
 - is entirely optional – *“if you care, use it; if you don’t care, then do nothing”*
 - option exercisable where (a) there exists an official document (eg., of founding/incorporation of an administrative division) giving a geographic place its name, or (b) it is attested that a geographic place or feature has the name from time immemorial
 - ICANN can publish list for “more predictability”
- **Notification does not in itself place any obligation on applicant because purpose of tool is solely to put a submitter on notice**
- **What happens if notification is triggered is entirely up to relevant submitter**
- *Similar in intent to ICANN Org’s implementation of a dedicated webpage for the GAC members to view, download and track 2-char ASCII SLD registration data – exact matches to 2-char CC – for requesting compliance action in the event of perceived misuse*
<https://www.icann.org/en/system/files/files/implementation-memo-two-character-ascii-labels-22jan19-en.pdf>
- Why support a tool that helps GAC? –
 - They are part of the multistakeholder community, and in some countries they actually consult other stakeholders in matters like this.
 - If they aren’t the best party to vet/help ‘safeguard’ strings with geographical meaning, then who is?

POLL

- Should ALAC support the Adapted “Notification Tool” Concept as presented?

NO, ALAC should do nothing further on this issue

YES, ALAC should express such support*

* By way of a statement in public comment to the SubPro Draft Final Report *[and/or a Minority Statement to the SubPro Final Report]*

3. Non-Capital City Names

WT5 Additional Deliberation

- **Should there be changes to rules in 2012 AGB 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.**

Should Non-Capital City Names have stronger protection?

Issue

RECALL that in 2012 AGB:

Non-Capital city names – 2 limb test for preventive protection, 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.

- Under current provisions, anyone can apply for a non-capital city name string which would only be subject to preventive protection if applicant states that it will “*use TLD primarily for purposes associated with city name*”; however
 - ❑ Applicant not prohibited from then selling TLD to the relevant city authority (or anyone else) at a profit, differing use etc
 - ❑ 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
 - ❑ Need to consider impact on names with current & historic forms, non-ASCII scripts
- Curative protection - GAC Advice/Early Warning, Objections places burden on “aggrieved party” to “establish” harm
- No WT5 recommendation on Non-Capital City Names means no change to current provisions

RECALL that ALAC/At-Large

Had no clear consensus on whether declared use of non-capital city names as a TLD matters or not

Question

- Does this change the existing ALAC/At-Large position on non-capital city names? If yes, how?

POLL (to be affirmed)

- Do you support Non-Capital City Names having stronger protection?

NO, ALAC should do nothing further on this issue, because:

- Use of 2-limb test and other curative protection mechanism is fair and sufficient

YES, ALAC should support* the following:

- *Use of 2-limb test is insufficient protection, i.e. preventive protection mechanism must apply regardless of use/non-use of TLD for purposes associated with city name?*
- *But apply only if is a name as listed (i) in an established UN database (eg. of capital cities and cities of 100 000 or more inhabitants) or (ii) on official city document?*
- *And apply to names in all relevant current and historic forms, native scripts?*

* By way of a statement in public comment to the SubPro Draft Final Report *[and/or a Minority Statement to the SubPro Final Report]*

WT5 Additional Deliberation

4. Resolution of Contention Sets involving Geonames

- 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**

WT5 Additional Deliberation

5. Implementation Improvements

- The WT5 supplemental Initial Report included a series of proposals that did not seek to change the underlying rules in the 2012 AGB, but instead attempted to address issues that arose in implementation. (see pages 38 and 39 of SIR for details)
- Some of these proposals were revisited in additional deliberations, although **none were ultimately included in the final recommendations.**