

# 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]:** Parentheticals adjusted for clarity following suggestion from Greg Shatan.

**Deleted:** Work Track 5

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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: Given the Initial nature of this report and the significant divergence on key concepts, we should not over-emphasize the “potential recommendations.”

**Deleted:** potential options for recommendations,

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.

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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.

33

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



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# 1 Executive Summary

## 1.1 Introduction

On 17 December 2015, the GNSO Council initiated a Policy Development Process and chartered the New gTLD Subsequent Procedures Working Group. The Working Group (WG) was tasked with calling upon the community’s collective experiences from the 2012 New gTLD Program round to determine what, if any changes may need to be made to the existing Introduction of New Generic Top-Level Domains policy recommendations from 8 August 2007.

As the original policy recommendations adopted by the GNSO Council and ICANN Board have “been designed to produce a systemized and ongoing mechanisms for applicants to propose new top-level domains,” those policy recommendations remain in place for subsequent rounds of the New gTLD Program unless the GNSO Council decides to modify those policy recommendations via a policy development process. The Working Group is chartered to develop new policy principles, recommendations, and implementation guidance or to clarify, amend, or replace existing such elements.





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- An application for any string that is an exact match of a sub-national place name, such as a county, province, or state, listed in the ISO 3166-2 standard.
- An application for a string listed as a UNESCO region or appearing on the “Composition of macro geographical (continental) regions, geographical sub-regions, and selected economic and other groupings” list.

\*\* For this item, translations in any language were reserved in the 2012 AGB. The Work Track has not yet agreed on whether translations should require support/non-objection in the future, and if so, in which languages.

1  
2 Please see Annex [??] for the consolidated table of preliminary recommendations,  
3 options, and questions.

4  
5 In addition, this report seeks to record key discussions in the Work Track, including  
6 issues raised, proposals put forward, benefits and drawbacks identified, and positions  
7 held by Work Track members. Please see Part 2, section f of this report for details. Part  
8 2, section f includes discussion of specific categories of terms and also reflects high-level  
9 discussion on broader issues, such as:

- Who owns a string? Who has rights to a string? What is the appropriate role of geographic communities and governments? (see f.1.2.1)
- What types of mechanisms should exist to exercise rights or establish roles in the process? (see f.1.2.2)
- What law and policy considerations should be taken into account? Which should take precedent? (see f.1.2.3)
- What is a geographic name for the purposes of the New gTLD Program? Does the intended use of the string matter? (see f.1.2.4)
- What are the key takeaways from the 2012 round for the purposes of future policy development and implementation? (see f.1.2.5)
- Are there alternate methods of consultations or collaborations in the application process that could satisfy all stakeholders? (see f.1.2.6)

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23  
24 During the public comment period, feedback is welcome on all aspects of the report,  
25 including ideas, positions, and proposals discussed in Part 2, section f.  
26

### 27 1.3 Deliberations and Community Input

28 The full Working Group formally sought community input through public comment on  
29 three occasions: (1) conducted outreach to all ICANN Supporting Organizations (SOs)  
30 and Advisory Committees (ACs) as well as GNSO Stakeholder Groups (SGs) and

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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.

## 26 2 Deliberations of the Working Group

### 27 28 **a. What is the relevant 2007 policy and/or implementation guidance** 29 **(if any)?** 30

<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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1 **Recommendation 5:** Strings must not be a reserved word.

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

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

9  
10 *There should be no geographical reserved names (i.e., no exclusionary list, no*  
11 *presumptive right of registration, no separate administrative procedure, etc.).*  
12 *The proposed challenge mechanisms currently being proposed in the draft new*  
13 *gTLD process would allow national or local governments to initiate a challenge,*  
14 *therefore no additional protection mechanisms are needed. Potential applicants*  
15 *for a new TLD need to represent that the use of the proposed string is not in*  
16 *violation of the national laws in which the applicant is incorporated.*

17  
18 *However, new TLD applicants interested in applying for a TLD that incorporates a*  
19 *country, territory, or place name should be advised of the GAC Principles, and the*  
20 *advisory role vested to it under the ICANN Bylaws. Additionally, a summary*  
21 *overview of the obstacles encountered by previous applicants involving similar*  
22 *TLDs should be provided to allow an applicant to make an informed decision.*  
23 *Potential applicants should also be advised that the failure of the GAC, or an*  
24 *individual GAC member, to file a challenge during the TLD application process,*  
25 *does not constitute a waiver of the authority vested to the GAC under the ICANN*  
26 *Bylaws.*

27  
28 Reserved Names Working Group Final Report further states:

29  
30 *We recommend that the current practice of allowing two letter names at the top*  
31 *level, only for ccTLDs, remains at this time. Examples include .AU, .DE, .UK.*

32  
33 **b. How was it implemented in the 2012 round of the New gTLD**  
34 **Program?**

35  
36 The first two versions of the Applicant Guidebook (AGB) required that strings must  
37 consist of three (3) or more visually distinct characters and that a meaningful  
38 representation of a country or territory name on the ISO 3166-1 standard must be

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

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



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1 evidence that the country is recognized by that name by an intergovernmental or  
2 treaty organization.

3  
4 Section 2.2.1.4.2 Geographic Names Requiring Government Support states that  
5 applications for the following strings must be accompanied by documentation of  
6 support or non-objection from the relevant governments or public authorities:

- 7  
8 1. An application for any string that is a representation, in any language, of the  
9 capital city name of any country or territory listed in the ISO 3166-1 standard.  
10 2. An application for a city name, where the applicant declares that it intends to  
11 use the gTLD for purposes associated with the city name.

12  
13 City names present challenges because city names may also be generic terms or  
14 brand names, and in many cases city names are not unique. Unlike other types  
15 of geographic names, there are no established lists that can be used as objective  
16 references in the evaluation process. Thus, city names are not universally  
17 protected. However, the process does provide a means for cities and applicants  
18 to work together where desired.

19  
20 An application for a city name will be subject to the geographic names  
21 requirements (i.e., will require documentation of support or non-objection from  
22 the relevant governments or public authorities) if:

23  
24 (a) It is clear from applicant statements within the application that the applicant  
25 will use the TLD primarily for purposes associated with the city name; and

26  
27 (b) The applied-for string is a city name as listed on official city documents.<sup>8</sup>

- 28  
29 3. An application for any string that is an exact match of a sub-national place name,  
30 such as a county, province, or state, listed in the ISO 3166-2 standard.  
31 4. An application for a string listed as a UNESCO region<sup>9</sup> or appearing on the  
32 "Composition of macro geographical (continental) regions, geographical sub-

---

<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 string. Rather, a government may elect to file a formal objection to an application that is opposed by the relevant community, or may submit its own application for the string.

<sup>9</sup> See <http://www.unesco.org/new/en/unesco/worldwide/>



1 criteria for a geographic name, 56 had acceptable supporting documentation of support  
2 or non-objection from the relevant applicable governmental authority, and of those, 54  
3 have been delegated.

4  
5 In addition, there were 18 strings which were the subject of one or more GAC Early  
6 Warnings that mentioned concerns related to the geographic nature of the string  
7 ((ROMA, AFRICA, SWISS, PERSIANGULF, PATAGONIA, CAPITAL, CITY, TOWN, VIN, YUN,  
8 广州 [GUANGZHOU], SHANGRILA, 香格里拉 [SHANGRILA], 深圳 [SHENZHEN], ZULU,  
9 AMAZON, DELTA, INDIANS).<sup>12</sup>

10  
11 Most of these strings were not contained on any of the lists in Section 2.2.1.4 of the  
12 Applicant Guidebook. Although some members of the GAC considered these strings to  
13 match geographic or geopolitical terms, these strings also corresponded to either  
14 generic terms or actual brand or company names. In almost all cases, the intended  
15 purposes for use of these applications as contained in the applicable Applicant's  
16 response related to generic or brand use. Treatment of these strings was inconsistent.  
17 Some of these TLDs were permitted to move forward, some were only permitted where  
18 an arrangement could be reached with the geographic territory in question, and others  
19 were either not allowed to proceed or are still the subject of dispute. For those cases  
20 where an arrangement with the geographic territory was reached, no further  
21 information is publicly available on the details of such arrangement.

### 22 23 ***c. What are the preliminary recommendations and/or*** 24 ***implementation guidelines?***

25  
26 Where recommendations reference the provisions of the 2012 Applicant Guidebook below, they  
27 refer to the text of the Applicant Guidebook as written and do not refer to any subsequent  
28 application of the Applicant Guidebook.

#### 29 30 **PRELIMINARY RECOMMENDATION #1:**

31  
32 As described in recommendations 2-9, the Work Track recommends, unless or until  
33 decided otherwise, maintaining the reservation of certain strings at the top level in  
34 upcoming processes to delegate new gTLDs. As described in recommendations 10-13,  
35 the Work Track recommends, unless or until decided otherwise, requiring applications  
36 for certain strings at the top level to be accompanied by documentation of support or  
37 non-objection from the relevant governments or public authorities, as applicable.

#### 38 39 **PRELIMINARY RECOMMENDATION #2:**

<sup>12</sup> <https://gacweb.icann.org/display/gacweb/GAC+Early+Warnings>

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**Commented [A5]:** Greg Shatan suggested changing  
"Some" to "Most" as only two of these strings were on  
the lists (Roma and Africa).

**Commented [A6R5]:** Text edited.

**Deleted:** Some

**Commented [A7]:** Greg Shatan suggested inserting  
this sentence to clarify the message of the next  
sentence.

**Commented [A8R7]:** Text edited.

**Commented [A9]:** Greg Shatan suggested adding  
"some or all". Per Greg "This takes into account the  
"intended use" aspect."

**Commented [A10R9]:** Some members did not feel  
comfortable with this edit. Staff has added "as  
applicable" following suggestion from Alan Greenberg.



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1 **PRELIMINARY RECOMMENDATION #4:**

2  
3 The Work Track recommends continuing to consider the following category a country  
4 and territory name which is reserved at the top level and unavailable for delegation, as  
5 stated in the 2012 Applicant Guidebook section 2.2.1.4.1.ii:

- 6  
7
  - long-form name listed in the ISO 3166-1 standard.

8  
9 The 2012 Applicant Guidebook provisions related to this category are inconsistent with  
10 the GNSO policy recommendations contained in the Introduction of New Generic Top-  
11 Level Domains from 8 August 2007. This recommendation makes the policy consistent  
12 with the 2012 Applicant Guidebook, and therefore represents a change to the existing  
13 policy recommendation. As currently written, the recommendation does not address  
14 the issue of translations of these strings, which were reserved in the 2012 Applicant  
15 Guidebook. Please see questions for community input in section e.

16  
17 **PRELIMINARY RECOMMENDATION #5:**

18  
19 The Work Track recommends continuing to consider the following category a country  
20 and territory name which is reserved at the top level and unavailable for delegation, as  
21 stated in the 2012 Applicant Guidebook section 2.2.1.4.1.iii:

- 22  
23
  - short-form name listed in the ISO 3166-1 standard.

24  
25 The 2012 Applicant Guidebook provisions related to this category are inconsistent with  
26 the GNSO policy recommendations contained in the Introduction of New Generic Top-  
27 Level Domains from 8 August 2007. This recommendation makes the policy consistent  
28 with the 2012 Applicant Guidebook, and therefore represents a change to the existing  
29 policy recommendation. As currently written, the recommendation does not address  
30 the issue of translations of these strings, which were reserved in the 2012 Applicant  
31 Guidebook. Please see questions for community input in section e.

32  
33 **PRELIMINARY RECOMMENDATION #6:**

34  
35 The Work Track recommends continuing to consider the following category a country  
36 and territory name which is reserved at the top level and unavailable for delegation, as  
37 stated in the 2012 Applicant Guidebook section 2.2.1.4.1.iv:

**Commented [A13]:** Deliberations section has been updated to reflect recent inputs on the topic of exceptionally reserved codes.

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- 1       • short- or long-form name association with a code that has been designated as  
2       “exceptionally reserved”<sup>14</sup> by the ISO 3166 Maintenance Agency.

3  
4       The 2012 Applicant Guidebook provisions related to this category are inconsistent with  
5       the GNSO policy recommendations contained in the Introduction of New Generic Top-  
6       Level Domains from 8 August 2007. This recommendation makes the policy consistent  
7       with the 2012 Applicant Guidebook, and therefore represents a change to the existing  
8       policy recommendation.

9  
10      **PRELIMINARY RECOMMENDATION #7:**

11  
12      The Work Track recommends continuing to consider the following category a country  
13      and territory name which is reserved at the top level and unavailable for delegation, as  
14      stated in the 2012 Applicant Guidebook section 2.2.1.4.1.v:

- 15  
16      • separable component of a country name designated on the “Separable Country  
17      Names List.” This list is included as an appendix to the 2012 Applicant  
18      Guidebook.

19  
20      The 2012 Applicant Guidebook provisions related to this category are inconsistent with  
21      the GNSO policy recommendations contained in the Introduction of New Generic Top-  
22      Level Domains from 8 August 2007. This recommendation makes the policy consistent  
23      with the 2012 Applicant Guidebook, and therefore represents a change to the existing  
24      policy recommendation. As currently written, the recommendation does not address  
25      the issue of translations of these strings, which were reserved in the 2012 Applicant  
26      Guidebook. Please see questions for community input in section e.

27  
28      **PRELIMINARY RECOMMENDATION #8:**

29  
30      The Work Track recommends clarifying 2012 Applicant Guidebook section 2.2.1.4.1.vi,  
31      which designates the following category as a country and territory name which is  
32      reserved at the top level and unavailable for delegation:

- 33  
34      • permutation or transposition of any of the names included in items (i) through  
35      (v). Permutations include removal of spaces, insertion of punctuation, and

---

<sup>14</sup> [The definition of "exceptional reservations" in Section 7.5, Reservation of Code Elements in the current standard, \(ISO 3166-1:2013\(E/F\)\): "7.5.4 Exceptional reserved code elements: Code elements may be reserved, in exceptional cases, for country names which the ISO 3166/MA has decided not to include in this part of ISO 3166, but for which an interchange requirement exists. Before such code elements are reserved, advice from the relevant authority must be sought."](#)



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1 addition or removal of grammatical articles like “the.” A transposition is  
2 considered a change in the sequence of the long or short-form name, for  
3 example, “RepublicCzech” or “IslandsCayman.”  
4

5 The Work Track recommends clarifying that permutations and transpositions of the  
6 following strings are reserved:  
7

- 8 ● long-form name listed in the ISO 3166-1 standard.
- 9 ● short-form name listed in the ISO 3166-1 standard.
- 10 ● short- or long-form name association with a code that has been designated as  
11 “exceptionally reserved” by the ISO 3166 Maintenance Agency.
- 12 ● separable component of a country name designated on the “Separable Country  
13 Names List.” This list is included as an appendix to the 2012 Applicant  
14 Guidebook.

15  
16 Permutations and transpositions of alpha-3 code listed in the ISO 3166-1 standard  
17 should be allowed.  
18

19 The 2012 Applicant Guidebook provisions related to this category are inconsistent with  
20 the GNSO policy recommendations contained in the Introduction of New Generic Top-  
21 Level Domains from 8 August 2007. This recommendation clarifies the text from the  
22 2012 Applicant Guidebook and updates the policy to be consistent with the Work  
23 Track’s interpretation of 2012 Applicant Guidebook section 2.2.1.4.1.vi.  
24

#### 25 **PRELIMINARY RECOMMENDATION #9:**

26  
27 The Work Track recommends continuing to consider the following category a country  
28 and territory name which is reserved at the top level and unavailable for delegation, as  
29 stated in the 2012 Applicant Guidebook section 2.2.1.4.1.vii:  
30

- 31 ● name by which a country is commonly known, as demonstrated by evidence that  
32 the country is recognized by that name by an intergovernmental or treaty  
33 organization.  
34

35 The 2012 Applicant Guidebook provisions related to this category are inconsistent with  
36 the GNSO policy recommendations contained in the Introduction of New Generic Top-  
37 Level Domains from 8 August 2007. This recommendation makes the policy consistent  
38 with the 2012 Applicant Guidebook, and therefore represents a change to the existing  
39 policy recommendation.  
40

#### 41 **PRELIMINARY RECOMMENDATION #10:**

42



1 The Work Track recommends continuing to consider the following category a  
 2 geographic name requiring government support at the top level. Applications for these  
 3 strings must be accompanied by documentation of support or non-objection from the  
 4 relevant governments or public authorities:

- 5 • An application for any string that is an exact match of a sub-national place name,  
 6 such as a county, province, or state, listed in the ISO 3166-2 standard.

7  
 8  
 9 The 2012 Applicant Guidebook provisions related to this category are inconsistent with  
 10 the GNSO policy recommendations contained in the Introduction of New Generic Top-  
 11 Level Domains from 8 August 2007. This recommendation makes the policy consistent  
 12 with the 2012 Applicant Guidebook, and therefore represents a change to the existing  
 13 policy recommendation.

#### 14 **PRELIMINARY RECOMMENDATION #13:**

15  
 16  
 17 The Work Track recommends continuing to consider the following category a  
 18 geographic name requiring government support at the top level. Applications for these  
 19 strings must be accompanied by documentation of support or non-objection from the  
 20 relevant governments or public authorities:

- 21 • An application for a string listed as a UNESCO region<sup>15</sup> or appearing on the  
 22 “Composition of macro geographical (continental) regions, geographical sub-  
 23 regions, and selected economic and other groupings”<sup>16</sup> list.

24  
 25  
 26 In the case of an application for a string appearing on either of the lists above,  
 27 documentation of support will be required from at least 60% of the respective  
 28 national governments in the region, and there may be no more than one written  
 29 statement of objection to the application from relevant governments in the  
 30 region and/or public authorities associated with the continent or the region.

31  
 32 Where the 60% rule is applied, and there are common regions on both lists, the  
 33 regional composition contained in the “Composition of macro geographical  
 34 (continental) regions, geographical sub-regions, and selected economic and  
 35 other groupings” takes precedence.”

36  
 37 The 2012 Applicant Guidebook provisions related to this category are inconsistent the  
 38 GNSO policy recommendations contained in the Introduction of New Generic Top-Level  
 39 Domains from 8 August 2007. This recommendation makes the policy consistent with

<sup>15</sup> See <http://www.unesco.org/new/en/unesco/worldwide/>

<sup>16</sup> See <http://unstats.un.org/unsd/methods/m49/m49regin.htm>

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**Commented [A15]:** Greg Shatan suggested updating the link to <https://unstats.un.org/unsd/methodology/m49/>

**Commented [A16R15]:** See comments above.

**Commented [A17]:** Greg Shatan suggested changing this to “An application for a string listed as a UNESCO region<sup>1</sup> or appearing as a “geographic region,” “sub-region,” “intermediary region” or “other grouping”<sup>1</sup> on the “Standard country or area codes for statistical use”<sup>1</sup> list maintained by the United Nations Statistical Commission and commonly referred to as the M49 standard.”

**Commented [A18R17]:** Greg Shatan: This resource is no longer known by this name. The hard copy has not been published since 1999 and the online version does not use this name. Nonetheless, it seems people (but not the UN, as far as I can tell) still use it out of force of habit. Using this title also creates an ambiguity, since the list now includes “intermediary regions” which are parts of sub-regions. I suggest adding “intermediary regions” explicitly to avoid future disputes.

**Commented [A19R17]:** Given the timing of this feedback, staff suggests leaving this text as-is in the preliminary recommendation, noting this issue in the deliberations section (see f.2.3.4), and stating that additional research is underway (staff has this as an action item to investigate). Adjustments can be incorporated for the Final Report.





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- 1 • e6: To what extent should the following serve as a basis for the development of  
2 policies regarding geographic names?  
3 ○ International law  
4 ○ National/local law and policy  
5 ○ Norms and values (please specify)  
6 ○ Another basis not categorized above (please specify)

7 Please explain. Please see deliberations [section f.1.2.1 on pages 25-28 and](#)  
8 [section f.1.2.3 on pages 30-34](#) for context on this question.  
9

### 10 Country and Territory Names

- 11
- 12 • e6: In the 2012 Applicant Guidebook, a string was considered unavailable if it  
13 was a translation **in any language** of the following categories of country and  
14 territory names:  
15 ○ long-form name listed in the ISO 3166-1 standard.  
16 ○ short-form name listed in the ISO 3166-1 standard.  
17 ○ separable component of a country name designated on the “Separable  
18 Country Names List.”

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

- 21 ○ continue to reserve as unavailable translations in any language  
22 ○ reserve as unavailable translations in UN languages  
23 ○ reserve as unavailable translations in UN languages and the official  
24 languages of the country  
25 ○ reserve as unavailable translations in official languages of the country  
26 ○ reserve as unavailable translations in official and commonly used  
27 languages  
28 ○ reserve as unavailable translations in official and relevant national,  
29 regional, and community languages  
30 ○ reserve as unavailable translations in “principal languages” where the  
31 principal languages are the official or de facto national languages and the  
32 statutory or de facto provincial languages of that country  
33 ○ a combination of two or more categories above

34 In your view, which alternative is the best option? Please explain. Do you have  
35 suggestions for alternatives not included in the list above? Please see  
36 deliberations section [f.2.2.1.2 on pages 46-48](#) for context on this question.  
37

- 38 • e7: Some Work Track members have expressed that there should be a process in  
39 place to delegate 3-letter codes and/or other country and territory names to

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1 specific parties, such as relevant governments and public authorities or other  
2 entities. Do you believe that this is an issue on which Work Track 5 should make  
3 a recommendation? Please see deliberations section [f.2.2.1.1 on page 46](#) for  
4 context on this question.

## 6 **Geographic Names Requiring Government Support in the 2012 Applicant** 7 **Guidebook**

- 8
- 9 ● e8: In the 2012 round, applicants were required to obtain letters of support or  
10 non-objection from the relevant governments or public authorities for “An  
11 application for any string that is a representation, **in any language**, of the capital  
12 city name of any country or territory listed in the ISO 3166-1 standard”  
13 (emphasis added). In developing recommendations for future treatment of  
14 capital city names, the Work Track has considered several alternatives related to  
15 the “in any language” standard:
- 16 ○ translations in UN languages
  - 17 ○ translations in UN languages and the official languages of the country
  - 18 ○ translations in official languages of the country
  - 19 ○ translations in official and commonly used languages
  - 20 ○ translations in official and relevant national, regional, and community  
21 languages
  - 22 ○ translations in “principal languages” where the principal languages are  
23 the official or de facto national languages and the statutory or de facto  
24 provincial languages of that country
  - 25 ○ a combination of two or more categories above

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

- 29
- 30 ● e9: In the 2012 round, applicants were required to obtain letters of support or  
31 non-objection from the relevant governments or public authorities for “An  
32 application for a city name, where the applicant declares that it intends to use  
33 the gTLD for purposes associated with the city name.” The requirement applied  
34 if: “(a) It is clear from applicant statements within the application that the  
35 applicant will use the TLD primarily for purposes associated with the city name;  
36 and (b) The applied-for string is a city name as listed on official city documents.”  
37 Do you think that this requirement should be kept, eliminated, or modified in  
38 subsequent procedures? Please explain. Please see deliberations [section f.2.3.2](#)  
39 [on pages 59-69](#) for context on this question.





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1 Should additional types of strings have special treatment or rules in the  
2 Applicant Guidebook? If so, which ones and on what basis? Can the scope of the  
3 category be effectively established and limited? What are the boundaries of the  
4 category? If not, why not? As opposed to preventative restrictions, would any  
5 changes to objections, post-delegation mechanisms, or contractual provisions  
6 mitigate concerns related to these strings? Please see deliberations [section f.2.4](#)  
7 [on pages 72-78](#) for context on this question.  
8  
9

## 10 **f. Deliberations**

### 11 **f.1 PART I - ISSUE OVERVIEW**

#### 12 **f.1.1 INTRODUCTION**

13  
14  
15  
16 Work Track 5 was launched in November 2017 and has worked for nearly a year to  
17 review the policy and implementation from the 2012 round and develop preliminary  
18 recommendations on the future treatment of geographic names at the top-level in the  
19 New gTLD Program. Given the diversity of views on this topic and the fact that the  
20 ICANN has been debating related issues for many years, finding an agreed path forward  
21 has been a challenging task.  
22

23 The Work Track used a number of different strategies to gather input from the diverse  
24 set of participants in the group. The Work Track revisited the 2007 policy and did a deep  
25 dive into understanding the rules and procedures as implemented in the 2012  
26 application round. It mapped and analyzed the different elements of the 2012 process  
27 with respect to geographic names to ensure that there is a common understanding of  
28 the different program elements. It reviewed recent resolutions by the ICANN Board  
29 regarding specific cases from the 2012 round.<sup>17</sup> The Work Track reflected on both  
30 positive and negative experiences from the 2012 application round and considered  
31 issues experienced by applicants and other parties. It worked to develop principles that  
32 may guide the evaluation of options for future treatment of geographic names. The  
33 Work Track considered “pros” and “cons” of existing treatment from the 2012 Applicant  
34 Guidebook, as well as “pros” and “cons” of alternatives proposed by Work Track  
35 members. Finally, the Work Track sought to find convergence on areas where there  
36 might be agreement regarding future treatment.  
37

38 Deliberations uncovered some areas of possible compromise where members tended to  
39 either support or accept the existing terms in the 2012 Applicant Guidebook. Noting

---

<sup>17</sup> Specifically, the Work Track reviewed and discussed the following resolutions: [Further Consideration of .AMAZON Applications \(16 September 2018\)](#); [Further Consideration of Gulf Cooperation Council v. ICANN Independent Review Process Final Declarations \(3 October 2018\)](#).

1 that no official consensus calls have been taken prior to publication of the Initial Report,  
2 all preliminary recommendations are for discussion purposes at this stage and may  
3 change based on community input received through public comment, as well as further  
4 deliberations by the Work Track.

5  
6 In those areas where the Work Track put forward preliminary recommendations, the  
7 preliminary recommendations tended to support either maintaining or making minor  
8 adjustments to the existing provisions contained in the 2012 Applicant Guidebook.  
9 Some Work Track members noted that it may be difficult to move away from the 2012  
10 Applicant Guidebook terms, because these provisions already represented a form of  
11 compromise. There was no clear legal foundation upon which to base  
12 protections/restrictions. The initial draft version of the Applicant Guidebook was drafted  
13 by the ICANN Organization drawing on policies and implementation guidance developed  
14 through the GNSO. The 2012 treatment reflected in the final version of the Guidebook  
15 was primarily the result of discussions between the GAC, the ccNSO, and the ICANN  
16 Board and subsequent directives aimed at the ICANN Organization based on public  
17 policy and public interest considerations, with the GNSO and others having the  
18 opportunity to submit public comment on each updated draft version.

19  
20 In other topic areas, there is not yet a clear path forward. For these issue areas, the  
21 report includes options in section f and questions for community input in section e. The  
22 Work Track looks forward to receiving input from the community through public  
23 comment on preliminary recommendations, options, and questions that may help to  
24 inform further refinement of the Work Track’s outputs.

25  
26 **f.1.2 KEY ISSUES AND POINTS OF VIEW**

27  
28 Through the deliberations process, it was apparent that there are different views in the  
29 Work Track about which issues need to be addressed through policy and which  
30 corresponding mechanisms should exist in the implementation of the New gTLD  
31 Program. This section summarizes high-level themes that emerged in the discussions  
32 and outlines some of the points of view held by Work Track members.

33  
34 **f.1.2.1 Who owns a string? Who has rights to a string? What is the appropriate role of**  
35 **geographic communities and governments?**

36  
37 The 2012 Applicant Guidebook sought to address these questions by putting in place a  
38 combination of preventative and curative measures. Preventative measures included  
39 reserving country and territory names, therefore making them unavailable for use, and  
40 requiring applicants to obtain letters of support/non-objection from relevant  
41 governments or public authorities for specific types of geographic names. A range of  
42 curative rights were incorporated into the program more broadly and could be used in  
43 relation to geographic strings, as well as all other types of applications.  
44

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**Commented [A22]:** Annebeth Lange: This sentence should be modified. It could read as the complete 2012 Applicant Guidebook primarily was the result of discussions between the GAC etc. The GNSO presented a first version of the guidebook that caused a lot of discussion among the other stakeholders, since they had not been involved from the start (as they are now). What we are referring to here, is the result of the treatment of geographic names, where the GAC, the ccNSO had strong opinions, feeling that public interests had not been taken into consideration in the first place. So I would suggest changing it with adding the paragraphs containing the geonames.

**Commented [A23]:** 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.

**Commented [A24R23]:** Suggested edit.

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

- 5
- 6 ● No individual, entity, or group of people owns a string. This includes strings that  
7 may have geographic connotations.
- 8 ● There are different legitimate interests in a string and different potential  
9 legitimate uses of a string. There must be a clear basis for any one interest to  
10 take priority over others in determining how a string will be used or not used.
- 11 ● Any special rules, rights, privileges, or roles in the New gTLD Program should be  
12 rooted in international law, and there is no clear basis in international law  
13 justifying such special rules, rights, privileges, or roles for specific groups of  
14 stakeholders, including governments. Please see section [f.1.2.3](#) for additional  
15 discussion of law and policy considerations.
- 16 ● Governments do not always represent the interests of people and communities  
17 associated with a geographic location. There may be instances where the  
18 interests and positions of a national or local government diverge from the  
19 interests of the people associated with a given geographic location. There may  
20 be cases where people or a community associated with a geographic location  
21 would like to use a name associated with that place, but a national government  
22 does not support that use.

23  
24 With respect to people and communities associated with a place, some believe that:

- 25
- 26 ● Geographic terms have political, historical, economic, social, and sometimes  
27 religious connotations for populations and communities associated with those  
28 terms. People and communities associated with a geographic location have a  
29 strong interest in the use of these terms.
- 30 ● The perspectives of people associated with a geographic location are essential in  
31 determining how and where a geographic name will be used in different  
32 contexts.
- 33 ● The use of a string with geographic connotations in the DNS would have effects  
34 in the place associated with that term, and therefore there must be a voice in  
35 the process that represents the interests of the people.
- 36 ● Rules should take into account that there may be different norms and cultural  
37 factors in different parts of the world.

38  
39 With respect to governments and public authorities, some believe that:

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- Governments are representatives of the public interest and have responsibilities regarding the names of geographic locations as the primary identifiers in social, national, political and economic interactions and as identification of their peoples.
- The relevant governments and public authorities represent the interests of the people in a geographic region and have a responsibility to uphold the laws of that country.
- Governments should have a special role in determining the use of strings associated with geography in the DNS.
- City names in particular are subject to general/public interests represented by that city government. City governments act according to the laws and policies of the countries in which they are established and accountable under those laws and policies. Therefore, city governments should be consulted by those applying for city names.

With respect to brand applicants, some believe that:

- Brand applicants have legitimate interests in a string that corresponds to a brand and is also associated with the name of a city or other geographic location. These legitimate interests must be taken into account in the New gTLD Program.

The above points of view are closely connected to different perspectives on the applicability of international and national law. Please see section **f.1.2.3** for further discussion on the applicability of international and national law.

The Work Track discussed the role of the Governmental Advisory Committee both in the 2012 round and in subsequent procedures. In the 2012 round, a member of the GAC could provide an Early Warning on a New gTLD application, including but not limited to an application for a geographic name. This was a notice that an application was seen as potentially sensitive or problematic by one or more governments. An Early Warning was not a formal objection, nor did it directly lead to a process that could result in rejection of the application. In addition the GAC could provide consensus advice on any application to the ICANN Board, as described in Module 3 of the Applicant Guidebook.

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

- The GAC plays a unique role in the ICANN context and governments represented in the GAC have a particular interest and stake in the treatment of geographic terms.
- The role played by the GAC in the 2012 round was appropriate.

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- There may be opportunities to expand the role of the GAC to support predictability in the process.

Some believe that:

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

#### **f.1.2.2 What types of mechanisms should exist to exercise rights or establish roles in the process?**

As discussed in section f.1.2.1, the 2012 Applicant Guidebook sought to answer this question by implementing a set of preventative measures specific to certain types of geographic names, and a number of curative measures that applied to the program more broadly.

Work Track members expressed different views about how rights should be exercised and roles established for stakeholders in the New gTLD Program in relation to geographic names. The Work Track discussed two possible categories of mechanisms, noting that it is possible to use a combination of different types of mechanisms in program implementation. Preventative mechanisms in the Applicant Guidebook include 1) adding certain strings to lists of reserved names to make them unavailable for delegation and 2) requiring letters of support or non-objection from relevant governments or public authorities for certain types of applications. Curative mechanisms include objections processes, use of Public Interest Commitments, contractual provisions and enforcement, and post-delegation dispute resolution. Some in the Work Track believe that preventative and curative protections could be combined for creative solutions.

Some believe that protections in the New gTLD Program should focus on curative mechanisms, or at a minimum, believe that no additional preventative mechanisms should be adopted. More specifically, some believe that:

- ICANN policy has consistently disfavored reservations other than for technical reasons.
- In the past, any list-based exclusionary right has undergone strict scrutiny and has been applied narrowly.
- The ICANN policy-making process has traditionally favored curative rights over preventative rights.
- It is not unusual for different types of stakeholders to conduct monitoring related to gTLDs in which they are interested so that they may exercise curative rights. The scale of the gTLD environment is relatively limited, and automated processes can assist with monitoring. It should be possible for governments and other entities to effectively use curative mechanisms.

Some believe that there should be greater reliance on preventative mechanisms compared to the 2012 round, or at a minimum, believe that existing preventative mechanisms should remain in place. More specifically, some believe that:

- Reliance on curative rights presents a significant burden on governments, some of whom are not aware of ICANN or its activities, to monitor the application process to see if an application of interest has been submitted.
- Curative rights may present a particular burden for governments in developing countries with limited resources.
- Reliance on curative rights also presents a significant burden communities of people associated with a place.
- This challenge would potentially be even greater in a scenario where applications are accepted at regular intervals or on an ongoing basis in the future and if application volumes are high.
- It is a further burden to monitor the operation of TLDs and take action if a TLD is not meeting commitments stated in the application.

There are differences of opinion about whether preventative mechanisms grant rights to parties, for example whether requiring applicants to obtain a letter of support/non-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:

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**Commented [A25]:** Greg Shatan: I'm not sure what "blocking rights" refers to; this should probably be deleted. Same thing with "other systems that prevent a TLD from entering the market" (which could mean just about anything).

**Commented [A26R25]:** Greg, this was actually from an email you sent to the mailing list on 12 May: "ICANN policy has consistently disfavored reservations (other than for technical reasons), blocking rights and other systems that prevent a TLD (or second level domain) from entering the market. Any list-based exclusionary right has undergone strict scrutiny and has been applied narrowly, to a few particularly deserving parties." Therefore, it's no problem to remove the associated text here.

**Deleted:** , blocking rights and other systems that prevent a TLD from entering the market

**Deleted:** these

- 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 initial draft version of the Applicant Guidebook was drafted by the ICANN Organization drawing on policies and implementation guidance developed through the GNSO. The 2012 treatment reflected in the final version of the Guidebook was primarily the result of discussions between the GAC, the ccNSO, and the ICANN Board and subsequent directives aimed at the ICANN Organization based on public policy and public interest considerations, with the GNSO and others having the opportunity to submit public comment on each updated draft version.](#)

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:

- There is no basis in international law for governments to assert the right to provide support/non-objection for certain strings, which some members consider to be a "veto" power over applications for these strings.
- ICANN should not set policy by anticipating what international law may exist in the future.

<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 [A27]:** 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.

**Commented [A28R27]:** Since this statement is prefaced by "Some believe that," staff suggests leaving as-is for readers to judge. This is also something WT members can comment on in public comment.

**Commented [A29]:** Annebeth Lange: This sentence should be modified. It could read as the complete 2012 Applicant Guidebook primarily was the result of discussions between the GAC etc. The GNSO presented a first version of the guidebook that caused a lot of discussion among the other stakeholders, since they had not been involved from the start (as they are now). What we are referring to here, is the result of the treatment of geographic names, where the GAC, the ccNSO had strong opinions, feeling that public interests had not been taken into consideration in the first place. So I would suggest changing it with adding the paragraphs containing the geonames.

**Commented [A30]:** 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.

**Commented [A31R30]:** Suggested edit.

**Deleted:** The 2012 Applicant Guidebook was primarily the result of represents and compromised discussions between the GAC, the ccNSO, the ICANN Board and subsequent directives aimed at the ICANN Organization based on public policy and public interest considerations. ¶

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1 With respect to international law, some believe that:

- 2
- 3 ● Ongoing work at UNESCO and WIPO on geographic names is international law “in
- 4 the making” and should be reflected in policy.

5 There was discussion on the specific issue of rights to freedom of expression rights  
6 under international law. Some believe that:

- 7
- 8 ● Freedom of expression rights give different types of applicants the right to apply
- 9 for strings, including strings with geographic connotations.

10

11 Some looked at freedom of expression from the standpoint of potential registrants or  
12 constituents in a geographical location and believe that:

- 13
- 14 ● Freedom of expression rights give rights to people associated with a place. If a
- 15 business controls a TLD with geographic connotations, and the people associated
- 16 with that place later want to use that name as a TLD but are unable to do so, this
- 17 may impact the free expression rights of the people connected to the geographic
- 18 place.

19

20 The Work Track discussed the applicability of national law in relation to the use of  
21 geographic names as TLDs. Some believe that:

- 22
- 23 ● The rights and responsibilities of national and local governments with respect to
- 24 geographic names are established in public policy and law instruments in
- 25 different countries.
- 26 ● Delegation of TLDs with geographic connotations have impacts within the
- 27 applicable country, and a legal challenge based on national law would have an
- 28 impact worldwide.
- 29 ● ICANN is obligated to follow applicable national and local laws and policies that
- 30 give governments rights and responsibilities over geographic names.
- 31 ● GDPR provides an example of a case where ICANN is making efforts to comply
- 32 with local law.
- 33



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1 Specific laws and legal cases in different jurisdictions were cited by certain Work Track  
2 members as evidence that national law applies to the use of geographic names in the  
3 DNS.<sup>20</sup>

<sup>20</sup> Work Track members have referenced the following laws and legal cases:

- According to one Work Track member, cities have rights to protect their names under the Article 29 of the Swiss civil code. Provisions prevent the registration of business names and trademarks that solely consist of city names: "1 If a person's use of his or her name is disputed, he or she may apply for a court declaration confirming his rights. 2 If a person is adversely affected because another person is using his or her name, he or she may seek an order prohibiting such use and, if the user is at fault, may bring a claim for damages and, where justified by the nature of the infringement, for satisfaction."
  - One perspective is that this provision does not provide for prior restraint on speech but instead provides a means for settling disputes through the courts.
  - Another perspective is that the law demonstrates that there is a public interest in protecting geographic names that government authorities can pursue.
    - A [case](#) based on Article 29 was referenced.
- One Work Track member mentioned a [case](#) regarding the TLD France.com as evidence that governments have rights under national law over the use of geographic names as TLDs.
- One Work Track members shared information about a case from the High court in Italy related to a geographic name: Cass. n. 16022/2000. According to the Work Track member, under Italian law, the elected body (the mayor, the president of the regional council) of the corresponding name may act to protect the interest of the community it represents.
- A Work Track member shared a [link](#) to rules in the UK regarding unacceptable trademarks. The page states that "We cannot guarantee that the name of a company accepted for registration at Companies House is acceptable by us as a registered trade mark. The company name may not qualify as a trade mark because, for example: It may indicate geographical origin."
- A Work Track member shared [UK rules](#) on what may and may not be a company name. According to the Work Track member, a letter of non-objection is required in situations where an entity is effectively representing itself as associated with a region, government department, or regulated profession. UK laws regarding business names do not allow businesses to use a name or term which denotes (or might be confused with or denote) an official authority or body when there is no connection to that body.
  - One Work Track member stated that UK laws regarding use a name or term which denotes (or might be confused with or denote) an official authority or body when there is no connection to that body is not a geographic limitation.
- A Work Track member shared a [link](#) from German case law.
- One Work Track member referenced Article 38 of the Statue of the International Court of Justice as an authoritative codification of International Law sources. Art 38 requires the ICJ to apply: (a) international conventions [treaties] whether general or particular, establishing rules expressly recognized by states; (b) international custom, as evidence of a general practice accepted as law by states; (c) the general principles of law recognized by civilized nations; (d) and in some cases



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1  
2 Some believe that:

- 3  
4
- 5 ● Trademarks offer a specific right in a specific jurisdiction to use the mark in connection with specific goods and services, and, where that right is infringed, to
  - 6 legally stop another party from imitating a mark or confusing customers.
  - 7 ● The right is limited and curative in nature. It is focused on consumer protection and prevention of imitations.
  - 8
  - 9 ● “Monopolization”<sup>21</sup> of a city name by private parties is forbidden under laws
  - 10 pertaining to business names and trademark registration in some jurisdictions.
  - 11 ● Rights granted to geographic locations to protect geographic names are
  - 12 qualitatively different than intellectual property rights. In this view, civil rights
  - 13 are more general in scope and therefore more significant.

**Commented [A37]:** Greg Shatan: This is a term with a specific meaning in antitrust/competition law, and it is not used properly here. Where are we discussing legal rights, we should use legal terms carefully and within their legal meaning.

**Commented [A38R37]:** Footnote added.

**Commented [A39]:** Suggested edit from Greg Shatan: “In this view, these rights are “civil: rights are more general in scope and therefore more significant.”

14  
15 Work Track members discussed the role of public policy in the context of the New gTLD

**Commented [A40R39]:** Unclear what is being proposed here. Clarification on proposed edit is welcome.

16 Program. Some believe that:

- 17
- 18 ● ICANN policy is not always based in law. In the 2012 round, there were program
  - 19 elements, rights, and rules that were created for policy reasons that were not
  - 20 explicitly rooted in law, for example Community Priority Evaluation, background
  - 21 screenings, GAC advice, and reserved names at the top level. It is appropriate to
  - 22 provide rights to governments related to geographic names for policy reasons.

23 **f.1.2.4 What is a geographic name for the purposes of the New gTLD Program? Does**

24 **the intended use of the string matter?**

25  
26 In the 2012 Applicant Guidebook, there were specific lists provided to define which

27 terms were eligible for special rules. This included a definition of country and territory

28 names that were considered unavailable for delegation, and a definition of geographic

29 names that required governments support or non-objection from relevant governments

30 or public authorities.

31  
32 Work Track members had different perspectives on what constitutes a geographic name

33 for the purposes of the New gTLD Program. For example, some believe that:

- 34
- 35 ● For the purposes of the program, geographic names should be clearly defined in
  - 36 the Applicant Guidebook along with any corresponding rules or requirements for

---

<sup>21</sup> One Work Track member stated that this is a term with a specific meaning in antitrust/competition law, and it is not used properly in this context. Note that the point is written as expressed by another Work Track member, and therefore the Initial Report seeks to reflect the point as it was raised.

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1 those strings. Any strings not listed in the Applicant Guidebook are not  
2 geographic names for the purposes of the program and should have no special  
3 rules, requirements or restrictions.

4  
5 However, some believe in a broader definition that:

- 6  
7 ● A geographic name for the purposes of the New gTLD Program should be any  
8 term that has a geographic meaning or connotation according to a government  
9 or community associated with that term. Rights, rules, and or requirements  
10 should exist to ensure that these interested stakeholders “have a say” in the  
11 process for any application of this type.
- 12 ● Some Work Track members suggested that the WT should draw on the Manual  
13 for the national standardization of geographical names by United Nations Group  
14 of Experts on Geographical Names as a resource. The Manual defines a  
15 geographical name as the proper name (a specific word, combination of words,  
16 or expression) used consistently in language to refer to a particular place,  
17 feature or area having a recognizable identity on the surface of the Earth
- 18 ● Another suggestion was to use the [U.S. Board on Geographic Names](#) as a  
19 resource to define what constitutes a geographic name.

20  
21 Work Track members discussed whether the intended use of the string, as presented in  
22 an application for a TLD, should be taken into consideration in the treatment of the  
23 application. In other words, is a string with a geographic connotation in addition to  
24 other meanings always a geographic name regardless of the way it is used? Alternately,  
25 is it only a geographic name if it is used in association with its geographic meaning? The  
26 Work Track discussed that a term corresponding to a geographic location could  
27 correspond to the names of other geographic locations, and could also correspond to a  
28 generic word or a brand. Numerous specific examples of such strings were discussed.

29 From one perspective, the same rules should apply for terms that correspond to  
30 geographic terms, regardless of how the applicant intends to use the string as a TLD.

31 Some believe that:

- 32 ● TLDs are a unique resource. Some Work Track members have contrasted this  
33 unique quality of TLDs with the use of names under trademark law. From this  
34 perspective, under trademark law, the principles of specialty and of trademark  
35 “fair use” apply, according to which it is possible for two brands to register  
36 trademarks for the same term in the same jurisdiction, as long as no confusion or

**Commented [A41]:** Greg Shatan suggested deleting this phrase.

**Commented [A42R41]:** Instead of editing text that another WT member has submitted, staff has added a footnote.

**Commented [A43]:** Greg Shatan suggested inserting “they are used for unrelated goods and services and”

**Commented [A44R43]:** Instead of editing text that another WT member has submitted, staff has added a footnote.

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1 infringement pursuant to the law arises.<sup>22</sup> In this view, the DNS is different  
2 because “parallel use” is not possible. In other words, if a string corresponding to  
3 a geographic term is delegated to one party, others who have an interest in that  
4 string are prevented from using it, potentially for a significant period of time or  
5 permanently.

- 6 ● Even if the intended use is non-geographic, the word still may have geographic  
7 connotations, and the applicant may benefit from these geographic associations.
- 8 ● It is important for governments or people associated with a place to be “at the  
9 table” for decisions about delegation, regardless of use, because of the unique  
10 nature of a TLD and the connotations of the word.
- 11 ● Regardless of the intended use, consumers may be confused about the potential  
12 association of a string and a geographic term.
- 13 ● Even where there is no risk of confusion, the same rules should apply due to the  
14 unique nature of the string.
- 15 ● It is impractical and challenging to set objective criteria for evaluating intended  
16 use in the application process and difficult to enforce distinctions based on  
17 intended use.
- 18 ● Obligations included in the contract between ICANN and the registry may have  
19 limited impact on what registrants do in practice. Therefore, an applicant may  
20 claim that they intend to use a term in a generic manner but the TLD may in  
21 practice be used in association with its geographic meaning, possibly without  
22 sufficient recourse.

23  
24 However, some believe that:

- 25 ● The unique nature of a TLD does not give a government primacy over the use of  
26 that TLD.
- 27 ● If a string is being used in a generic or brand context, there is no basis for a  
28 support/non-objection mechanism related to the use of that string. The  
29 geographic meaning should not prejudice the use of the string in another  
30 context.
- 31 ● The Registry Agreement includes the following language: “All material  
32 information provided and statements made in the registry TLD application, and

---

<sup>22</sup> [Some Work Track members believe that it would be a more accurate reflection of the law to state: “. . . under trademark law, it is possible for two brands to register trademarks for the same term in the same jurisdiction for unrelated goods and services, as long as no confusion or 37 infringement pursuant to the law arises.”](#)

1 statements made in writing during the negotiation of this Agreement, were true  
2 and correct in all material respects at the time made, and such information or  
3 statements continue to be true and correct in all material respects as of the  
4 Effective Date except as otherwise previously disclosed in writing by Registry  
5 Operator to ICANN.” This provision provides a possible means for recourse if the  
6 applicant misrepresented information in the application.

- 7 ● It should be possible to establish intended use in the application process,  
8 especially in the case of .brands. It should be feasible to put in place protections  
9 that help to ensure a non-geographic TLD does not mislead end-users or imply  
10 that it is an “official” TLD associated with a geographic place. Applicants could  
11 make and be held accountable to uphold commitments on how the registry will  
12 operate and how names will be allocated. Applicants could also demonstrate a  
13 willingness to cancel names which are used in a manner outside the way the  
14 registry operator intended.
- 15 ● In the case of .Brands, there are strict contractual qualifications included in  
16 Specification 13 of the Registry Agreement. If an applicant wants to keep  
17 benefits associated with Specification 13, it needs to abide by the terms of  
18 Specification 13. .Brands are not likely to change the use of the TLD because that  
19 undermines the qualification for Specification 13.
- 20 ● To the extent that there is risk of confusion, it should be possible to create a  
21 standard against which to manage these risks, for example by ensuring that the  
22 applicant does not represent that it is endorsed by a city or is the “official” TLD  
23 of a city when this is not the case. .Brands operate in such a manner that there  
24 should not be any confusion between a brand and TLD that is being operated in  
25 a geographic context.  
26

#### 27 **f.1.2.5 What are the key takeaways from the 2012 round for the purposes of future** 28 **policy development and implementation?**

29 The Work Track reflected on positive and negative experiences from the 2012 round,  
30 including from the perspective of:

- 31 ● Applicants who applied for terms defined as geographic names in the 2012  
32 Applicant Guidebook.
- 33 ● Applicants who applied for terms not defined as geographic names in the 2012  
34 Applicant Guidebook but who had negative experiences in the process related to  
35 the geographic connotations of the applied-for string.
- 36 ● Other parties involved in applications associated with either of the two  
37 categories above. This includes parties who raised objections to an application,

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**Commented [A45]:** Greg Shatan: Suggested adding the word “negative.” From Greg: “Experiences” is too vague and does not convey any actual information.

**Commented [A46R45]:** Edited, as the Work Track did not discuss any positive experiences with respect to this issue.

1 provided support for an application, or otherwise engaged during the course of  
2 the application process.

3  
4 The Work Track discussed a number of specific examples of cases where some believed  
5 that there were issues that need to be addressed in future policy and implementation.  
6 In many cases, there were differences of opinion about how the issue should be framed,  
7 whether a problem exists, and where there is agreement that a problem exists, how  
8 that problem should be defined. This fundamental challenge made it difficult for the  
9 group to progress to agreeing on possible solutions to address the problems identified.  
10 Nonetheless, some Work Track members proposed solutions to problems they believe  
11 exist.

12  
13 Some of the [problems and negative experiences](#) that Work Track members identified  
14 from the 2012 round include the following. Some believe that:

- 15
- 16 ● There was insufficient predictability, transparency and consistency in ICANN's  
17 implementation of the Applicant Guidebook.
- 18 ● It was not always clear to an applicant if special rules were applicable to a  
19 particular string.
- 20 ● Some applicants found it difficult to determine which relevant government or  
21 public authority was the appropriate point of contact for a letter of support or  
22 non-objection.
- 23 ● Some applicants were unable to obtain a timely response when they reached out  
24 to a relevant government or public authority to obtain a letter of support or non-  
25 objection.
- 26 ● Governments, public authorities, and other stakeholders are unaware of ICANN  
27 and the New gTLD Program, which may make it difficult for them to raise  
28 objections and, in the case of governments, respond effectively and quickly to  
29 requests for support/non-objection.
- 30 ● Stakeholders may not be familiar with ICANN and its processes.
- 31 ● [Rules in the 2012 Applicant Guidebook worked poorly for applicants who](#)  
32 [intended to use a string in association with a meaning other than its geographic](#)  
33 [meaning. These applicants experienced difficulties, delays, and expenses. From](#)  
34 [this perspective, requirements to obtain letters of support or non-objection from](#)  
35 [relevant governments or public authorities imposed an arbitrary and unfair](#)  
36 [burden without any basis other than coincidence. The inability to delegate and](#)  
37 [operate these TLDs in a timely manner had negative effects on diversity,](#)  
38 [innovation, and competition in the TLD space.](#)
- 39 ● There was a perception that some applicants were required to make concessions  
40 to governments to obtain support/non-objection. Other Work Track members

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**Commented [A47]:** This list has been updated based  
on comments from Greg Shatan on page 43.





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**services** to assist if the applicant disagrees with the response received by a government or public authority.

- Proposal to address the suggested problem that governments, public authorities, and other stakeholders are unaware of ICANN and the New gTLD Program, which may make it difficult for them to raise objections and, in the case of governments, respond effectively and quickly to requests for support/non-objection: **Establish a program to heighten the awareness** of governments and others regarding the gTLD program so that they will be more likely to seek or support a registration for the relevant geographic name. This could be accompanied by structured support and advice to maximize the opportunities for future applicants for geographic names.
- Proposal to address the suggested problem that some applicants were unable to obtain a timely response when they reached out to a relevant government or public authority to obtain a letter of support or non-objection: **In any circumstance where a letter of support or non-objection is required from a relevant government authority, establish a deadline by which the government must respond to the request.** If no response is received, this is taken as non-objection.

Benefits	Drawbacks
Some believe that this requirement provides greater predictability for applicants.	Some believe that this may be a burden on governments, particularly governments with limited staffing resources and those who lack knowledge of ICANN or experience with ICANN's processes.
Some believe that without this type of deadline there is not sufficient motivation for governments to assign a single point of contact to address issues related to such requests and little incentive to respond in a timely manner.	

Work Track members expressed different perspective on the scope of protections/restrictions from the 2012 round. Some believe that protections/restrictions were too strong, while others felt they were too weak. Work Track members put forward proposals to change the level of protection/restriction in the program overall. For proposals relating to specific categories of strings, please see the relevant sub-sections.



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1 preventative in nature. Each government or public authority has a defined  
 2 opportunity to object based on standards to be established. The right to object  
 3 expires after a set period of time. Objections are filed through one of the existing  
 4 objection processes or a variation on an existing process. A set of standards  
 5 would need to be established to determine what constitutes a relevant  
 6 government or public authority. This proposal could apply to all or some of the  
 7 categories of geographic names included in the 2012 Applicant Guidebook.

8  
 9 The following proposals were put forward by Work Track members who believe that  
 10 existing protections/restrictions included in the 2012 Applicant Guidebook should be  
 11 increased:

- 12
- 13 ● **If an applicant applies for a string that is confusingly similar to a geographic**  
 14 **term that requires a letter of government support or non-objection, the**  
 15 **applicant should be required to obtain a letter of government support/non-**  
 16 **objection.** As an example, a common misspelling of a geographic name would be  
 17 considered confusingly similar.
- 18 ● **At the end of the registry contract period, a government entity has the option**  
 19 **of becoming engaged and can add provisions to the contract** that specifies  
 20 conditions rather than there being an assumption that the contract will be  
 21 renewed.
- 22

Benefits	Drawbacks
Some believe that this proposal would allow for worthwhile private investment for a limited period while also allowing review by any public entity after a period of time if they choose to become involved.	Some believe that this proposal would require TLDs to be incorporated in the local jurisdiction under local law.

- 23
- 24 ● **A TLD associated with geography should be incorporated within the jurisdiction**  
 25 **of the relevant government and subject to local law.**
- 26

27 Work Track members discussed positive experiences in the 2012 round, with a focus on  
 28 “city TLDs” or TLDs for which the applicant intended to use the string in association with  
 29 its geographic meaning as a city name. Some believe that:

- 30
- 31 ● Rules in the 2012 Applicant Guidebook worked well for these applicants.

- Requirements to obtain letters of support or non-objection from relevant governments or public authorities helped to ensure that subsequent steps in the process were relatively smooth for applicants.
- The delegation and operation of these TLDs had positive effects on geographical, cultural and linguistic diversity of the TLD space.

**f.1.2.6 Are there alternate methods of consultations or collaborations in the application process that could satisfy all stakeholders?**

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

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

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

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

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

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

**f.1.3 PRINCIPLES AND VALUES**

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**Commented [A52]:** 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 requirement 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.”

**Commented [A53R52]:** Greg Shatan comment: There needs to be a parallel statement to the one above.

**Commented [A54R52]:** Incorporated into the list of problems identified on page 38.

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1 The Work Track discussed potential principles that may be used to guide the  
2 development of future policy on geographic names. The principles were discussed in the  
3 context of city names (see section [f.2.3.2](#)) and additional types of terms not included in  
4 the 2012 Application Guidebook (see section [f.2.4](#)), but they may be applicable more  
5 broadly. Proposed principles include:  
6

- 7 ● In alignment with [Principle C](#) from the 2007 GNSO recommendations on new  
8 gTLDs, the program should allow for the introduction of new gTLDs.
- 9 ● In alignment with [Principle A](#) from the 2007 GNSO recommendations on new  
10 gTLDs, enhance the predictability for all parties.
- 11 ● Reduce the likelihood of conflicts within the process, as well as after the process  
12 concludes and TLDs are delegated.
- 13 ● Policies and processes should be simple to the extent possible.

14  
15 Work Track members discussed the applicability of national and international law in the  
16 discussion of principles. Perspectives on this issue are summarized in section [f.1.2.3](#). The  
17 Work Track also considered additional values that may be taken into account in  
18 considering policy options for subsequent procedures. These include competition and  
19 consumer choice,<sup>23</sup> security and stability, and transparency.  
20

21 Work Track members expressed different opinions about how to bring policy in line with  
22 these principles. For example, some believe that the best way to achieve predictability is  
23 to apply the support/non-objection mechanism more broadly as a means to reduce  
24 conflicts later in the application process or after delegation. Others believe that the best  
25 way to ensure predictability is to have clear, transparent criteria that apply to all  
26 applications, to evaluate applications and objections based on objective standards, and  
27 to clarify in the Applicant Guidebook that, where a string is not listed as a geographic  
28 term, public authorities do not have the right to prevent an application from moving  
29 forward.  
30

31 Similarly, Work Track members did not reach agreement about how these principles and  
32 values may be weighed against one another in cases where they come in conflict. For  
33 example, some Work Track members felt that the principle of simplicity should be  
34 considered a key principle in evaluating all possible solutions, while others felt that the  
35 objective of simplicity should be balanced against other program objectives and the  
36 needs of different stakeholders in the process.  
37

---

<sup>23</sup> The New gTLD Subsequent Procedures PDP Working Group and Work Track 5 will take into account recommendations from the Competition, Consumer Trust, and Consumer Choice Review Team as applicable.

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1 **f.2 PART II - CATEGORIES OF STRINGS INCLUDED IN THE 2012 APPLICANT**  
2 **GUIDEBOOK**

3  
4 **f.2.1 TWO-LETTER ASCII STRINGS**

5 The 2012 Applicant Guidebook specified that two-character<sup>24</sup> ASCII strings were not  
6 permitted to be delegated, which was consistent with recommendations of the  
7 Reserved Names Working Group referenced in the 2007 Policy. This included  
8 combinations of two letters (for example .yz), combinations of two digits (for example  
9 .12), and combinations of a letter and a digit (for example .a1 or .1a). The Work Track  
10 noted that Work Track 2 of the New gTLD Subsequent Procedures PDP Working Group is  
11 considering single letter and single digit combinations. Members generally agreed that  
12 two-character codes containing digits are not geographic names and therefore focused  
13 on letter-letter combinations.

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

- 15
  - If letter-digit combinations are available in subsequent procedures, there may be  
16 a risk of confusion between certain letter-digit combinations and confusingly  
17 similar letter-letter combinations (for example .IO and .IO).

18  
19 Some believe that:

- 20
  - In the 2012 round, string similarity processes took into account all existing TLDs,  
21 including ccTLDs. If future processes work in the same manner, risk of similarity  
22 will be addressed through these processes.

23  
24 This issue will be explored further by the full Working Group as it considers public  
25 comments on the full Working Group's Initial Report.

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

- 29
  - There is a longstanding association between two-character ASCII letter-letter  
30 combinations and ccTLDs, which is rooted in early Internet Engineering Task  
31 Force (IETF) Requests for Comments (RFCs).

---

<sup>24</sup> The term "character" refers to either a single letter (for example "a") or a single digit (for example "1").

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- 1 ● The current AGB rules restricting two-character ASCII letter-letter combinations  
2 as gTLDs has helped to make a clear distinction between the ccTLD space and the  
3 gTLD space.
- 4 ● Reliance on the ISO 3166 Part 1 list of alpha-2 codes as a basis for two-letter  
5 country codes has historically worked well and offers a predictable system to use  
6 as a point of reference.
- 7 ● Two-letter combinations are available in case new entries are added to the ISO  
8 3166 Part 1 list of alpha-2 codes and new countries are established that want a  
9 ccTLD. According to RFC 1591, the IANA is not in the business of deciding what is  
10 and what is not a country.
- 11 ● End users can see a clear distinction between ccTLDs and gTLDs, which may help  
12 to avoid confusion between the two.
- 13 ● Provides an objective, consistent rule that is easy to apply.
- 14 ● Is consistent with preliminary outcomes of the Cross-Community Working Group  
15 of Use of Country and Territory Names as TLDs. The CCWG reached preliminary  
16 consensus in support of maintaining the 2012 treatment for two-character ASCII  
17 strings.<sup>25</sup>

18 Work Track members also identified drawbacks to maintaining treatment in the 2012  
19 Applicant Guidebook. Some believe that:

- 20 ● There is a possibility of opportunities lost in the gTLD space, although these are  
21 difficult to assess.
- 22 ● The distinction between ccTLDs being two-characters and gTLDs being three or  
23 more characters is meaningless and unnecessary.
- 24 ● Some ccTLDs essentially operate as gTLDs without the restrictions associated  
25 with gTLDs, blurring the distinction between ccTLDs and gTLDs. TLDs are taking  
26 advantage of the assumption that all 2-letter TLDs are ccTLDs. It does not make  
27 sense to say that 2-letter strings should be reserved for countries when some  
28 ccTLDs are not operating in a manner consistent with this approach.
  - 29 ○ Others believe that in most cases ccTLD operators are not-for-profit  
30 organizations that work to improve their local Internet ecosystems, give  
31 back to their country and represent their country's name in the best  
32 possible way.
- 33 ● Some ccTLD managers also operate gTLDs, further blurring the distinction  
34 between ccTLDs and gTLDs.

<sup>25</sup> <https://ccnso.icann.org/sites/default/files/field-attached/ccwg-ctn-final-paper-15jun17-en.pdf>

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1  
2 There was no clear agreement to change the terms included in the 2012 Applicant  
3 Guidebook. Therefore, the Work Track is putting forward a preliminary  
4 recommendation for community feedback to maintain reservation of two-letter ASCII  
5 strings, consistent with provisions in the 2012 Applicant Guidebook.

## 6 **f.2.2 COUNTRY AND TERRITORY NAMES**

7 As described in section [a](#), no reserved geographic names were anticipated in the 2007  
8 Policy. The 2012 Applicant Guidebook diverges from the policy and lists seven categories  
9 of country and territory names that were reserved and unavailable for delegation (see  
10 section [b](#) for a list of these categories). The Work Track discussed, in general, the  
11 reservation of country and territory names on this list, as well as issues related to  
12 specific categories of country and territory names.

### 13 **f.2.2.1 Themes**

#### 14 **f.2.2.1.1 Delegation of Country and Territory Names**

15 As an overarching issue applying to country and territory names, there are different  
16 opinions about whether these strings should be available for delegation, and if they  
17 should be delegated, which parties should be eligible to apply. Some believe that these  
18 strings should be widely available for delegation to different parties. Some believe they  
19 should simply remain reserved. Some believe that countries should have an exclusive  
20 opportunity to apply for their country and territory names. Among those who support  
21 delegation of these strings to countries and territories exclusively, there are different  
22 perspectives about how this delegation should occur. Some believe that:

- 23 ● These names should not be delegated through the New gTLD process.
- 24 ● Delegation of country and territory names should only occur through local policy  
25 authorities.
- 26 ● These strings should be delegated as something other than a gTLD, for example a  
27 ccTLD or a new category of TLD.

28  
29 Some believe that:

- 30 ● Moving delegation of these strings to local authorities is inconsistent with the  
31 objective to provide clarity, certainty, predictability, and fairness for applicants.
- 32 ● If these strings are delegated, the delegation should occur through the New gTLD  
33 Program.

34  
35 There are different perspectives in the Work Track about whether it is within the scope  
36 of Work Track 5 to answer broad questions about which specific entities can apply for



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1 country and territory names and how these TLDs may be treated (for instance, as a  
2 gTLD, a ccTLD or something else). It has been suggested that this topic should be  
3 deferred to another ICANN process or vehicle created to specifically to address this  
4 topic.

5 **f.2.2.1.2 Reservation of Translations “In Any Language”**

6 In the 2012 Applicant Guidebook, a string was considered unavailable if it was a  
7 translation **in any language** of the following categories of country and territory names:

- 8
- 9 ● long-form name listed in the ISO 3166-1 standard.
- 10 ● short-form name listed in the ISO 3166-1 standard.
- 11 ● separable component of a country name designated on the “Separable Country  
12 Names List.”

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

- 16
- 17 ● This provision should remain in place unless there is a factual basis for limiting  
18 the languages covered in this provision.
- 19 ● Many languages may be spoken by and relevant to communities within a given  
20 country, and the list should therefore not be limited.
- 21 ● To reduce uncertainty, ICANN could produce an exhaustive list of all translations  
22 in all languages.

23  
24 Some Work Track members raised points against maintaining the “in any language”  
25 standard. Some believe that:

- 26
- 27 ● The provision is overbroad, results in a very large number of reserved strings,  
28 and does not provide a clear, objective, and finite list that can be used as  
29 reference.
- 30 ● It is not predictable or transparent.
- 31 ● It contradicts the overarching policy concept that reserving strings should be  
32 done conservatively and must be based on an underlying policy justification.
- 33 ● Some languages are spoken by very few people, therefore reserving  
34 representations in all languages may not be appropriate.

35  
36 In developing recommendations for future treatment of country and territory names,  
37 the Work Track has considered several alternatives related to translation:

- 38
- 39 ● continue to reserve as unavailable translations in any language

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- 1           o Variant: “in any script”
- 2       ● reserve as unavailable translations in UN languages
- 3           o Variants: “including but not limited to official UN languages,” UN
- 4           language plus Portuguese
- 5           o Points in support: clear, finite list
- 6           o Points against: official UN languages are not necessarily the most
- 7           important languages in many countries
- 8       ● reserve as unavailable translations in official languages of the country
- 9           o Points in support: [Working Paper 54](#) of the UN Group of Experts on
- 10          Geographical Names (UNGEGN) could be used as a starting point for this
- 11          list, [Expanded Graded Intergenerational Disruption Scale and](#)
- 12          [categorization based on Official Recognition](#) could be used as a starting
- 13          point for this list
- 14          o Points against: difficult to identify the official languages of each country,
- 15          some countries may not have official languages, administrations in many
- 16          countries use languages that are not official, people of the country also
- 17          use languages that may not be official but are important to specific
- 18          communities
- 19       ● reserve as unavailable translations in UN languages and the official languages of
- 20       the country
- 21           o See above for relevant points in support and against
- 22       ● reserve as unavailable translations in official and commonly used languages
- 23           o Points in support: this category would cover languages used by people in
- 24           the country that are important to specific communities
- 25           o Points against: This is not a category with clear boundaries or definition
- 26       ● reserve as unavailable translations in official and relevant national, regional, and
- 27       community languages
- 28           o Points in support: this category would cover languages used by people in
- 29           the country that are important to specific communities
- 30           o Points against: This is not a category with clear boundaries or definition
- 31       ● reserve as unavailable translations in “principal languages” where the principal
- 32       languages are the official or de facto national languages and the statutory or de
- 33       facto provincial languages of that country
- 34           o Points in support: this category address some of the concerns raised
- 35           about the limitations of “official languages,”\_draws on existing
- 36           categorization from [ethnologue.com](#)
- 37           o Points against: Additional work would be needed to ensure this category
- 38           has clear boundaries

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- a combination of two or more categories above

The Work Track welcomes community feedback on these alternatives. Please see section [e](#) for a specific question for community feedback on this topic.

#### **f.2.2.2 Alpha-3 code listed in the ISO 3166-1 standard**

**Commented [A55]:** Edits to this subsection reflect comments from Greg Shatan on recommendation 3.

The Work Track considered that the Cross-Community Working Group on Use of Country and Territory Names (CWG-UCTN) discussed extensively the treatment of alpha-3 codes listed on the ISO 3166 Part 1 standard. An analysis of the different positions on this issue is available in the CWG-UCTN Final Report.<sup>26</sup> The Work Track noted that the CWG-UCTN was unable to reach consensus on the future treatment of these strings.

Work Track members raised points in support of continuing to reserve alpha-3 codes listed on the ISO 3166 Part 1 standard. Some believe:

- This has historically been a challenging issue for the ICANN community to resolve and absent evidence that a different approach is supported, the 2012 Applicant Guidebook treatment should apply.
- Avoids potential end user confusion related to the geographic connotations of these codes.
- Allows countries to protect codes with which many nations identify strongly.
- Only reserves a small subset of all possible combinations of three letters, leaving plenty of opportunity for applicants to apply for other available strings that are comprised of three letters.

Work Track members raised points against continuing to reserve alpha-3 codes listed on the ISO 3166 Part 1 standard. Some believe:

- There is no clear historical justification for maintaining reservation of these strings. Absent such a justification, these strings should be available for delegation.
- There is no clear justification to the assertion that governments “own” these strings. COM is the alpha-3 code for Comoros according to the ISO 3166 Part 1 standard, but .com was delegated long ago, indicating that there is not an established practice of governments “owning” alpha-3 codes listed on the ISO 3166 Part 1 standard. [These codes are not ccTLDs.](#)

<sup>26</sup> <https://ccnso.icann.org/sites/default/files/field-attached/ccwg-ctn-final-paper-15jun17-en.pdf>



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1 There was no clear agreement to change the terms included in the 2012 Applicant  
2 Guidebook. Therefore, the Work Track is putting forward a preliminary  
3 recommendation for community feedback to maintain reservation alpha-3 codes listed  
4 on the ISO 3166 Part 1 standard, consistent with provisions in the 2012 Applicant  
5 Guidebook.

6 **f.2.2.3 Short-form or Long-form name listed in the ISO 3166-standard, or a translation**  
7 **of the short-form or long-form name in any language**

8 Work Track members raised points in support of continuing to reserve short-form and  
9 long-form names listed in the ISO 3166-1 standard. Some believe that:

- 10 ● The ISO list provided an easy, predictable, and objective standard to follow.  
11 Work Track members raised points against continuing to reserve short-form and long-  
12 form names listed in the ISO 3166-1 standard. Some believe:
- 13 ● There are potential missed opportunities for gTLDs.
  - 14 ● There is no opportunity for an applicant supported by the relevant country to  
15 move forward with an application.

16 For discussion of provisions reserving translations “in any language,” including points in  
17 support and against, as well as alternatives proposed, please see section [f.2.2.1.2](#). For  
18 discussion about the delegation of country and territory names to governments, please  
19 see section [f.2.2.1.1](#).

20 There was no clear agreement to change the terms included in the 2012 Applicant  
21 Guidebook. Therefore, the Work Track is putting forward a preliminary  
22 recommendation for community feedback to maintain reservation of short-form and  
23 long-form name listed in the ISO 3166-standard, consistent with provisions in the 2012  
24 Applicant Guidebook. It is not making a preliminary recommendation at this time  
25 regarding translations of these names and is instead seeking community input.

26 **f.2.2.4 Short- or long-form name association with a code that has been designated as**  
27 **"exceptionally reserved" by the ISO 3166 Maintenance Agency**

28 The Work Track discussed points in support of and against continuing to reserve names  
29 in this category. Work Track members noted that these are similar to benefits and  
30 drawbacks identified for short-form and long-form names listed in the ISO 3166 Part 1  
31 standard.

32 [One Work Track member raised the following points about exceptionally reserved](#)  
33 [codes:](#)





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

- 3
- 4 ● The examples used in the Applicant Guidebook related to transposition,  
5 “RepublicCzech” and “IslandsCayman” do not appear to be terms that anyone  
6 would use. The group should consider removing this provision unless there is  
7 documented problem that it seeks to solve.

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

- 10 ● Individual governments should be asked which permutations should be reserved  
11 in connection with a corresponding country or territory name.

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

- 15 ● long-form name listed in the ISO 3166-1 standard.
- 16 ● short-form name listed in the ISO 3166-1 standard.
- 17 ● short- or long-form name association with a code that has been designated as  
18 “exceptionally reserved” by the ISO 3166 Maintenance Agency.
- 19 ● separable component of a country name designated on the “Separable Country  
20 Names List.” This list is included as an appendix to the 2012 Applicant  
21 Guidebook.

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

25

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

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

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

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

- 35 ● There are potential missed opportunities for gTLDs.



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- 1 • Work Track members expressed some level of uncertainty about what may or  
2 may not be included in this category, indicating that in practice this provision  
3 may not be clear for applicants and other stakeholders.
- 4 • There is no opportunity for an applicant supported by the relevant country to  
5 move forward with an application.

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

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

11  
12 There was no clear agreement to change the terms included in the 2012 Applicant  
13 Guidebook. Therefore, the Work Track is putting forward a preliminary  
14 recommendation for community feedback to maintain reservation of names by which a  
15 country is commonly known, as demonstrated by evidence that the country is  
16 recognized by that name by an intergovernmental or treaty organization, consistent  
17 with provisions in the 2012 Applicant Guidebook.

### 18 **f.2.3 GEOGRAPHIC NAMES REQUIRING GOVERNMENT SUPPORT FROM THE 2012** 19 **APPLICANT GUIDEBOOK**

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

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

- 24 • The mechanism worked well for different groups in the 2012 round.
- 26 • The 2012 Applicant Guidebook provisions represent a compromise position in  
27 which different parties found a middle ground.
- 28 • It is the role of governments to protect the public interest, and this mechanism  
29 allows government to protect the public interest and the interest of  
30 residents/communities.
- 31 • Public authorities act under applicable laws and are accountable according to  
32 their legal systems and these rules allows them to act on these responsibilities.
- 33 • These rules are consistent with a government’s rights and responsibilities under  
34 national and local law and public policy.
- 35 • A TLD is a unique resource. Even if a string is being used for a non-geographic  
36 purpose, there may be political, historical, economic, religious, and/or social  
37 connotations for the populations and communities affected. This process allows

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1 governments to act on those concerns. Even if the applicant intends to use the  
2 string in a way that is not directly associated with the place, they may still  
3 benefit from positive connotations associated with the name of the place.

- 4 ● Provides flexibility for different solutions. Some governments may have a  
5 “laissez-faire” approach. Other governments may end up participating in  
6 governance of the string or pursuing joint initiatives with applicants and other  
7 parties. It is therefore respectful of different legal, cultural and policy  
8 approaches, without imposing one single solution to all.
- 9 ● Governments do not need to actively monitor the application process to  
10 determine whether ICANN is reviewing an application that the government may  
11 consider relevant. The mechanism fairly puts the burden on the applicant to  
12 reach out to the relevant public authorities, which, especially in the case of  
13 developing countries, may be unaware of ICANN and may lack the resources to  
14 actively monitor ICANN’s activities.
- 15 ● Applicants have a more predictable process. By engaging with governments early  
16 in the process, they become aware early of any opposition by governments and  
17 therefore prevent conflicts between interested parties.
- 18 ● The requirement is a way to promote cooperation between different parties  
19 that have an interest in the string.
- 20 ● An open market for these TLDs absent support/non-objection requirements is  
21 not sustainable.
- 22 ● This mechanism is consistent with ICANN’s obligation to act in conformity with  
23 applicable local law.
- 24 ● This mechanism is a flexible instrument that allows applications from any kind of  
25 interested applicant, including businesses, brands, and communities.

26  
27 Some Work Track members raised points supporting elimination of the support/non-  
28 objection standard or reduction of its scope. Some believe:

- 29  
30 ● The 2012 Applicant Guidebook only represents a compromise between the GAC  
31 and ICANN staff and therefore does not represent the needs and interests of all  
32 parts of the ICANN community.
- 33 ● These requirements create financial and logistical burdens for applicants and a  
34 lack of predictability. It may be difficult for applicants to determine where to  
35 seek consent from governments.
- 36 ● Support/non-objection mechanism may cause rent-seeking and distort markets.
- 37 ● This process does not sufficiently take into account the rights of intellectual  
38 property rights holders.

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- 1 ● It is beneficial for there to be more TLDs, and ICANN should eliminate
- 2 unnecessary barriers to establishing new TLDs absent evidence of harm.
- 3 ● Governments do not have a legal basis for claiming the right to provide
- 4 support/non-objection. National law and local law on the protection of
- 5 geographic names is only applicable within the country in which the law exists. If
- 6 there is a relevant local or national law, it should be enforced by the applicable
- 7 government, not by ICANN.
- 8 ● Governments should not have special rights or privileges absent explicit
- 9 justification under international law.
- 10 ● This process violates the freedom of expression rights of applicants.
- 11 ● There may be legitimate applications that a government opposes and that not all
- 12 government represent the public interest.
- 13 ● Engaging with governments early in the application process may reduce the
- 14 competitive advantage for an applicant and encourage competing applications
- 15 for the same string that might not otherwise have been pursued.

16  
17 Additional points in support of and against the support/non-objection mechanism are  
18 included in the following subsections to the extent that these points are specific to  
19 particular category.

#### 20 **f.2.3.1 Capital City Names**

21 For capital city names, there is divergence between the 2007 Policy and Implementation  
22 in the 2012 Applicant Guidebook. The 2007 Policy anticipated that these strings would  
23 be available without any special requirements and did not mention a provision requiring  
24 support/non-objection.<sup>29</sup> The 2012 Applicant Guidebook required support/non-  
25 objection from relevant governments or public authorities for an application for any

---

<sup>29</sup> Work Track members recalled in discussions about the 2007 Policy that Recommendation 20 in the 2007 Policy stated: "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 comments, Work Track members also flagged text accompanying Recommendation 5 of the Final Report - Introduction of New Generic Top-Level Domains. Recommendation 5 states "Strings must not be a reserved word." The report's discussion of this recommendation includes text quoted from the Reserved Names Working Group Final Report:

*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 . . . 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.*

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1 string that is a representation, **in any language**, of the capital city name of any country  
2 or territory listed in the ISO 3166-1 standard.

3 In considering positions in support of and against maintaining the current treatment,  
4 Work Track members raised arguments that relate more broadly to discussions of  
5 geographic names. These include the applicability of and relevance of law and public  
6 policy, the issue of whether the intended use of the TLD matters. These issues are  
7 covered in greater depth in section **f.1** of the deliberations section.

8 The Work Track considered that rules for capital city names applied to representations  
9 “in any language.” Some Work Track members raised points in support of maintaining  
10 the “in any language” standard. Some believe that:

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

17  
18 Some Work Track members raised points against maintaining the “in any language”  
19 standard. Some believe:

- 20  
21 ● The provision is overbroad, results in a very large number of strings with  
22 additional requirements, and does not provide a clear, objective, and finite list  
23 that can be used as reference.
- 24 ● It is not predictable or transparent.
- 25 ● It contradicts the overarching policy concept that special rules must be based on  
26 an underlying policy justification.
- 27 ● Some languages are spoken by very few people, special rules in all languages  
28 may not be appropriate.

29  
30 In developing recommendations for future treatment of capital city names, the Work  
31 Track has considered several alternatives related to translation:

- 32  
33 ● continue the current standard: translations in any language
  - 34 ○ Variant: “in any script”
- 35 ● translations in UN languages
  - 36 ○ Variants: “including but not limited to official UN languages,” UN  
37 languages plus Portuguese
  - 38 ○ Points in support: clear, finite list

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- Points against: official UN languages are not necessarily the most important languages in many countries
- translations in official languages of the country
  - Points in support: [Working Paper 54](#) of the UN Group of Experts on Geographical Names (UNGEGN) could be a starting point for this list, [Expanded Graded Intergenerational Disruption Scale and categorization based on Official Recognition](#) could be used as a starting point for this list
  - Points against: difficult to identify the official languages of each country, some countries may not have official languages, administrations in many countries use languages that are not official, people of the country also use languages that may not be official but are important to specific communities
- translations in UN languages and the official languages of the country
  - See above for relevant points in support and against
- translations in official and commonly used languages
  - Points in support: this category would cover languages used by people in the country that are important to specific communities
  - Points against: This is not a category with clear boundaries or definition
- translations in official and relevant national, regional, and community languages
  - Points in support: this category would cover languages used by people in the country that are important to specific communities
  - Points against: This is not a category with clear boundaries or definition
- translations in “principal languages” where the principal languages are the official or de facto national languages and the statutory or de facto provincial languages of that country
  - Points in support: this category address some of the concerns raised about the limitations of “official languages,” draws on existing categorization from [ethnologue.com](#)
  - Points against: Additional work would be needed to ensure this category has clear boundaries
- a combination of two or more categories above

The Work Track welcomes community feedback on these alternatives. Please see [section e](#) for a specific question for community feedback on this topic.

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

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1 In addition, Work Track members raised specific points in support of continuing to  
2 require support or non-objection for names in this category. Some believe that:

- 3 ● 60+ city TLD applications went forward with support/non-objection and there  
4 were few cases of objections for such strings in the 2012 round, demonstrating  
5 that many applications were able to proceed to delegation using this process,  
6 including a number of capital city names. Some applicants expressed that they  
7 had a positive experience with the process.
- 8 ● Some Work Track members have expressed that there are a number of success  
9 stories coming out of the 2012 round using the support/non-objection  
10 mechanism for capital cities. Examples include .tokyo, .london, .paris, .berlin,  
11 .amsterdam, .moscow, and .wien. The delegation of these strings had positive  
12 effects on geographical, cultural and linguistic diversity.
- 13 ● This requirement offers some degree of predictability because the list of capital  
14 city names is based on an objective standard (ISO 3166-1).

15  
16 Work Track members raised specific points against continuing to require support or  
17 non-objection for names in this category in some or all cases. Some believe that:

- 18 ● The application/delegation process can take time and city administrations may  
19 change, which could create unstable conditions for the applicant who is required  
20 to have government support/non-objection.
- 21 ● If a string is being used in a generic or brand context, there is no harm or risk of  
22 confusion and therefore support/non-objection process is not necessary in these  
23 cases.

24  
25 The following proposals have been put forward by Work Track members with respect to  
26 this category:

- 27 ● Require support/non-objection only if the applicant intends to use the gTLD for  
28 purposes associated with the capital city name.
- 29 ● Eliminate support/non-objection requirements.

30  
31 There was no clear agreement to change the terms included in the 2012 Applicant  
32 Guidebook. Therefore, the Work Track is putting forward a preliminary  
33 recommendation for community feedback to continue to consider this category a  
34 geographic name requiring government support at the top level. Applications for these  
35 strings must be accompanied by documentation of support or non-objection from the  
36 relevant governments or public authorities, consistent with provisions in the 2012  
37 Applicant Guidebook.



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- Some applicants experienced a de-facto requirement to obtain support or non-objection from a government or public authority for a string they did not intend to use for purposes associated with a city name.
- In the Applicant Guidebook, there was no requirement for applicants to obtain support/non-objection if the applicant intended to use the string in a generic or brand context. The cases of .spa and .bar are examples that were cited by Work Track members. In relation to these examples, some Work Track members expressed the view that relevant government authorities should be consulted to get a full and balanced picture of the facts of these cases.
- From one perspective, there were challenges in the 2012 round associated with resolving competing bids for a string associated with a city name, in particular if multiple applications had support or non-objection from relevant governments/public authorities. Some Work Track members felt that this may be any area for future refinement if the support/non-objection mechanism exists in subsequent procedures.
- Work Track members identified that some stakeholders experienced uncertainty about monitoring and enforcement related to the intended use commitment.
- A single name may be associated with multiple cities. A number of examples were cited by Work Track members. Some Work Track members felt that all cities associated with a name should have the opportunity to provide support/non-objection because they all have a connection with the string, stating that all have the same right to provide input on use of the string. Others favored a requirement for support/non-objection from a city government only if the intended use is in association with that specific city, noting logistical challenges associated with identifying all cities and all relevant governments or public authorities associated with a name.

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

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

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







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- Eliminate preventative protections and focus instead on curative protections.**  
**All parties may raise issues with an application using objections.** No letters of support or non-objection are required from governments or public authorities. Applicants may include evidence of support in an application. Groups, individuals, and other parties, including governments, may file objections to applications. Objections by all parties must refer to international law, domestic law, ISO standards or other objective measures that are relevant to the applicant and the application. Applicants take responsibility for ensuring that they submit applications which address those points and avoid an objection. Objectors pay to make the objection and submit any objections within appropriate time frames. Evaluators take objections into account in the evaluation and may discard objections. The Work Track has not yet discussed whether this proposals could rely exclusively on existing objections mechanisms, or if it would require change to existing objections mechanisms or addition of new objections mechanisms.

Benefits	Drawbacks
Some believe that this process would be more fair and predictable for applicants because it uses objective standards for evaluation.	Some believe that it would be a significant burden on governments, in particular those in developing countries, to monitor which strings are being applied for, especially because many city governments are not aware of ICANN or the new gTLD process.
Some believe that this process does not assume a preventative existing legal right and consider this a benefit.	Some believe that this proposal does not take into account public policy concerns that are not codified in law.
	Some believe that this proposal increases the risks for conflict between interested parties. At the stage of objections, applicants will have invested significantly in their applications and relevant public authorities will not have been sufficiently involved until up that time, which may increase the probability of an objection against the application.
	Some believe that requiring public authority or community group objectors to pay to make an objection creates a substantial

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	financial burden and serves as a significant restriction on the legitimate concerns of third parties regarding the application.
	Some believe that proposal would serve as an impediment to freedom of expression.

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- **Always require a letter of support or non-objection from the relevant governments or public authorities regardless of intended use.**
  - For general arguments in favor and against intended use provisions, please see section [f.2.3](#). The following are points that specifically address this proposal.

Benefits	Drawbacks
Some believe that this would be consistent with some cities’ national laws, a requirement in ICANN’s Bylaws. Please see sections <a href="#">f.1.2.3</a> on law and policy.	Some believe that there is no legal basis for such a requirement. Please see sections <a href="#">f.1.2.3</a> on law and policy.
Some believe that city names are geographic names regardless of intended use. Please see section <a href="#">f.1.2.4</a> on intended use.	Some believe that if the applicant intends to use a string in a non-geographic manner, it is not a geographic TLD. Please see section <a href="#">f.1.2.4</a> on intended use.
Some believe that this will eliminate concerns of “gaming,” such as practices where an applicant claims that use will be non-geographic, but actual use is associated with the city.	Where a name corresponds to multiple (or many) city names, it will be difficult for an applicant to determine where support/non-objection should be obtained.
Some believe that this will eliminate the need for governments to monitor use of the TLD and take action if use is inconsistent with intended use claimed by the applicant.	Because the term “city” is not defined, it would be difficult to determine when an applicant should seek government support/non-objection for a string.

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- **Give small cities, towns, and geographic communities the first right to apply for a TLD associated with the place.**
- **Develop a list of large cities around the world and require that applicants obtain letters of support or non-objection from the relevant governments or**



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Some believe that by having a single list to use as reference, predictability is increased.	Some believe that larger cities do not inherently have different rights than smaller cities. This is particularly important for smaller countries in which places defined as cities may have 10,000 inhabitants or fewer.
Some believe that it is important for the people associated with a large city to “have a say” in the use of a city name, regardless of whether the applicant for the string intends to use the string in a manner associated with the city.	Some believe that a very small city could have particular cultural and historical significance and be considered more important by some than a larger city with the same name.
For those who believe that it is more important to provide rules for areas with larger population, this approach offers such rules while limiting rules on strings that match smaller (to some, less significant) cities and towns.	Some believe that this type of standard is arbitrary and without sufficient clear basis.
	Some believe that this proposal disadvantages small island nations and/or territories with smaller total populations and smaller cities.
	Some believe that if the applicant intends to use the string in a generic or brand context and not in a geographic context, there should not be a support/non-objection requirement.

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- **Each country decides what it considers to be a city within its own country based on national laws and policies. If the country determines that a place fits in the “city” category, the applicant must obtain support/non-objection from the government.** A variant on proposal 6 proposes that each country designates a set number of cities that they consider to be particularly significant. Cities names on the resulting list are subject to support/non-objection by the relevant governments or public authorities.

<b>Benefits</b>	<b>Drawbacks</b>
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AGB: Prevent Misrepresentation	and decreased in other respects	
Variant 2 of maintaining 2012 AGB: Edited AGB Text	Increased	Preventative
Variant 3 of maintaining 2012 AGB: Edited AGB Text	Increased	Preventative
Focus on Objections Mechanisms	Decreased	Curative
Always Require Support/Non-Objection	Increased	Preventative
Small Cities - First Right to Apply	Increased	Other means/tools
Support/Non-Objection for Large Cities	Increased	Preventative
Each Country Selects Cities Requiring Support/Non-Objection	Increased	Preventative
Reserve Names of "Global Cities"	Increased	Preventative
Raise Awareness	Does not impact level of protection	Other means/tools

1  
 2 There was no clear agreement to change the terms included in the 2012 Applicant  
 3 Guidebook. Therefore, the Work Track is putting forward a preliminary  
 4 recommendation for community feedback to continue to consider this category a  
 5 geographic name requiring government support at the top level where the applicant  
 6 declares that it intends to use the gTLD for purposes associated with the city name.  
 7 Applications for these strings must be accompanied by documentation of support or  
 8 non-objection from the relevant governments or public authorities, consistent with  
 9 provisions in the 2012 Applicant Guidebook.

10 **f.2.3.3 Sub-National Place Names, Such as Counties, Provinces, or States Listed in ISO**  
 11 **3166 Part 2**

12 For strings in this category, there is divergence between the 2007 Policy and  
 13 Implementation in the 2012 Applicant Guidebook. The 2007 Policy anticipated that  
 14 these strings would be available without any special requirements and did not mention





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1 geographic terms listed above, protections will instead be achieved by inserting  
2 contractual requirements into the Registry Agreement that prevent the applicant  
3 from misrepresenting their connection or association to the geographic term.

- 4 • If the string corresponds to a geographic name but the applicant intends to use  
5 the string in a generic or brand context, there is no requirement for a letter of  
6 support or non-objection from any governments or public authorities.

7  
8 There was no clear agreement to change the terms included in the 2012 Applicant  
9 Guidebook. Therefore, the Work Track is putting forward a preliminary  
10 recommendation for community feedback to continue to consider this category a  
11 geographic name requiring government support at the top level, consistent with the  
12 2012 Applicant Guidebook.

13 **f.2.3.4 Strings listed as UNESCO Regions<sup>32</sup> or Appearing on the “Composition of macro**  
14 **geographical (continental) regions, geographical sub-regions, and selected economic**  
15 **and other groupings” list<sup>33</sup>**

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

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

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

- 27 • There is some level of predictability, because there are specific sources of terms.
  - 28 • This approach creates incentives for applicants and relevant authorities to arrive  
29 at mutually accepted solutions.
- 30

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<sup>32</sup> See <http://www.unesco.org/new/en/unesco/worldwide/>.

<sup>33</sup> See <http://unstats.un.org/unsd/methods/m49/m49regin.htm>.





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- 1       • There is no cause of action and no basis for complaints that were made about  
2       these applications. From this perspective, the complaints should not have been  
3       allowed to go forward.  
4       • Existing mechanisms, such as objections procedures should be used if there is  
5       opposition to an application.  
6       • Existing measures discussed elsewhere in this report may be leveraged, such as  
7       .Brands making assurances about the use of the string.

8  
9       For those Work Track members who support extending rules or protections to addition  
10      types of strings, the following categories of strings were mentioned as candidates for  
11      support/non-objection requirements:

- 12  
13      • Geographical features, such as mountains and rivers  
14      • Sub-national and regional terms not included in the 2012 AGB  
15      • Non-ASCII geographic terms not included in the 2012 AGB  
16      • Any term that can be considered geographic in nature

17  
18      Two Work Track members stated that currency codes listed in under ISO 4217 should be  
19      protected as geographic names, noting the association with the ISO 3166 list and the  
20      fact that currencies traditionally correspond to geographic boundaries. A number of  
21      other Work Track members responded that they do not view these codes as geographic  
22      names, and believe that such codes are therefore out of scope, noting that the broader  
23      issue of reserved names is in scope for the full New gTLD Subsequent Procedures PDP  
24      Working Group. Work Track members raised that even though currency codes are  
25      derived from ISO 3166, they are one step removed from the primary set of geographic  
26      names. One member noted that the list of currency codes is dynamic and regularly  
27      updated. Members further noted that crypto currencies may not be associated with  
28      geography.

29  
30      Work Track members raised points in support of establishing rules for additional  
31      categories of strings. Some believe that:

- 32  
33      • Groups of people who identify with a place have a right to be “at the table” in  
34      decisions about the use of an associated term. From this perspective, this right is  
35      not limited to the categories of geographic names included in the 2012 Applicant  
36      Guidebook.  
37      • These rights are particularly important for minority cultures and peoples and  
38      indigenous groups associated with a physical place.  
39      • It is inappropriate for brands or other groups to use names that belong to a  
40      particular group of people.  
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1 Work Track members raised points against establishing rules for additional categories of  
2 strings. Some believe that:

- 3
- 4 ● ICANN’s mandate is very narrow. It cannot serve as a “supranational” legislator  
5 to “fill in the blanks” that some believe local governments have missed in their  
6 legislation to protect indigenous rights.
- 7 ● The best way to ensure predictability is to make sure there are explicit guidelines  
8 for applicants and that guidelines, policies, and implementation can be applied  
9 to any potential application for any kind of geographic term. Applicants should,  
10 as the default, be given a path to success. The default should not grant rights to  
11 other parties to block applications.
- 12 ● Groups of people associated with a geographic feature or region should have an  
13 opportunity to apply for a corresponding TLD without facing unnecessary  
14 financial and logistical hurdles. For example, Australian aboriginal communities  
15 may wish to apply for relevant geographic terms to sell art in Australia and  
16 internationally.
- 17 ● Objections processes could be used to address cases where a substantial number  
18 of people associated with a geographic community opposed an application. The  
19 objection would have to be supported by a substantial portion of the geographic  
20 community described/implicated by the name and there would need to be a  
21 stated public policy reason for the objection.

22  
23 In addition the proposed categories discussed above, some Work Track members  
24 advocated for special rules or protections for Geographical Indications in subsequent  
25 procedures. Other Work Track members opposed this proposal. Some believe that:

- 26
- 27 ● This is a category with clear boundaries that can be documented, therefore  
28 increasing predictability.
- 29 ● Geographical Indications are an important component of the economy in many  
30 regions, and therefore their protection and use affect the livelihoods of many  
31 Internet users.
- 32 ● Geographic Indications are generally protected by applicable local laws.

33  
34 Some believe that:

- 35
- 36 ● This category does not have clear boundaries. Protections of geographical  
37 indications vary significantly from country to country.
- 38 ● There is no standard terminology and there are no treaties in relation to  
39 Geographical Indications. There is no overall common basis for protection.



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<p><u>Some believe that this proposal would eliminate the chilling effect caused by allowing objections to any application.</u></p>	<p><u>Some believe that that right to object is a fundamental right that should not be limited by policy.</u></p>
	<p><u>Some believe that if the rights to object are reduced or constrained under this proposal, the list of terms that are explicitly protected should be much more extensive.</u></p>
	<p><u>Some believe that the right to object is a fundamental right that should be neither abrogated nor limited, especially in relation to any contemplated changes to policy touching on the availability or protection of geo-names strings.</u></p>

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Others suggest that the relevant governments and public authorities should “have a say” in the process if they consider a string to be geographic in nature. Some believe that this role for governments should exist regardless of whether the term is included as a geographic name in the Applicant Guidebook. From this perspective, involving relevant governments or other parties, such as experts, earlier in the process will create clarity and reduce conflicts. Several proposals suggest an informational role:

- Proposal: **Provide an advisory panel that applicants could contact to assist in identifying if a string is related to a geographic term.** The panel could also help applicants identify which governments and/or public authorities would be applicable. Alternately, the Geographic Names Panel used to evaluate whether an applied for string was a geographic TLD in the 2012 round could be made available to advise applicants before they submit applications.

Benefits	Drawbacks
<p>Some believe that an advisory panel could create greater clarity for applicants about which strings are geographic names and which governments or public authorities are applicable, therefore reducing potential future conflicts.</p>	<p>Some believe that the geographic names panel should have a focused mandate and rules should be sufficiently clear that there are no “hard cases.”</p>



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<p>Some believe that the panel could consult in “hard cases” where it may be unclear to the applicant if the term has geographic significance, especially in those cases not explicitly covered by lists referenced in the AGB.</p>	<p>Has a financial impact, potentially on ICANN, if this is intended to be cost-free to potential applicants.</p>
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- Proposal: **Maintain a repository of geographic names reflecting terms that governments consider sensitive and/or important as geographic names.** Countries and territories could contribute terms to this repository but it would not require binding action on the part of potential applicants.

Benefits	Drawbacks
<p>Some believe that a repository could help a potential applicant identify if a government feels that a term is sensitive due to its geographic nature.</p>	<p>Some believe that such a resource would be difficult and expensive to maintain.</p>
<p>Some believe that this tool could be used a reference resource, providing an opportunity for different parties to work together and make sure the application takes into account different perspectives.</p>	<p>Some believe that it is unclear what it means or implies for a term to be included in the repository, and therefore the repository could have a chilling effect on applications. If there are no associated protections/rules, it is unclear what purpose the repository serves.</p>
<p>Some believe that by promoting early contact between governments and applicants regarding strings that governments consider sensitive, the repository could help prevent later conflicts related to an application.</p>	<p>Some believe that there is a risk that once such a resource exists, people will find a use for it, potentially without sufficient basis.</p>

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- Proposal: **Leverage the expertise of GAC members to help applicants determine if a string is related to a geographic location.** GAC members could also assist applicants in identifying which governments and/or public authorities would be applicable in cases where an applicant must obtain a letter of government support or non-objection.

Benefits	Drawbacks
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From one perspective, this enhanced role for the GAC members could create greater clarity for applicants about which strings are geographic names and which governments or public authorities are applicable, therefore reducing potential future conflicts.

From one perspective, the rules should be clear and unambiguous regarding what constitutes a geographic name and the which rules apply for these strings.

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2 Additional proposals from this perspective suggest creating new requirements for  
3 applicants:

- 4  
5 ● Proposal: **Require that an applicant demonstrates that it has researched**  
6 **whether the applied-for string has a geographic meaning and performed any**  
7 **outreach deemed necessary by the applicant prior to submitting the**  
8 **application.** The proposal would be in addition to the existing measures related  
9 to the Geographic Names Panel.  
10 ● Proposal: **If the applicant is applying for a geographic name, including terms**  
11 **not listed in the 2012 Applicant Guidebook, the applicant is required to**  
12 **contact/consult with the relevant government authority and provide evidence**  
13 **that it has done so.**

14  
15  
16 ***g. Are there other activities in the community that may serve as a***  
17 ***dependency or future input to this topic?***

- 18  
19 ● New gTLD Subsequent Procedures PDP Working Group - outputs of full Working  
20 Group and Work Tracks 1-4  
21 ● Recommendations of the Competition, Consumer Trust, and Consumer Choice  
22 Review Team  
23 ● GAC Geographic Names Working Group  
24 ● Cross-Community Working Group on the Use of Country and Territory Names  
25 (completed)  
26  
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## 3 Conclusions and Next Steps

### 3.1 Preliminary Conclusions

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

### 3.2 Next Steps

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



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1 *Introduction of New Generic Top-Level Domains*<sup>35</sup>. As the original policy  
2 recommendations as adopted by the GNSO Council and the ICANN Board have “been  
3 designed to produce a systemized and ongoing mechanisms for applicants to propose  
4 new top-level domains,” those policy recommendations remain in place for subsequent  
5 rounds of the New gTLD Program unless the GNSO Council would decide to modify  
6 those policy recommendations via a policy development process. The work of the PDP  
7 follows the efforts of the New gTLD Subsequent Procedures Discussion Group (DG),  
8 which identified a set of subjects for this PDP to consider in their deliberations. The DG  
9 anticipated that the WG might complete its work by:

- 11 ■ Clarifying, amending or overriding existing policy principles, recommendations, and  
12 implementation guidelines;
- 13 ■ Developing new policy principles, recommendations, and implementation  
14 guidelines

#### 16 4.2.1 Related Work by the GNSO and the Community

17 Several efforts within the community have connections to the work of this Work Track:

- 18 ■ New gTLD Subsequent Procedures PDP Working Group overarching issues and  
19 Work Tracks 1-4
- 20 ■ Competition, Consumer Trust & Consumer Choice Review Team (CCT-RT)
- 21 ■ GAC Geographic Names Working Group

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<sup>35</sup> See the Final Report – Introduction of New Generic Top-Level Domains here:  
<https://gns0.icann.org/en/issues/new-gtlds/pdp-dec05-fr-part-a-08aug07.htm>

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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
11	Alfredo Santos	RySG



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30	Cheryl Langdon-Orr (Co-chair new gTLD Subpro WG)	At-Large / ccNSO
31	Ching Chiao	RySG
32	Chris Casavale	IPC
33	Christa Taylor	Individual
34	Christopher Wilkinson	At-Large
35	Colin O'Brien	IPC
36	Cristina Monti	GAC
37	Daniel Anthony	Individual
38	Dave Kissoondoyal	Individual
39	David Cake	NCUC
40	David McAuley	RySG
41	Delia Belciu	IPC
42	Demi Getschko	ccNSO
43	Dessalegn Mequanint Yehuala	Individual
44	Dev Anand Teelucksingh	At-Large
45	Edmon Chung	RySG
46	Ejikeme Egbuogu	NPOC
47	Elsa Saade	NCUC
48	Erich Schweighofer	At-Large
49	Farzaneh Badii_(Badiiei)	NCUC
50	Francis Olivier Cubahiro	GAC



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51	Francesco Vinci	GAC
52	Fulvia Menin	GAC
53	Ghislain de Salins	GAC
54	Giacomo Mazzone	GAC
55	Giovanni Seppia	ccNSO
56	Gnanajeyaraman Rajaram	NCUC
57	Greg Shatan	IPC
58	Goma Serge Parfait	Individual
59	Griffin Barnett	IPC
60	GZ Kabir	ISPCP
61	Hadia Elminiawi	At-Large
62	Hamzah Haji	At-Large
63	Harish Chowdhary	NPOC
64	Harold Arcos	At-Large
65	Heather Forrest	IPC
66	Hempal Shrestha	At-Large
67	Iliya Bazlyankov	Individual
68	Ines Hfaiedh	NCUC
69	Isha Suri	Individual
70	Jaap Akkerhuis	Individual
71	Jaifa Margarita Mezher Arango	GAC
72	Janvier Ngnoulaye	Individual
73	<b>Javier Rúa-Jovet Co-Leader</b>	At-Large





122	Rahul Gosain	GAC
123	Ramet Khalilinasr	RSSAC
124	Raymond Selorm Mamattah	Individual
125	Renata Aquino Ribeiro	NCUC
126	Ricardo Holmquist	At-Large
127	Robin Gross	NCSG
128	Rosalia Morales	ccNSO / ccTLD
129	Salanieta Tamanikawaiwaimaro	NCSG
130	Samantha Demetriou	RySG
131	Sanna Sahlman	ccNSO
132	Sarah Langstone	RySG
133	Sophia Feng	RySG
134	Sophie Hey	IPC
135	Statton Hammock	CBUC
136	Stephen Jadie Coates	RySG
137	Subhash Dhakal	GAC
138	Susan Anthony	GAC
139	Susan Payne	IPC
140	Svitlana Tkachenko	ccNSO
141	Syed Iftikhar Hussain Shah	GAC
142	Tatiana Tropina	NCUC
143	Taylor R.W. Bentley	GAC
144	Thiago Jardim	GAC
145	Thongchai Sangsiri	GAC

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146	Timo Vöhmar	ccNSO
147	Timothy Kwadwo Asiedu	Individual
148	Tom Dale	GAC
149	Vernatius Okwu Ezeama	NPOC
150	Vincent Museminali	GAC
151	Wafa Dahmani	ccNSO
152	Widens Pierre	Individual
153	Yashar Hajiyev	At-Large
154	Yong Liu	NCUC
155	Young-eum Lee	ccNSO
156	Yrjö Länsipuro	At-Large
157	Zornitsa Marcheva	Individual

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The Statements of Interest of the WT members can be found at  
<https://community.icann.org/x/c4Lg>.

The attendance records can be found at <https://community.icann.org/x/VplEB>. The  
 email archives can be found at <http://mm.icann.org/pipermail/gnso-newgtld-wg-wt5/>.

In addition, there were over 97 observers to the Work Track. Observers were allowed to  
 receive messages from the Work Track, but were not able to post to the mailing list nor  
 attend the Work Track meetings. As Observers, they were not required to submit  
 Statements of Interest. A list of the Observers can be found at:  
<https://community.icann.org/x/UplEB>.

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\* The following are the ICANN SO/ACs and GNSO Stakeholder Groups and  
 Constituencies for which WG members provided affiliations:

- RySG – Registries Stakeholder Group
- CBUC – Commercial and Business Users Constituency
- NCUC – Non Commercial Users Constituency

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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 [At-Large – At-Large Community](#)
- 5 ccNSO – Country Code Names Supporting Organization
- 6 GAC – Governmental Advisory Committee

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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.  
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## 6 Community Input

### 6.1 Summary of Input

The full Working Group formally sought community input through public comment on three occasions: (1) conducted outreach to all ICANN Supporting Organizations (SOs) and Advisory Committees (ACs) as well as GNSO Stakeholder Groups (SGs) and Constituencies (Cs) with a request for input at the start of its deliberations, which included a specific request for historical statements or Advice relating to new gTLDs<sup>36</sup> (2) Community Comment 1 (CC1)<sup>37</sup> (2) Community Comment 2 (CC2)<sup>38</sup>. For additional information about outreach activities conducted by the full Working Group, please see the Initial Report.

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

In addition, some members of the GAC submitted written feedback about some of the issues being addressed by the Work Track.<sup>39</sup>

### 6.2 Review of Input Received

All of the input received has been reviewed by the WG as part of its deliberations on relevant topics.

<sup>36</sup> See outreach and inputs received on the Wiki here: <https://community.icann.org/x/2R6OAw>

<sup>37</sup> See Community Comment 1 outreach and inputs received, on the Wiki here:

<https://community.icann.org/x/3B6OAw>

<sup>38</sup> See Community Comment 2 outreach and inputs received, on the Wiki here:

<https://community.icann.org/x/Gq7DAW>

<sup>39</sup> See

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

## 7 Annex A – Charter

The full Working Group charter is available here: <https://community.icann.org/x/KAp1Aw>

The Terms of Reference document developed by the Work Track is available here: <https://community.icann.org/x/RgS8B>