

# ICANN | GNSO

Generic Names Supporting Organization

## Supplemental Report on the new gTLD Subsequent Procedures Policy Development Process (Work Track 5 on Geographic Names at the Top Level)

### Status of This Document

This is a Supplemental Report ([the “Work Track 5 Supplemental Report”](#)) to the Initial Report of the GNSO New gTLD Subsequent Procedures (SubPro) Working Group ([the “Initial Report”](#)), which covers the topic of geographic names at the top level addressed by the Working Group’s Work Track 5. [The Work Track 5 Supplemental Report](#) is being posted for public comment.

**Commented [A1]:** Staff note: text adjusted slightly for clarity following suggestion from Greg Shatan.

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### Preamble

The objective of this Supplemental Report to the Initial Report is to document Work Track 5’s deliberations, [potential options for recommendations](#), and [\(where applicable\)](#) preliminary recommendations, as well as specific questions for which the Work Track is seeking input. These topics have not yet been considered by the SubPro Working Group as a whole.

**Commented [A2]:** Small adjustment suggested to the text in response to comment from Greg Shatan.

**Commented [A3R2]:** Greg Shatan: Greg Shatan: Given the Initial nature of this report and the significant divergence on key concepts, we should not over-emphasize the “potential recommendations.”

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The Work Track 5 Supplemental Report is structured similarly to the Initial Report, especially in that it does not contain a “Statement of level of

This Final Report may be translated into different languages; please note that only the English version is authoritative.

1 consensus for the recommendations presented in the Initial Report.” As  
2 with the Initial Report, the Co-Chairs of the Working Group continue to  
3 believe that it is premature to measure the level of consensus of Work  
4 Track and Working Group members, and that doing so could have the  
5 unintended consequence of locking Work Track and Working Group  
6 members into positions of support or opposition prior to soliciting public  
7 comment from the community on those recommendations. To form such  
8 definitive positions at this early a stage could have the adverse effect of  
9 being less open to modifications to those positions as a result of  
10 community input. The Co-Leaders of Work Track 5 support this approach  
11 and, after discussion with Work Track members, have adopted it for Work  
12 Track 5.

13  
14 After a comprehensive review of public comments received on the Work  
15 Track 5 Supplemental Report, the Work Track 5 will deliberate further on  
16 the preliminary recommendations and potential options for  
17 recommendations contained herein. Once that is completed, the full  
18 Working Group will deliberate and conduct a formal consensus call on all  
19 recommendations before the recommendations are integrated into the  
20 Final Report.

21  
22 Therefore, comments on any preliminary recommendations, options  
23 and/or questions presented are welcomed and encouraged. In addition, in  
24 some cases the Working Track was unable to reach preliminary  
25 recommendations. The community, therefore, should not limit itself to  
26 commenting on only the preliminary recommendations, options, and  
27 questions specifically identified in the Work Track 5 Supplemental Report,  
28 but on any other items that may not have been adequately addressed. For  
29 example, if there is an option you believe the Work Track should consider,  
30 but that option is not presented or even discussed in the Work Track 5  
31 Supplemental Report, please provide detailed information about that  
32 option, along with any background, context and supporting documents.

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**Commented [A4]:** Suggested addition from Greg  
Shatan.



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1 A Call for Volunteers to the Working Group (“WG”) was issued on 27 January 2016. The  
2 WG held its first meeting on 22 February 2016 and has met regularly since that time.  
3 With over 250 members and observers in the SubPro Working Group, and dozens of  
4 issues to address regarding the 2012 New gTLD Program, the SubPro Co-Chairs divided  
5 up the work into a set of “Overarching Issues” and five Work Tracks. Each of the five  
6 work tracks covered a number of related issues with the help of one or more Co-  
7 Leaders. The WG issued its first Initial Report, containing the output of the Working  
8 Group on the Overarching Issues as well as preliminary recommendations and questions  
9 for community feedback from Work Tracks 1-4, on 3 July 2018.

10  
11 The topic of geographic names at the top level is one of the issue areas included within  
12 the charter of the New gTLD Subsequent Procedures PDP Working Group (PDP) and in  
13 order to fulfill the terms of the charter, the PDP needs to address this issue. With the  
14 GAC, ccNSO, ALAC, and GNSO all having a strong interest in this topic, the PDP is seeking  
15 to ensure that the community’s work related to geographic names at the top level,  
16 specific to gTLDs, takes place in a single forum, to avoid the conflicting or contradictory  
17 efforts and outcomes that have taken place in the past.

18  
19 Therefore, the PDP WG Co-Chairs established a fifth Work Track that focuses exclusively  
20 on the topic of geographic names at the top level. It is structured to encourage broad  
21 and balanced participation from different parts of the community and includes joint  
22 community Work Track leadership. WT5 leadership is coordinated by the PDP WG Co-  
23 Chairs [and Work Track Co-Leaders from the ALAC, ccNSO, GAC, and GNSO](#).

24  
25 Per the Work Track 5 [Terms of Reference](#) document, Work Track 5’s focus is on  
26 developing proposed recommendations regarding geographic names at the top level,  
27 including both ASCII and IDN forms. WT5 is tasked with (i) considering what constitutes  
28 a geographic name in the specific context of the New gTLD Program; (ii) analyzing (a)  
29 2007 GNSO Policy Recommendations on the Introduction of New Generic Top-Level  
30 Domains; and (b) relevant rules contained in the 2012 Guidebook, such as the  
31 Geographic Names Review procedure, Geographic Names Extended Evaluation, and  
32 Objection Procedures; and (iii) taking into account previous work related to geographic  
33 names that the community may have completed. Broader discussions about the remit of  
34 SOs and ACs, as well as the allocation of second and third level geographic domains are  
35 specifically out of scope for this Work Track.

36  
37 A Call for Volunteers to the Work Track was issued on 22 October 2017. The Work Track  
38 held its first meeting on 15 November 2017 and has met regularly since that time.  
39

## 40 1.2 Preliminary Recommendations

41 As noted in the Preamble, the Work Track 5 Supplemental Report does not contain a  
42 “Statement of level of consensus” for the recommendations presented in the Initial

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1 Report. In addition, in some circumstances, the WT did not reach agreement on  
2 preliminary recommendations and instead, [has](#) provided options for consideration  
3 and/or questions to seek input for further deliberations. Similar to the Initial Report,  
4 rather than including the set of preliminary recommendations, options, and questions in  
5 the Executive Summary, they will be made available in a table in Annex [\[?\]](#).

6

### Recommendations Summary

Continue to reserve as unavailable at the top level:

- [All two-character letter-letter ASCII combinations](#)
- [Alpha-3 code listed in the ISO 3166-1 standard](#)
- [Short or long-form name listed in the ISO 3166-1 standard \\*](#)
- [Short or long-form name association with a code that has been designated as “exceptionally reserved” by the ISO 3166 Maintenance Agency](#)
- [Separable component of a country name designated on the “Separable Country Names List.” \\*](#)
- [Permutations and transpositions: The Work Track preliminary recommendation suggests clarifying that permutations and transpositions of the following are reserved. This is an adjustment to the 2012 AGB:](#)
  - [Long-form name listed in the ISO 3166-1 standard](#)
  - [short-form name listed in the ISO 3166-1 standard](#)
  - [short- or long-form name association with a code that has been designated as “exceptionally reserved” by the ISO 3166 Maintenance Agency](#)
  - [separable component of a country name designated on the “Separable Country Names List.”](#)
  - [Name by which a country is commonly known](#)
  - [Permutations and transpositions of alpha-3 code listed in the ISO 3166-1 standard should be allowed](#)

\* For these items, translations in any language were reserved in the 2012 AGB. The Work Track has not yet agreed on whether translations should be reserved in the future, and if so, in which languages.

Continue to require a letter of support or non-objection from the relevant governments or public authorities for the following strings at the top level:

- [capital city name of any country or territory listed in the ISO 3166-1 standard \\*\\*](#)
- [city name, where the applicant declares that it intends to use the gTLD for purposes associated with the city name \(see specific language from the 2012 AGB for details\)](#)
- [An application for any string that is an exact match of a sub-national place name,](#)



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1 Constituencies (Cs) with a request for input at the start of its deliberations, which  
2 included a specific request for historical statements or Advice relating to new gTLDs<sup>1</sup>  
3 (2) Community Comment 1 (CC1)<sup>2</sup> (2) Community Comment 2 (CC2)<sup>3</sup>. For additional  
4 information about outreach activities conducted by the full Working Group, please see  
5 the Initial Report.

6  
7 Work Track 5 has conducted outreach by connecting to the relevant communities  
8 through Work Track Co-Leaders and participants engaged in those communities. There  
9 is one Work Track Co-Leader representing each the ALAC, the ccNSO, the GAC, and the  
10 GNSO. The Co-Leaders have served as liaisons to their respective communities, ensuring  
11 that members of their communities are aware of the status of activities and know about  
12 opportunities to engage. The Work Track Co-Leaders have regularly met with SOs and  
13 ACs during ICANN meetings. Face-to-face working sessions at ICANN meetings have  
14 been open and all members of the community have been encouraged to attend and  
15 engage. Cross-community sessions were held at ICANN59 and ICANN62 on the topic of  
16 geographic names at the top level.

17  
18 In addition, some members of the GAC submitted written feedback about some of the  
19 issues being addressed by the Work Track.<sup>4</sup>  
20

## 21 1.4 Conclusions and Next Steps

22 This Supplemental Report for Work Track 5 will be posted for public comment for  
23 approximately 40 days. After the Work Track reviews public comments received on this  
24 report, it will complete this section documenting any conclusions based on the overall  
25 findings of the report, which will be integrated into the Final Report.

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<sup>1</sup> See outreach and inputs received on the Wiki here: <https://community.icann.org/x/2R6OAw>

<sup>2</sup> See Community Comment 1 outreach and inputs received, on the Wiki here:  
<https://community.icann.org/x/3B6OAw>

<sup>3</sup> See Community Comment 2 outreach and inputs received, on the Wiki here:  
<https://community.icann.org/x/Gg7DAw>

<sup>4</sup> See  
<https://community.icann.org/download/attachments/60490848/GAC%20Member%20inputs%20WT5.pdf?version=1&modificationDate=1529308543000&api=v2>

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## 2 Deliberations of the Working Group

### a. What is the relevant 2007 policy and/or implementation guidance (if any)?

**Recommendation 5:** Strings must not be a reserved word.

**Recommendation 20:** An application will be rejected if an expert panel determines that there is substantial opposition to it from a significant portion of the community to which the string may be explicitly or implicitly targeted.

In the Final Report - Introduction of New Generic Top-Level Domains,<sup>5</sup> the discussion of Recommendation 5 references language in the Reserved Names Working Group Final Report.<sup>6</sup> The relevant text of Reserved Names Working Group Final Report states:

*There should be no geographical reserved names (i.e., no exclusionary list, no presumptive right of registration, no separate administrative procedure, etc.). The proposed challenge mechanisms currently being proposed in the draft new gTLD process would allow national or local governments to initiate a challenge, therefore no additional protection mechanisms are needed. Potential applicants for a new TLD need to represent that the use of the proposed string is not in violation of the national laws in which the applicant is incorporated.*

*However, new TLD applicants interested in applying for a TLD that incorporates a country, territory, or place name should be advised of the GAC Principles, and the advisory role vested to it under the ICANN Bylaws. Additionally, a summary overview of the obstacles encountered by previous applicants involving similar TLDs should be provided to allow an applicant to make an informed decision. Potential applicants should also be advised that the failure of the GAC, or an individual GAC member, to file a challenge during the TLD application process, does not constitute a waiver of the authority vested to the GAC under the ICANN Bylaws.*

Reserved Names Working Group Final Report further states:

*We recommend that the current practice of allowing two letter names at the top level, only for ccTLDs, remains at this time. Examples include .AU, .DE, .UK.*

<sup>5</sup> <https://gnso.icann.org/en/issues/new-gtlds/pdp-dec05-fr-parta-08aug07.htm>

<sup>6</sup> <https://gnso.icann.org/en/issues/new-gtlds/final-report-rn-wg-23may07.htm>



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1 v. it is a separable component of a country name designated on the “Separable  
2 Country Names List,” or is a translation of a name appearing on the list, in any  
3 language. See the Annex at the end of this module.

4 vi. it is a permutation or transposition of any of the names included in items (i)  
5 through (v). Permutations include removal of spaces, insertion of punctuation, and  
6 addition or removal of grammatical articles like “the.” A transposition is  
7 considered a change in the sequence of the long or short-form name, for example,  
8 “RepublicCzech” or “IslandsCayman.”

9 vii. it is a name by which a country is commonly known, as demonstrated by  
10 evidence that the country is recognized by that name by an intergovernmental or  
11 treaty organization.  
12

13 Section 2.2.1.4.2 Geographic Names Requiring Government Support states that  
14 applications for the following strings must be accompanied by documentation of  
15 support or non-objection from the relevant governments or public authorities:  
16

- 17 1. An application for any string that is a representation, in any language, of the  
18 capital city name of any country or territory listed in the ISO 3166-1 standard.
- 19 2. An application for a city name, where the applicant declares that it intends to  
20 use the gTLD for purposes associated with the city name.

21  
22 City names present challenges because city names may also be generic terms or  
23 brand names, and in many cases city names are not unique. Unlike other types  
24 of geographic names, there are no established lists that can be used as objective  
25 references in the evaluation process. Thus, city names are not universally  
26 protected. However, the process does provide a means for cities and applicants  
27 to work together where desired.  
28

29 An application for a city name will be subject to the geographic names  
30 requirements (i.e., will require documentation of support or non-objection from  
31 the relevant governments or public authorities) if:  
32

33 (a) It is clear from applicant statements within the application that the applicant  
34 will use the TLD primarily for purposes associated with the city name; and  
35

36 (b) The applied-for string is a city name as listed on official city documents.<sup>8</sup>

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<sup>8</sup> City governments with concerns about strings that are duplicates, nicknames or close renderings of a city name should not rely on the evaluation process as the primary means of protecting their interests in a



















Please share any positive or negative experiences, including lessons learned and areas for improvement in subsequent procedures. Please see deliberations section [f.1.2.5 on pages 37-42](#) for context on this question.

● e2: [The definition of the term “geographic name” could impact development of policy and implementation guidance, as well as program implementation details, such as guidance for the Geographic Names Panel in the New gTLD application process.](#) In your view, how should the term “geographic name” be defined for the purposes of the New gTLD Program? Should there be any special requirements or implications for a term that is considered a “geographic name”? Why or why not? Please see deliberations section [f.1.2.4 on pages 34 - 36](#) for context on this question.

● e3: [The Work Track has discussed different types of mechanisms that can be used to protect geographic names in the New gTLD Program. These mechanisms fall broadly into two categories, noting that the categories are not mutually exclusive and measures from both categories can be used in combination:](#)

- [Preventative: Measures in this category include reserving certain strings to make them unavailable for delegation or requiring letters of support/non-objection from relevant governments or public authorities, either in all cases or dependent on intended usage of the TLD.](#)
- [Curative: Measures in this category include objection mechanisms, contractual provisions incorporated into the registry agreement, enforcement of those provisions, and post-delegation dispute resolution mechanisms.](#)

[In your view, what is the right balance or combination of preventative and curative rights mechanisms in relation to protection of geographic names in the New gTLD Program?](#) Please see deliberations section [f.1.2.2 on pages 28-29](#) for context on this question.

● e4: Work Track members have considered a series of principles that may be used to guide the development of future policy on geographic names. The principles were discussed in the context of city names and terms not included in the 2012 Application Guidebook, but they may be applicable more broadly. Proposed principles include:

- In alignment with [Principle C](#) from the 2007 GNSO recommendations on new gTLDs, the program should allow for the introduction of new gTLDs.
- In alignment with [Principle A](#) from the 2007 GNSO recommendations on new gTLDs, enhance the predictability for all parties.

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**Commented [A57]:** Added based on feedback from Justine Chew on the 7 November call.

**Commented [A58]:** Greg Shatan: suggests adding “Is “geographic name” the proper term to use?” From Greg: I think we need to ask this question. The very use of the term creates issues (vs. e.g., “term with geographic meaning”), since it creates the impression that the strings in question are uniquely “geographic names”.

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**Commented [A59]:** Questions e3, e4, and e5 reordered for clarity based on feedback from Martin Sutton on 7 November call.

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1           o a combination of two or more categories above  
2           In your view, which alternative is the best option? Please explain. Do you have  
3           suggestions for alternatives not included in the list above? [Please see](#)  
4           [deliberations section f.2.2.1.2 on pages 46-48](#) for context on this question.

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- 6           • e7: Some Work Track members have expressed that there should be a process in  
7           place to delegate 3-letter codes and/or other country and territory names to  
8           specific parties, such as relevant governments and public authorities or other  
9           entities. Do you believe that this is an issue on which Work Track 5 should make  
10          a [recommendation](#)? Please see [deliberations section f.2.2.1.1 on page 46](#) for  
11          context on this question.

**Commented [A62]:** Edited based on feedback from Justine Chew on 7 November call.

**Commented [A63]:** Previous question e8 has been removed – Upon further clarification with Jaap Akkerhuis who raised the issue, this question does not accurately capture the underlying concern. There is an open question on the mailing list about whether additional content (question or option) is needed on the topic of “exceptionally reserved” codes.

### 13 **Geographic Names Requiring Government Support in the 2012 Applicant** 14 **Guidebook**

- 16           • e8: In the 2012 round, applicants were required to obtain letters of support [or](#)  
17           non-objection from the relevant governments or public authorities for “An  
18           application for any string that is a representation, **in any language**, of the capital  
19           city name of any country or territory listed in the ISO 3166-1 standard”  
20           (emphasis added). In developing recommendations for future treatment of  
21           capital city names, the Work Track has considered several alternatives related to  
22           the “in any language” standard:

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**Deleted:** <#>e8: The 2012 Applicant Guidebook reserved any string that is a “short- or long-form name association with a code that has been designated as “exceptionally reserved” by the ISO 3166 Maintenance Agency.” Some Work Track members have stated that an “exceptionally reserved” list does not exist under the ISO 3166 standard, and therefore it is unclear what this provision references. Do you agree or disagree? Please explain.¶

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- 23           o translations in UN languages
- 24           o translations in UN languages and the official languages of the country
- 25           o translations in official languages of the country
- 26           o translations in official and commonly used languages
- 27           o translations in official and relevant national, regional, and community  
28           languages
- 29           o translations in “principal languages” where the principal languages are  
30           the official or de facto national languages and the statutory or de facto  
31           provincial languages of that country
- 32           o a combination of two or more categories above

33           In your view, which alternative is the best option? Please explain. Do you have  
34           suggestions for alternatives not included in the list above? [Please see](#)  
35           [deliberations section f.2.3.1 on pages 57-58](#) for context on this question.

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- 37           • e9: In the 2012 round, applicants were required to obtain letters of support [or](#)  
38           non-objection from the relevant governments or public authorities for “An  
39           application for a city name, where the applicant declares that it intends to use

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1 positive and negative experiences from the 2012 application round and considered  
2 issues experienced by applicants and other parties. It worked to develop principles that  
3 may guide the evaluation of options for future treatment of geographic names. The  
4 Work Track considered “pros” and “cons” of existing treatment from the 2012 Applicant  
5 Guidebook, as well as “pros” and “cons” of alternatives proposed by Work Track  
6 members. Finally, the Work Track sought to find convergence on areas where there  
7 might be agreement regarding future treatment.

8  
9 Deliberations uncovered some areas of possible compromise where members tended to  
10 either support or accept the existing terms in the 2012 Applicant Guidebook. Noting  
11 that no official consensus calls have been taken prior to publication of the Initial Report,  
12 all preliminary recommendations are for discussion purposes at this stage and may  
13 change based on community input received through public comment, as well as further  
14 deliberations by the Work Track.

15  
16 In those areas where the Work Track put forward preliminary recommendations, the  
17 preliminary recommendations tended to support either maintaining or making minor  
18 adjustments to the existing provisions contained in the 2012 Applicant Guidebook.  
19 Some Work Track members noted that it may be difficult to move away from the 2012  
20 Applicant Guidebook terms, because these provisions already represented a form of  
21 compromise. As there was no clear legal foundation upon which to base  
22 protections/restrictions, the 2012 treatment was the result of negotiation between the  
23 GAC, the ccNSO, and the ICANN Organization based on public policy and public interest  
24 considerations.

25  
26 In other topic areas, there is not yet a clear path forward. For these issue areas, the  
27 report includes options in section f and questions for community input in section e. The  
28 Work Track looks forward to receiving input from the community through public  
29 comment on preliminary recommendations, options, and questions that may help to  
30 inform further refinement of the Work Track’s outputs.

### 31 **f.1.2 KEY ISSUES AND POINTS OF VIEW**

32  
33  
34 Through the deliberations process, it was apparent that there are different views in the  
35 Work Track about which issues need to be addressed through policy and which  
36 corresponding mechanisms should exist in the implementation of the New gTLD  
37 Program. This section summarizes high-level themes that emerged in the discussions  
38 and outlines some of the points of view held by Work Track members.

#### 39 **f.1.2.1 Who owns a string? Who has rights to a string? What is the appropriate role of 40 geographic communities and governments?**

41  
42  
43 The 2012 Applicant Guidebook sought to address these questions by putting in place a  
44 combination of preventative and curative measures. Preventative measures included

**Commented [A68]:** Greg Shatan: Just curious – was  
GNSO involved in these “negotiations”? As the body  
tasked with developing gTLD policy, one would have  
thought GNSO would have had a seat at the table. If  
so, GNSO should be added.

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1 reserving country and territory names, therefore making them unavailable for use, and  
2 requiring applicants to obtain letters of support/non-objection from relevant  
3 governments or public authorities for specific types of geographic names. A range of  
4 curative rights were incorporated into the program more broadly and could be used in  
5 relation to geographic strings, as well as all other types of applications.  
6

7 There are fundamental differences in perspectives about whether certain parties have  
8 rights to either determine the use of a string at the top level or be consulted during the  
9 application process at the top level for a string if that string has geographic  
10 connotations. For example, some believe that:

- 11
- 12 ● No individual, entity, or group of people owns a string. This includes strings that  
13 may have geographic connotations.
- 14 ● There are different legitimate interests in a string and different potential  
15 legitimate uses of a string. There must be a clear basis for any one interest to  
16 take priority over others in determining how a string will be used or not used.
- 17 ● Any special rules, rights, privileges, or roles in the New gTLD Program should be  
18 rooted in international law, and there is no clear basis in international law  
19 justifying such special rules, rights, privileges, or roles for specific groups of  
20 stakeholders, including governments. Please see section [f.1.2.3](#) for additional  
21 discussion of law and policy considerations.
- 22 ● Governments do not always represent the interests of people and communities  
23 associated with a geographic location. There may be instances where the  
24 interests and positions of a national or local government diverge from the  
25 interests of the people associated with a given geographic location. There may  
26 be cases where people or a community associated with a geographic location  
27 would like to use a name associated with that place, but a national government  
28 does not support that use.
- 29

30 With respect to people and communities associated with a place, some believe that:

- 31
- 32 ● Geographic terms have political, historical, economic, social, and sometimes  
33 religious connotations for populations and communities associated with those  
34 terms. People and communities associated with a geographic location have a  
35 strong interest in the use of these terms.
- 36 ● The perspectives of people associated with a geographic location are essential in  
37 determining how and where a geographic name will be used in different  
38 contexts.



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1 With respect to the role of the GAC, some believe that:

- 2 ● The GAC plays a unique role in the ICANN context and governments represented
- 3 in the GAC have a particular interest and stake in the treatment of geographic
- 4 terms.
- 5 ● The role played by the GAC in the 2012 round was appropriate.
- 6 ● There may be opportunities to expand the role of the GAC to support
- 7 predictability in the process.

8  
9 Some believe that:

- 10 ● The GAC has an advisory role to the Board and may collectively provide
- 11 consensus advice, but the GAC does not have an operational role at ICANN.
- 12 ● Individual GAC members may have distinct positions on individual applications,
- 13 but the role of individual governments is different than the GAC acting as a
- 14 whole through GAC advice.
- 15 ● The GAC intervened in the evaluation process in a manner that was problematic
- 16 and unfair during the 2012 round.
- 17 ● The role of the Board and the GAC should be [clearer](#) and consistently applied in
- 18 subsequent rounds of the application process, including with respect to
- 19 applications for geographic names.

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20  
21 **f.1.2.2 What types of mechanisms should exist to exercise rights or establish roles in**

22 **the process?**

23  
24 As discussed in section f.1.2.1, the 2012 Applicant Guidebook sought to answer this

25 question by implementing a set of preventative measures specific to certain types of

26 geographic names, and a number of curative measures that applied to the program

27 more broadly.

28  
29 Work Track members expressed different views about how rights should be exercised

30 and roles established for stakeholders in the New gTLD Program in relation to

31 geographic names. The Work Track discussed two possible categories of mechanisms,

32 noting that [it](#) is possible to use a combination of different types of mechanisms in

33 program implementation. Preventative mechanisms in the Applicant Guidebook include

34 1) adding certain strings to lists of reserved names to make them unavailable for

35 delegation and 2) requiring letters of support or non-objection from relevant

36 governments or public authorities for certain types of applications. Curative

37 mechanisms include objections processes, use of Public Interest Commitments,

38 contractual provisions and enforcement, and post-delegation dispute resolution. Some



objection from relevant governments or public authorities grants preventative rights to those governments or public authorities. Some believe that:

- This rule provides a role for governments and public authorities in which the government or public authority can choose to deny or withhold support/non-objection, and as a result the application will not move forward. Therefore, [this](#) mechanism provides a preventative right to governments and public authorities.

Some believe that:

- [This rule does not provide a preventative right to governments and public authorities, but instead places a requirement on applicants to obtain a letter of support or non-objection while still allowing any interested parties to apply.](#)

#### f.1.2.3 What law and policy considerations should be taken into account? Which should take precedent?

In the 2012 round, no clear legal basis was identified to justify special treatment of geographic names. The 2012 Applicant Guidebook represents a compromise between the GAC, the ccNSO, and the ICANN Organization based on public policy and public interest considerations.

In discussions about applicability of law and policy, Work Track members referenced, but had different interpretations of Section 1.2 (a) of the ICANN Bylaws. Section 1.2 (a) states: “In performing its Mission, ICANN must operate in a manner consistent with these Bylaws for the benefit of the Internet community as a whole, carrying out its activities in conformity with relevant principles of international law and international conventions and applicable local law, through open and transparent processes that enable competition and open entry in Internet-related markets.”<sup>18</sup>

With respect to international law<sup>19</sup>, some believe that:

<sup>18</sup> In addition, ICANN’s Articles of Incorporation state, “The Corporation shall operate in a manner consistent with these Articles and its Bylaws for the benefit of the Internet community as a whole, carrying out its activities in conformity with relevant principles of international law and international conventions and applicable local law and through open and transparent processes that enable competition and open entry in Internet-related markets. To this effect, the Corporation shall cooperate as appropriate with relevant international organizations.”

<sup>19</sup> One Work Track member submitted for the Work Track’s consideration her analysis [Applying International Law to the New gTLD Applicant Guidebook](#) and the book she wrote on the topic “[Protection of Geographic Names in International Law and Domain Name System.](#)”

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**Commented [A70]:** Clarification suggested by Greg Shatan.

**Commented [A71]:** Greg Shatan: I don’t see how this is not a preventative right. If the government or public authority chooses not to provide a letter of support or non-objection, the applicant is prevented from moving forward.

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**Commented [A72]:** Greg Shatan: Please confirm the GNSO was not involved.

**Commented [A73]:** Added in response to comment by Christopher Wilkinson regarding reference to applicable local law in ICANN’s Articles of Incorporation.















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1 group to progress to agreeing on possible solutions to address the problems identified.  
2 Nonetheless, some Work Track members proposed solutions to problems they believe  
3 exist.

4  
5 Some of the issues that Work Track members identified from the 2012 round include  
6 the following. Some believe that:

- 7
- 8 ● There was insufficient predictability, transparency and consistency in ICANN's  
9 implementation of the Applicant Guidebook.
- 10 ● It was not always clear to an applicant if special rules were applicable to a  
11 particular string.
- 12 ● Some applicants found it difficult to determine which relevant government or  
13 public authority was the appropriate point of contact for a letter of support or  
14 non-objection.
- 15 ● Some applicants were unable to obtain a timely response when they reached out  
16 to a relevant government or public authority to obtain a letter of support or non-  
17 objection.
- 18 ● Governments, public authorities, and other stakeholders are unaware of ICANN  
19 and the New gTLD Program, which may make it difficult for them to raise  
20 objections and, in the case of governments, respond effectively and quickly to  
21 requests for support/non-objection.
- 22 ● Stakeholders may not be familiar with ICANN and its processes
- 23 ● There was a perception that some applicants were required to make concessions  
24 to governments to obtain support/non-objection. Other Work Track members  
25 strongly opposed this point, stating that there are not facts to support this claim.  
26 Some Work Track members suggested that additional facts should be gathered  
27 about specific cases. At the time of publication, the Work Track had not  
28 undertaken this additional fact finding work.
- 29 ● Applicants faced challenges in applying for strings that were not included as  
30 geographic names in the Applicant Guidebook but were considered to be  
31 geographic names by other parties. For example, some applicants experienced  
32 what appeared to be a de-facto requirement to obtain support/non-objection  
33 for strings not included in the Applicant Guidebook.
- 34 ● There were cases where an applicant was required to obtain a letter of  
35 support/non-objection, the relevant government or public authority did not  
36 provide a letter of support/non-objection, and the applicant disagreed with this  
37 decision.
- 38

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1 The Work Track discussed whether there might be circumstances where different  
2 stakeholders with different interests could be incentivized to work together to meet the  
3 needs of each group. One example of a potential area of collaboration is joint ventures  
4 between different applicants with different intended uses for a TLD, for example  
5 multiple cities with the same name. Some believe that such joint ventures could:

- 6
- 7 ● Eliminate contention for the string.
- 8 ● Allow different cities with the same name to share the costs, burdens, and risks.
- 9 ● Help ensure that there is sufficient demand for second-level registrations.

10  
11 Some believe that such a model would be impractical to implement.

12  
13 Work Track members also considered possible tools for governments and applicants to  
14 come together and create opportunities for both parties to use the TLD according to  
15 their interests. These include:

- 16
- 17 ● Agreements to allow the use of second level strings (or the reservation of second  
18 level strings) where there is an inherent association with the government or local  
19 community.
- 20 ● For brand TLDs, there is a requirement currently that all registrations be  
21 registered to the brands (or their affiliates / licensees) in order to maintain their  
22 Specification 13 protections. An exception could be granted for ones that  
23 coincide with a geographic string where certain second level strings that are  
24 inherently geographic can be registered by others.

25  
26 Work Track members asked if there might be alternatives to the support/non-objection  
27 requirement that would bring applicants, governments, and other parties “to the table”  
28 to express and address concerns. No specific proposals were put forward in this regard.

### 29 **f.1.3 PRINCIPLES AND VALUES**

30  
31  
32 The Work Track discussed potential principles that may be used to guide the  
33 development of future policy on geographic names. The principles were discussed in the  
34 context of city names (see section [f.2.3.2](#)) and additional types of terms not included in  
35 the 2012 Application Guidebook (see section [f.2.4](#)), but they may be applicable more  
36 broadly. Proposed principles include:

- 37
- 38 ● In alignment with [Principle C](#) from the 2007 GNSO recommendations on new  
39 gTLDs, the program should allow for the introduction of new gTLDs.
- 40 ● In alignment with [Principle A](#) from the 2007 GNSO recommendations on new  
41 gTLDs, enhance the predictability for all parties.



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1 combinations of two letters (for example .yz), combinations of two digits (for example  
2 .12), and combinations of a letter and a digit (for example .a1 or .1a). The Work Track  
3 noted that Work Track 2 of the New gTLD Subsequent Procedures PDP Working Group is  
4 considering single letter and single digit combinations. Members generally agreed that  
5 two-character codes containing digits are not geographic names and therefore focused  
6 on letter-letter combinations.

7 With respect to letter-digit combinations, some Work Track members believe that:

- 8 ● If letter-digit combinations are available in subsequent procedures, there may be  
9 a risk of confusion between certain letter-digit combinations and confusingly  
10 similar letter-letter combinations (for example .IO and .IO).

11  
12 Some believe that:

- 13 ● In the 2012 round, string similarity processes took into account all existing TLDs,  
14 including ccTLDs. If future processes work in the same manner, risk of similarity  
15 will be addressed through these processes.

16  
17 This issue will be explored further by the full Working Group as it considers public  
18 comments on the full Working Group's Initial Report.

19 Different perspectives were raised about the treatment of two-letter ASCII strings. Some  
20 Work Track members identified benefits to maintaining current treatment contained in  
21 the 2012 Applicant Guidebook. Specifically, some believe that:

- 22 ● There is a longstanding association between two-character ASCII letter-letter  
23 combinations and ccTLDs, which is rooted in early Internet Engineering Task  
24 Force (IETF) Requests for Comments (RFCs).
- 25 ● The current AGB rules restricting two-character ASCII letter-letter combinations  
26 as gTLDs has helped to make a clear distinction between the ccTLD space and the  
27 gTLD space.
- 28 ● Reliance on the ISO 3166 Part 1 list of alpha-2 codes as a basis for two-letter  
29 country codes has historically worked well and offers a predictable system to use  
30 as a point of reference.
- 31 ● Two-letter combinations are available in case new entries are added to the ISO  
32 3166 Part 1 list of alpha-2 codes and new countries are established that want a  
33 ccTLD. According to RFC 1591, the IANA is not in the business of deciding what is  
34 and what is not a country.
- 35 ● End users can see a clear distinction between ccTLDs and gTLDs, which may help  
36 to avoid confusion between the two.

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- 1       ● separable component of a country name designated on the “Separable Country  
2       Names List.”

3  
4       Some Work Track members raised points in support of maintaining the “in any  
5       language” standard. Some believe that:

- 6  
7       ● This provision should remain in place unless there is a factual basis for limiting  
8       the languages covered in this provision.  
9       ● Many languages may be spoken by and relevant to communities within a given  
10      country, and the list should therefore not be limited.  
11      ● To reduce uncertainty, ICANN could produce an exhaustive list of all translations  
12      in all languages.

13  
14      Some Work Track members raised points against maintaining the “in any language”  
15      standard. Some believe that:

- 16  
17      ● The provision is overbroad, results in a very large number of reserved strings,  
18      and does not provide a clear, objective, and finite list that can be used as  
19      reference.  
20      ● It is not predictable or transparent.  
21      ● It contradicts the overarching policy concept that reserving strings should be  
22      done conservatively and must be based on an underlying policy justification.  
23      ● Some languages are spoken by very few people, therefore reserving  
24      representations in all languages may not be appropriate.

25  
26      In developing recommendations for future treatment of country and territory names,  
27      the Work Track has considered several alternatives related to translation:

- 28  
29      ● continue to reserve as unavailable translations in any language  
30        ○ Variant: “in any script”  
31      ● reserve as unavailable translations in UN languages  
32        ○ Variants: “including but not limited to official UN languages,” UN  
33        languages plus Portuguese  
34        ○ Points in support: clear, finite list  
35        ○ Points against: official UN languages are not necessarily the most  
36        important languages in many countries  
37      ● reserve as unavailable translations in official languages of the country  
38        ○ Points in support: [Working Paper 54](#) of the UN Group of Experts on  
39        Geographical Names (UNGEGN) could be used as a starting point for this  
40        list, [Expanded Graded Intergenerational Disruption Scale and](#)











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1 Work Track members pointed out that the text could also be interpreted to mean that  
2 transpositions of three-letter codes and other forms of country and territory names  
3 were also reserved. Work Track members further noted that because this provision does  
4 not reference a specific list, it may not be clear to applicants and other stakeholders  
5 which strings are covered by this provision.

6 Work Track members raised points in support of continuing to reserve names in this  
7 category. Some believe that:

- 8 • Absent a clear reason to eliminate this category, existing provisions should stay  
9 in place.
- 10 • Examples of transposition used in the Applicant Guidebook “RepublicCzech” and  
11 “IslandsCayman” and similar strings are unlikely to be of interest as TLDs,  
12 therefore there is little harm in reserving the strings.

13 Work Track members raised points against continuing to reserve names in this category.  
14 Some believe that:

- 15 • The examples used in the Applicant Guidebook related to transposition,  
16 “RepublicCzech” and “IslandsCayman” do not appear to be terms that anyone  
17 would use. The group should consider removing this provision unless there is  
18 documented problem that it seeks to solve.

19 The following additional proposals have been put forward by Work Track members with  
20 respect to this category:

- 21 • Individual governments should be asked which permutations should be reserved  
22 in connection with a corresponding country or territory name.

23 The Work Track is putting forward a preliminary recommendation for community  
24 feedback to maintain reservation of permutations and transpositions but clarify that  
25 only permutations and transpositions of the following strings are reserved:

- 26 • long-form name listed in the ISO 3166-1 standard.
- 27 • short-form name listed in the ISO 3166-1 standard.
- 28 • short- or long-form name association with a code that has been designated as  
29 “exceptionally reserved” by the ISO 3166 Maintenance Agency.
- 30 • separable component of a country name designated on the “Separable Country  
31 Names List.” This list is included as an appendix to the 2012 Applicant  
32 Guidebook.

33  
34 Permutations and transpositions of alpha-3 code listed in the ISO 3166-1 standard  
35 should be allowed. This recommendation would result in a revision to 2012 Applicant  
36 Guidebook section 2.2.1.4.1.vi.  
37

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1 **f.2.2.7 A name by which a country is commonly known, as demonstrated by evidence**  
2 **that the country is recognized by that name by an intergovernmental or treaty**  
3 **organization**

4 Work Track members raised points in support of continuing to reserve names in this  
5 category. Some believe that:

- 6 ● There is some level of predictability associated with this provision because there  
7 are specific sources of these terms.

8 Work Track members raised points against continuing to reserve names in this category.  
9 Some believe that:

- 10 ● There are potential missed opportunities for gTLDs.  
11 ● Work Track members expressed some level of uncertainty about what may or  
12 may not be included in this category, indicating that in practice this provision  
13 may not be clear for applicants and other stakeholders.  
14 ● There is no opportunity for an applicant supported by the relevant country to  
15 move forward with an application.

16 The following additional proposals have been put forward by Work Track members with  
17 respect to this category:

- 18 ● As long as a country can provide substantial evidence that the country is  
19 recognized by a name, the term should be included under this category.  
20 ● Add translations “in any language” to this provision.

21  
22 There was no clear agreement to change the terms included in the 2012 Applicant  
23 Guidebook. Therefore, the Work Track is putting forward a preliminary  
24 recommendation for community feedback to maintain reservation of names by which a  
25 country is commonly known, as demonstrated by evidence that the country is  
26 recognized by that name by an intergovernmental or treaty organization, consistent  
27 with provisions in the 2012 Applicant Guidebook.

28 **f.2.3 GEOGRAPHIC NAMES REQUIRING GOVERNMENT SUPPORT FROM THE 2012**  
29 **APPLICANT GUIDEBOOK**

30 The Work Track discussed points in support of and against provisions requiring a letter  
31 of support or non-objection from government authorities for certain types of strings.

32 Some Work Track members raised points in support of either maintaining the  
33 support/non-objection standard or expanding the standard. Some believe:

- 34 ● The mechanism worked well for different groups in the 2012 round.  
35

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- 1 ● The 2012 Applicant Guidebook provisions represent a compromise position in
- 2 which different parties found a middle ground.
- 3 ● It is the role of governments to protect the public interest, and this mechanism
- 4 allows government to protect the public interest and the interest of
- 5 residents/communities.
- 6 ● Public authorities act under applicable laws and are accountable according to
- 7 their legal systems and these rules allows them to act on these responsibilities.
- 8 ● These rules are consistent with a government’s rights and responsibilities under
- 9 national and local law and public policy.
- 10 ● A TLD is a unique resource. Even if a string is being used for a non-geographic
- 11 purpose, there may be political, historical, economic, religious, and/or social
- 12 connotations for the populations and communities affected. This process allows
- 13 governments to act on those concerns. Even if the applicant intends to use the
- 14 string in a way that is not directly associated with the place, they may still
- 15 benefit from positive connotations associated with the name of the place.
- 16 ● Provides flexibility for different solutions. Some governments may have a
- 17 “laissez-faire” approach. Other governments may end up participating in
- 18 governance of the string or pursuing joint initiatives with applicants and other
- 19 parties. It is therefore respectful of different legal, cultural and policy
- 20 approaches, without imposing one single solution to all.
- 21 ● Governments do not need to actively monitor the application process to
- 22 determine whether ICANN is reviewing an application that the government may
- 23 consider relevant. The mechanism fairly puts the burden on the applicant to
- 24 reach out to the relevant public authorities, which, especially in the case of
- 25 developing countries, may be unaware of ICANN and may lack the resources to
- 26 actively monitor ICANN’s activities.
- 27 ● Applicants have a more predictable process. By engaging with governments early
- 28 in the process, they become aware early of any opposition by governments and
- 29 therefore prevent conflicts between interested parties.
- 30 ● The requirement is a way to promote cooperation between different parties
- 31 that have an interest in the string.
- 32 ● An open market for these TLDs absent support/non-objection requirements is
- 33 not sustainable.
- 34 ● This mechanism is consistent with ICANN’s obligation to act in conformity with
- 35 applicable local law.
- 36 ● This mechanism is a flexible instrument that allows applications from any kind of
- 37 interested applicant, including businesses, brands, and communities.
- 38





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- 1 ● It is not predictable or transparent.
- 2 ● It contradicts the overarching policy concept that special rules must be based on
- 3 an underlying policy justification.
- 4 ● Some languages are spoken by very few people, special rules in all languages
- 5 may not be appropriate.

6  
7 In developing recommendations for future treatment of capital city names, the Work  
8 Track has considered several alternatives related to translation:

- 9
- 10 ● continue the current standard: translations in any language
- 11 ○ Variant: “in any script”
- 12 ● translations in UN languages
- 13 ○ Variants: “including but not limited to official UN languages,” UN
- 14 languages plus Portuguese
- 15 ○ Points in support: clear, finite list
- 16 ○ Points against: official UN languages are not necessarily the most
- 17 important languages in many countries
- 18 ● translations in official languages of the country
- 19 ○ Points in support: [Working Paper 54](#) of the UN Group of Experts on
- 20 Geographical Names (UNGEGN) could be a starting point for this list,
- 21 [Expanded Graded Intergenerational Disruption Scale and categorization](#)
- 22 [based on Official Recognition](#) could be used as a starting point for this list
- 23 ○ Points against: difficult to identify the official languages of each country,
- 24 some countries may not have official languages, administrations in many
- 25 countries use languages that are not official, people of the country also
- 26 use languages that may not be official but are important to specific
- 27 communities
- 28 ● translations in UN languages and the official languages of the country
- 29 ○ See above for relevant points in support and against
- 30 ● translations in official and commonly used languages
- 31 ○ Points in support: this category would cover languages used by people in
- 32 the country that are important to specific communities
- 33 ○ Points against: This is not a category with clear boundaries or definition
- 34 ● translations in official and relevant national, regional, and community languages
- 35 ○ Points in support: this category would cover languages used by people in
- 36 the country that are important to specific communities
- 37 ○ Points against: This is not a category with clear boundaries or definition





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1 The Work Track discussed the implementation of the support/non-objection mechanism  
2 in the 2012 round with respect to non-capital city names. Some Work Track members  
3 identified potential issues with the 2012 implementation of rules for non-capital city  
4 names. Some believe that:

- 5 ● The term “city” was not defined, which could be a source of uncertainty. At the  
6 same time, because support/non-objection was only required if the applicant  
7 intended to operate the TLD for purposes associated with the city name, the  
8 impact of this lack of precision may have been limited. Work Track members  
9 pointed out that there are different definitions of the term “city.”<sup>29</sup>
- 10 ● Some applicants experienced a de-facto requirement to obtain support or non-  
11 objection from a government or public authority for a string they did not intend  
12 to use for purposes associated with a city name.
- 13 ● In the Applicant Guidebook, there was no requirement for applicants to obtain  
14 support/non-objection if the applicant intended to use the string in a generic or  
15 brand context. The cases of .spa and .bar are examples that were cited by Work  
16 Track members. In relation to these examples, some Work Track members  
17 expressed the view that relevant government authorities should be consulted to  
18 get a full and balanced picture of the facts of these cases.
- 19 ● From one perspective, there were challenges in the 2012 round associated with  
20 resolving competing bids for a string associated with a city name, in particular if  
21 multiple applications had support or non-objection from relevant  
22 governments/public authorities. Some Work Track members felt that this may be  
23 any area for future refinement if the support/non-objection mechanism exists in  
24 subsequent procedures.
- 25 ● Work Track members identified that some stakeholders experienced uncertainty  
26 about monitoring and enforcement related to the intended use commitment.

<sup>29</sup> The following examples were provided to demonstrate that there are different definitions for the term “city”:

- Black’s Law Dictionary: Ill England. An incorporated town or borough which is or has been the see of a bishop. Co. Litt. 10S; 1 Bl. Comm. 114; Cowell. State v. Green, 126 N. C. 103’2, 35 S. E. 4G2. A large town Incorporated with certain privileges. The inhabitants of a city. The citizens. Worcester. In America. A city is a municipal corporation of a larger class, the distinctive feature of whose organization is its government by a chief executive (usually called “mayor”) and a legislative body, composed of representatives of the citizens, (usually called a “council” or “board of aldermen,”) and other officers having special functions. Wight Co. v. Wolff, 112 Ga. 169, 37 S. E. 395.
- [“What is the difference between at city and a town?”](#) (Worldatlas.com)
- [“City status in the United Kingdom”](#) (Wikipedia)

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1 ● A single name may be associated with multiple cities. A number of examples  
2 were cited by Work Track members. Some Work Track members felt that all  
3 cities associated with a name should have the opportunity to provide  
4 support/non-objection because they all have a connection with the string,  
5 stating that all have the same right to provide input on use of the string. Others  
6 favored a requirement for support/non-objection from a city government only if  
7 the intended use is in association with that specific city, noting logistical  
8 challenges associated with identifying all cities and all relevant governments or  
9 public authorities associated with a name.

10  
11 In considering positions in support of and against maintaining the current treatment,  
12 Work Track members raised arguments that relate more broadly to discussions of  
13 geographic names. These include the applicability of and relevance of law and public  
14 policy, the issue of whether the intended use of the TLD matters. These issues are  
15 covered in greater depth in [f.1](#) of the deliberations section.

16 The Work Track reviewed the general points in support of and against the use of the  
17 support/non-objection requirement in the New gTLD Program. See section [f.2.3](#) for  
18 details.

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19  
20 In addition, Work Track members raised specific points in support of continuing the  
21 2012 Applicant Guidebook treatment for this category. Some believe that:

- 22 ● 60+ city TLD applications went forward with support/non-objection and there  
23 were few cases of objections for such strings in the 2012 round, demonstrating  
24 that many applications were able to proceed to delegation using this process,  
25 including a number of capital city names. Some applicants expressed that they  
26 had a positive experience with the process.
- 27 ● Some Work Track members have expressed that there are a number of success  
28 stories coming out of the 2012 round using the support/non-objection  
29 mechanism for non-capital cities. Examples include .nyc, .hamburg, .koeln,  
30 .boston, .vegas, .miami, .istanbul, .sydney, and .quebec.

31  
32 In addition, specifically on the issue of city names, some believe that:

- 33  
34 ● It may be difficult to identify the relevant governments/public authorities  
35 associated with a city.
- 36 ● The application/delegation process can take time and city administrations may  
37 change, which could create unstable conditions for the applicant who is required  
38 to have government support/non-objection.



















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1 For strings in this category, there is divergence between the 2007 Policy and the 2012  
2 Applicant Guidebook. The 2007 Policy anticipated that these strings would be available  
3 without any special requirements and did not mention a provision requiring  
4 support/non-objection. The 2012 Applicant Guidebook required support/non-objection  
5 from at least 60% of the respective national governments in the region and no more  
6 than one written statement of objection to the application from relevant governments  
7 in the region and/or public authorities associated with the continent or the region.

8 Please see section [f.2.3](#) for general arguments in support of and against the  
9 support/non-objection mechanism.

10 Specifically in relation to this category, Work Track members raised points in support of  
11 continuing the 2012 Applicant Guidebook treatment. Some believe that:

- 12 ● There is some level of predictability, because there are specific sources of terms.
- 13 ● This approach creates incentives for applicants and relevant authorities to arrive  
14 at mutually accepted solutions.

15  
16 Specifically in relation to this category, Work Track members raised points against  
17 continuing the 2012 Applicant Guidebook treatment. Some believe that:

- 18 ● There may be tensions between communities associated with regions and the  
19 corresponding governments. In this view, a legitimate applicant could be  
20 punished or evaluated negatively because a government entity does not agree  
21 with the applicant's position or entitlement.
- 22 ● The case of .africa was provided as an example of a string in this category that  
23 had challenges in the 2012 round using the support/non-objection process.
- 24 ● If a string is being used in a generic or brand context, there is no harm or risk of  
25 confusion and therefore support/non-objection process is not necessary in these  
26 cases.

27  
28 The following proposals have been put forward by Work Track members with respect to  
29 this category:

- 30 ● Eliminate support/non-objection requirements.

---

<sup>31</sup> See <http://unstats.un.org/unsd/methods/m49/m49regin.htm>.





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- Groups of people who identify with a place have a right to be “at the table” in decisions about the use of an associated term. From this perspective, this right is not limited to the categories of geographic names included in the 2012 Applicant Guidebook.
- These rights are particularly important for minority cultures and peoples and indigenous groups associated with a physical place.
- It is inappropriate for brands or other groups to use names that belong to a particular group of people.

Work Track members raised points against establishing rules for additional categories of strings. Some believe that:

- ICANN’s mandate is very narrow. It cannot serve as a “supranational” legislator to “fill in the blanks” that some believe local governments have missed in their legislation to protect indigenous rights.
- The best way to ensure predictability is to make sure there are explicit guidelines for applicants and that guidelines, policies, and implementation can be applied to any potential application for any kind of geographic term. Applicants should, as the default, be given a path to success. The default should not grant rights to other parties to block applications.
- Groups of people associated with a geographic feature or region should have an opportunity to apply for a corresponding TLD without facing unnecessary financial and logistical hurdles. For example, Australian aboriginal communities may wish to apply for relevant geographic terms to sell art in Australia and internationally.
- Objections processes could be used to address cases where a substantial number of people associated with a geographic community opposed an application. The objection would have to be supported by a substantial portion of the geographic community described/implicated by the name and there would need to be a stated public policy reason for the objection.

In addition the proposed categories discussed above, some Work Track members advocated for special rules or protections for Geographical Indications in subsequent procedures. Other Work Track members opposed this proposal. Some believe that:

- This is a category with clear boundaries that can be documented, therefore increasing predictability.









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## 2 3 Conclusions and Next Steps

### 3 3.1 Preliminary Conclusions

4 As noted in the Preamble, the Work Track did not seek to take formal consensus calls on  
5 any preliminary recommendations contained in this report.

6

### 7 3.2 Next Steps

8 After a comprehensive review of public comments received on this report, the Work  
9 Track will deliberate further on the preliminary recommendations contained herein. It is  
10 possible that as a result of the deliberations, there may be additional supplemental  
11 reports released by the Working Group seeking additional public comments. Once all of  
12 that is completed, a consensus call will be conducted on all recommendations before  
13 the Working Group issues its Final Report.

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## 5 Approach Taken by the Working Group

### 5.1 Working Methodology

The New gTLD Subsequent Procedures PDP WG's Work Track 5 began its deliberations on 15 November 2017. It conducted its work primarily through regular conference calls, in addition to email exchanges on its mailing list, with further discussions taking place during scheduled sessions at ICANN Public Meetings. All the WT's meetings are documented on its Wiki (<https://community.icann.org/x/YASbAw>). The Wiki also includes mailing list archives (<https://mm.icann.org/pipermail/gnso-newgtld-wg-wt5/>), draft documents, and background materials.

#### 5.1.1 WG Membership

The members of the New gTLD Subsequent Procedures Work Track 5 are below:

	Group / Name	Affiliation
1	Abdul Saboor Malik	NCUC
2	Abdullah K. Al-Rubaan	Individual
3	Adarsh B U	NCUC
4	Aderonke Adeniyi	GAC
5	Adrian Carballo	At-Large
6	Ahlam Abu-Jadallah	Government
7	Alan Greenberg	At-Large
8	Alberto Soto	At-Large
9	Alexander Schubert	RySG
10	Alfredo Calderon	At-Large















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- 1 IPC – Intellectual Property Constituency
- 2 ISPCP – Internet Service Providers and Connectivity Providers Constituency
- 3 NPOC – Not-for-Profit Organizations Constituency
- 4 ALAC – At-Large Advisory Community
- 5 ccNSO – Country Code Names Supporting Organization
- 6 GAC – Governmental Advisory Committee

7

8 \*\* This list was accurate as of the publication of this report. Note that some members

9 joined the WG only after it began meeting, and WG members that have since left are

10 indicated with ++ against their names.

11



## 7 Annex A – Charter

- 1
- 2
- 3 The full Working Group charter is available here: <https://community.icann.org/x/KAp1Aw>
- 4
- 5 The Terms of Reference document developed by the Work Track is available here: <https://community.icann.org/x/RgS8B>

Greg Shatan: I do not support this as a reserved list; rather, it should be subject to an intended use exclusion. These are not ccTLDs, nor is there any reason to believe they will be used as such in the foreseeable future. There are numerous 3-letter strings in this list with other meanings (common nouns in English or other languages, popular or technical abbreviations), that would be foreclosed without good reason. These include AND, ARE, ARM, BEL, BEN, BRA, BRB, CAN, CHE, COD, COG, CUB, DOM, ESP, FIN, FRO, GEO, GIN, GUM, GUY, HUM, IDN, IOT, IRK, JAM, KIR, LIE, LUX, MAC, NIC, NOR, PAN, PER, PRY, QAT, SAU, SUR, TON, TUN, and VAT. At the very least, these should be available for use with a letter of support if the intended use relates to the geographic meaning of the term, and available without a letter of support where the TLD use will not relate to geographic meaning of the string.

Additional Input by Jaap Akkerhuis: I'm really pressed for time so this will be very short. But since you asked, here is my thinking.

I observe that the exceptional reservations is only on alpha-2 and alpha-3 \_codes\_ (and the exceptional reserved alpha-3 codes are not considered in the AGB). Alpha-2 and -3 codes are already covered by other rules in the AGB, I'm wondering why they need to be discussed at all in the AGB.

Furthermore, the 3166 is under review and noise have been made that the current use of reserved codes might be changed in this process.

I do think that there are more important things to spend energy on than this very specific case (and I repeat, might already been covered by a more general rule). So adding more rules to the ADB about this (what the current proposal is), is to my (pragmatic) taste an overkill.

Christopher Wilkinson: I also do not know whether the exceptionally reserved codes are associated with short or long form names. However, it is clear that should <.europeanunion> not yet be clearly reserved, it will have to be so.

Neither do I know whether the exceptionally reserved alpha2 codes all have an alpha3 buddy. This is not an issue for .EUR since that is, unusually, the SAME as the ISO 4217 currency code for the €.

(That is not the only reason for which I consider that ALL the ISO4217 alpha3 codes must be protected.)

With regard to Nick's draft text, please recall that <.eu> was delegated well before the 2012 Round.

There never was any question of .EU being a gTLD:

1. the restriction on two character codes already applied for gTLDs

2. the European Commission applied for .EU as a ccTLD, for policy reasons. There never was an application for a gTLD.

3. in those days ICANN was still applying a highly restrictive policy with respect to creating new gTLDs.

I suggest that we delete the bit about exclusions from gTLDs in the 2012 Round.

Page 15: [4] Commented [A30R27]

Author

*Suggested edit to recommendation from Nick Wenban-Smith: The 2012 Applicant Guidebook reserved any string that is a “short- or long- form name association with a code that has been designated as “exceptionally reserved” by the ISO 3166 Maintenance Agency”. Upon more detailed advice and examination of those “exceptionally reserved” codes it has been highlighted that the effect of reserving the short- or long- form names associated with the “exceptionally reserved” codes in the 2012 Applicant Guidebook is unclear. For example in the case of EZ which is exceptionally reserved as referring to OTC derivatives, and whether or not this resulted in the exclusion of ‘United Nations’ and ‘European Union’ from being allowed as new gTLDs in the AGB2012 since those terms are not country names. This provision should be clarified for the next round of new gTLDs.*

Page 15: [5] Deleted

Author

The glossary for ISO 3166 defines *exceptionally reserved codes* as “codes that have been reserved for a particular use at special request of a national ISO member body, governments or international organizations. For example, the code UK has been reserved at the request of the United Kingdom so that it cannot be used for any other country.” See <https://www.iso.org/glossary-for-iso-3166.html>.

Page 17: [6] Commented [A46]

Author

Greg Shatan: 1. We now have two participants objecting to Rec. 11 because it doesn't go far enough (i.e., it doesn't put non-geographic uses under the rule of support/non-objection letters) and one participant objecting because it goes too far (i.e., no uses should be put under the rule of support/non-objection letters).

I support the recommendation as it stands and believe it should remain. However, if I had to choose one of the two opposing positions above, I would choose the “it goes too far” position. It's hard to know which (if any) of the three positions have the most support in the Working Group. If none have sufficient support, perhaps it should be deleted. Another possibility is to lay out these 3 options for comment (status quo, removal of the intended use limitation, or removal in its entirety).

Page 42: [7] Commented [A91]

Author

Greg Shatan suggested adding: “Work Track members discussed negative experiences in the 2012 round, with a focus on TLDs for which the applicant intended to use the string in association with a meaning other than its geographic meaning. Some believe that:

- Rules in the 2012 Applicant Guidebook worked poorly for these applicants.
- Requirements to obtain letters of support or non-objection from relevant governments or public authorities imposed an arbitrary and unfair burden without any basis other than coincidence. These requirements created great difficulties, delays and expense for these applicants.
- The inability to timely delegate and operation these TLDs had negative effects on diversity, innovation and competition in the TLD space.”

Page 77: [8] Commented [A113]

Author

Jorge Cancio: (1) page 12: proposed solution 1.2.1.: it is unclear what the “bright-line” intends to apply to (scope?). It is also unclear what could be the basis for protection (law, policy, administrative act?). Unless these elements are clarified this “proposed solution” seems unfit to be presented as such.

Page 77: [9] Commented [A111]

Author

Greg Shatan: A “bright-line” rule is one “providing an unambiguous criterion or guideline” according to Merriam-Webster. It’s a fairly common term in the US, particularly in law, legislation and regulation. The idea is to have a distinction that is clear and unambiguous; you are on one side of the line or the other. But the exact word choice is unimportant. The term “bright-line” could be replaced by unambiguous, or simply deleted entirely, with no significant loss in meaning.

As to substance — we have been looking for rules that would limit or eliminate disputes, and for ways to make the application process more predictable. This would seem to accomplish both objectives. I believe we’ve heard mention of the opposite extreme — that objection or non-support should apply to every term that has a geographic meaning. Perhaps both of these extremes are “bonkers.”

But at least this proposal answers the question “What happens to geographic terms that are not expressly protected under the AGB?” I don’t really think it’s “bonkers” — this would mean that the AGB defines the entire universe of geographic privileges, protections, etc., and that there are no other processes by which a claimed geo-based privilege or protection could be asserted.

I support this proposal. This in many ways would be a more manageable regime, with a more defined set of options. As a matter of fact, when it comes to “permissions” this essentially states the current rule. When it comes to objections, this may go further than the current rule, but it does eliminate the possibility that every term that has a geographic meaning is potentially open to objection, which tends to have a chilling effect. In short it creates a recognizable boundary between terms with geographic meaning that are subject to a third party process, and those that are not.

If governments seek (or believe they have) the power to object or to require permission for geographic terms that are not protected by the AGB,

there should be a much greater definition of what these powers are, how they are applied, what their limits are, etc. The current situation goes against predictability, against eliminating disputes, and against freedom of speech. As it stands now, every applicant can be targeted by Big Brother, and they won't know how, when, or why. That seems pretty "bonkers."

Page 77: [10] Commented [A112]

Author

Alexander Schubert: If there was just ONE applicant for ".shanghai". And if from their application one couldn't derive that "they intend to use this gTLD PRIMARELY for issues related to the city". Then you are telling us that neither the city of Shanghai nor constituents from the city can object? Because "bright line"? Maybe I am misunderstanding you. Somebody applies for ".shanghai"; simply AVOIDS talking about the city altogether; and that's it: he is through? No "curative rights" anymore?