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 to the Initial Report of the GNSO New gTLD Subsequent Procedures (SubPro) Working Group ("Work Track 5 Supplemental 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.

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Preamble

The objective of this Supplemental Report to the Initial Report is to document Work Track 5's deliberations and preliminary recommendations, potential options for 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.

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 consensus for the recommendations presented in the Initial Report." As

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

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

12

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

19

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

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1 Executive Summary

15

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.

31

1 A Call for Volunteers to the Working Group ("WG") was issued on 27 January 2016. The
2 WG held its first meeting on 22 February 2016 and has met regularly since that time.
3 With over 250 members and observers in the SubPro Working Group, and dozens of
4 issues to address regarding the 2012 New gTLD Program, the SubPro Co-Chairs divided
5 up the work into a set of "Overarching Issues" and five Work Tracks. Each of the five
6 work tracks covered a number of related issues with the help of one or more Co-
7 Leaders. The WG issued its first Initial Report, containing the output of the Working
8 Group on the Overarching Issues as well as preliminary recommendations and questions
9 for community feedback from Work Tracks 1-4, on 3 July 2018.
10
11 The topic of geographic names at the top level is one of the issue areas included within
12 the charter of the New gTLD Subsequent Procedures PDP Working Group (PDP) and in
13 order to fulfill the terms of the charter, the PDP needs to address this issue. With the
14 GAC, ccNSO, ALAC, and GNSO all having a strong interest in this topic, the PDP is seeking
15 to ensure that the community's work related to geographic names at the top level,
16 specific to gTLDs, takes place in a single forum, to avoid the conflicting or contradictory
17 efforts and outcomes that have taken place in the past.
18
19 Therefore, the PDP WG Co-Chairs established a fifth Work Track that focuses exclusively
20 on the topic of geographic names at the top level. It is structured to encourage broad
21 and balanced participation from different parts of the community and includes joint
22 community Work Track leadership. WT5 leadership is coordinated by the PDP WG Co-
23 Chairs and Work Track Co-Leaders from the ALAC, ccNSO, GAC, and GNSO.
24
25 Per the Work Track 5 Terms of Reference document, Work Track 5's focus is on
26 developing proposed recommendations regarding geographic names at the top level,
27 including both ASCII and IDN forms. WT5 is tasked with (i) considering what constitutes
28 a geographic name in the specific context of the New gTLD Program; (ii) analyzing (a)
29 2007 GNSO Policy Recommendations on the Introduction of New Generic Top-Level
30 Domains; and (b) relevant rules contained in the 2012 Guidebook, such as the
31 Geographic Names Review procedure, Geographic Names Extended Evaluation, and
32 Objection Procedures; and (iii) taking into account previous work related to geographic
33 names that the community may have completed. Broader discussions about the remit of
34 SOs and ACs, as well as the allocation of second and third level geographic domains are
35 specifically out of scope for this Work Track.
36
37 A Call for Volunteers to the Work Track was issued on 22 October 2017. The Work Track
38 held its first meeting on 15 November 2017 and has met regularly since that time.
39

40 ## 1.2 Preliminary Recommendations

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

1   Report. In addition, in some circumstances, the WT did not reach agreement on
2   preliminary recommendations and instead, has provided options for consideration
3   and/or questions to seek input for further deliberations. Similar to the Initial Report,
4   rather than including the set of preliminary recommendations, options, and questions in
5   the Executive Summary, they will be made available in a table in Annex [??].
6

Recommendations Summary

Continue to reserve as unavailable **at the top level**:

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

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

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

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

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> 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.

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

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

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

1.3 Deliberations and Community 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

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[1]
3   (2) Community Comment 1 (CC1)[2] (2) Community Comment 2 (CC2)[3]. 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.[4]
20

21 ## 1.4 Conclusions and Next Steps
22 This Supplemental Report for Work Track 5 will be posted for public comment for
23 approximately 40 days. After the Work Track reviews public comments received on this
24 report, it will complete this section documenting any conclusions based on the overall
25 findings of the report, which will be integrated into the Final Report.

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[1] See outreach and inputs received on the Wiki here: https://community.icann.org/x/2R6OAw
[2] See Community Comment 1 outreach and inputs received, on the Wiki here:
https://community.icann.org/x/3B6OAw
[3] See Community Comment 2 outreach and inputs received, on the Wiki here:
https://community.icann.org/x/Gq7DAw
[4] See
https://community.icann.org/download/attachments/60490848/GAC%20Member%20inputs%20WT5.pdf
?version=1&modificationDate=1529308543000&api=v2

2 Deliberations of the Working Group

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

Recommendation 5: Strings must not be a reserved word.

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

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

> *There should be no geographical reserved names (i.e., no exclusionary list, no presumptive right of registration, no separate administrative procedure, etc.). The proposed challenge mechanisms currently being proposed in the draft new gTLD process would allow national or local governments to initiate a challenge, therefore no additional protection mechanisms are needed. Potential applicants for a new TLD need to represent that the use of the proposed string is not in violation of the national laws in which the applicant is incorporated.*
>
> *However, new TLD applicants interested in applying for a TLD that incorporates a country, territory, or place name should be advised of the GAC Principles, and the advisory role vested to it under the ICANN Bylaws. Additionally, a summary overview of the obstacles encountered by previous applicants involving similar TLDs should be provided to allow an applicant to make an informed decision. Potential applicants should also be advised that the failure of the GAC, or an individual GAC member, to file a challenge during the TLD application process, does not constitute a waiver of the authority vested to the GAC under the ICANN Bylaws.*

Reserved Names Working Group Final Report further states:

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

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[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

1

2   **b.   How was it implemented in the 2012 round of the New gTLD**
3   **Program?**

4

5   The first two versions of the Applicant Guidebook (AGB) required that strings must
6   consist of three (3) or more visually distinct characters and that a meaningful
7   representation of a country or territory name on the ISO 3166-1 standard must be
8   accompanied by a letter of support or non-objection from the relevant government or
9   public authority.

10

11   The ICANN Board, at the urging of the ccNSO and GAC, directed staff to exclude country
12   and territory names from delegation in version four of the AGB. Other geographic
13   names, listed in section 2.2.1.4.2 of the AGB (see below), required a letter of support or
14   non-objection, though for non-capital city names, the need for the letter was dependent
15   upon intended usage of the string.

16

17   This implementation, described more fully directly below, was substantially different
18   from the GNSO's policy recommendations.[7]

19

20   In the final version of the 2012 Applicant Guidebook, Section 2.2.1.3.2 String
21   Requirements, Part III, 3.1 states, **"**Applied-for gTLD strings in ASCII must be composed
22   of three or more visually distinct characters. Two- character ASCII strings are not
23   permitted, to avoid conflicting with current and future country codes based on the ISO
24   3166-1 standard."

25

26   According to Section 2.2.1.4.1 Treatment of Country or Territory Names, the following
27   strings are considered country and territory names and were not available in the 2012
28   application round:

29

30   i. it is an alpha-3 code listed in the ISO 3166-1 standard.
31   ii. it is a long-form name listed in the ISO 3166-1 standard, or a translation of the
32   long-form name in any language.
33   iii. it is a short-form name listed in the ISO 3166-1 standard, or a translation of the
34   short-form name in any language.
35   iv. it is the short- or long-form name association with a code that has been
36   designated as "exceptionally reserved" by the ISO 3166 Maintenance Agency.

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[7] For an overview of the background on Geographic Names in the New gTLD Program, see:
https://community.icann.org/display/NGSPP/2017-04-
25+Geographic+Names+Webinars?preview=/64077479/64083928/Geo%20Names%20Webinar%20Backg
round%20Paper.pdf

1   v. it is a separable component of a country name designated on the "Separable
2   Country Names List," or is a translation of a name appearing on the list, in any
3   language. See the Annex at the end of this module.
4   vi. it is a permutation or transposition of any of the names included in items (i)
5   through (v). Permutations include removal of spaces, insertion of punctuation, and
6   addition or removal of grammatical articles like "the." A transposition is
7   considered a change in the sequence of the long or short–form name, for example,
8   "RepublicCzech" or "IslandsCayman."
9   vii. it is a name by which a country is commonly known, as demonstrated by
10   evidence that the country is recognized by that name by an intergovernmental or
11   treaty organization.
12
13   Section 2.2.1.4.2 Geographic Names Requiring Government Support states that
14   applications for the following strings must be accompanied by documentation of
15   support or non-objection from the relevant governments or public authorities:
16
17   1. An application for any string that is a representation, in any language, of the
18   capital city name of any country or territory listed in the ISO 3166-1 standard.
19   2. An application for a city name, where the applicant declares that it intends to
20   use the gTLD for purposes associated with the city name.
21
22   City names present challenges because city names may also be generic terms or
23   brand names, and in many cases city names are not unique. Unlike other types
24   of geographic names, there are no established lists that can be used as objective
25   references in the evaluation process. Thus, city names are not universally
26   protected. However, the process does provide a means for cities and applicants
27   to work together where desired.
28
29   An application for a city name will be subject to the geographic names
30   requirements (i.e., will require documentation of support or non-objection from
31   the relevant governments or public authorities) if:
32
33   (a) It is clear from applicant statements within the application that the applicant
34   will use the TLD primarily for purposes associated with the city name; and
35
36   (b) The applied-for string is a city name as listed on official city documents.[8]

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[8] 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

3. 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.

4. An application for a string listed as a UNESCO region[9] or appearing on the "Composition of macro geographical (continental) regions, geographical sub-regions, and selected economic and other groupings" list.[10] In the case of an application for a string appearing on either of the lists above, documentation of support will be required from at least 60% of the respective national governments in the region, and there may be no more than one written statement of objection to the application from relevant governments in the region and/or public authorities associated with the continent or the region. Where the 60% rule is applied, and there are common regions on both lists, the regional composition contained in the "Composition of macro geographical (continental) regions, geographical sub-regions, and selected economic and other groupings" takes precedence.

The Governmental Advisory Committee has produced the following documents addressing the use of geographic names at the top level:

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

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

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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.

[9] See http://www.unesco.org/new/en/unesco/worldwide/

[10] See http://unstats.un.org/unsd/methods/m49/m49regin.htm

In the 2012 round of the New gTLD Program, there were 66 applications that self-identified as geographic names pursuant to Section 2.2.1.4.3 of the Applicant Guidebook.[11] The Geographic Names Panel determined that 6 of these 66 did not fall within the criteria for a geographic name as defined in Section 2.2.1.4 of the Applicant Guidebook (VEGAS, ZULU, RYUKYU, SCOT, IST, FRL). The Geographic Names Panel identified 3 applications that did not self-identify as geographic names but the applied-for string fell within the criteria for geographic names, requiring relevant support or non-objections (TATA, BAR, TUI). Of the 63 that fell within the Applicant Guidebook criteria for a geographic name, 56 had acceptable supporting documentation of support or non-objection from the relevant applicable governmental authority, and of those, 54 have been delegated.

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

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

c.   What are the preliminary recommendations and/or implementation guidelines?

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

Commented [A1]: Paul McGrady: Text should specify that recommendations refer to the AGB as written, and not as applied.

Commented [A2]: Suggested text for Work Track review.

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[11] https://gtldresult.icann.org/applicationstatus/viewstatus
[12] https://gacweb.icann.org/display/gacweb/GAC+Early+Warnings

1   **PRELIMINARY RECOMMENDATION #1:**

3   As described in recommendations 2-9, the Work Track recommends, unless or until
4   decided otherwise, maintaining the reservation of certain strings at the top level in
5   upcoming processes to delegate new gTLDs. As described in recommendations 10-13,
6   the Work Track recommends, unless or until decided otherwise, requiring applications
7   for certain strings at the top level to be accompanied by documentation of support or
8   non-objection from the relevant governments or public authorities.

10   **PRELIMINARY RECOMMENDATION #2:**

12   The Work Track recommends continuing to reserve all two-character[13] letter-letter ASCII
13   combinations at the top level for existing and future country codes.

15   - The starting point of this recommendation is Section 2.2.1.3.2 String
16   Requirements, Part III, 3.1 of the 2012 Applicant Guidebook, which states,
17   "Applied-for gTLD strings in ASCII must be composed of three or more visually
18   distinct characters. Two-character ASCII strings are not permitted, to avoid
19   conflicting with current and future country codes based on the ISO 3166-1
20   standard."
21   - The Work Track's recommendation specifically addresses letter-letter
22   combinations because the focus of the Work Track is on geographic names. The
23   Work Track considers letter-letter combinations to be within the scope of this
24   subject area.
25   - The Work Track notes that Work Track 2 of the New gTLD Subsequent
26   Procedures PDP Working Group is considering two-character letter-number
27   combinations and two-character number-number combinations.

29   This recommendation is consistent with the GNSO policy contained in the Introduction
30   of New Generic Top-Level Domains policy recommendations from 8 August 2007. It is
31   also consistent with provisions in the 2012 Applicant Guidebook.

33   **PRELIMINARY RECOMMENDATION #3:**

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.i:

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[13] The term "character" refers to either a single letter (for example "a") or a single digit (for example "1").

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1
2   ● alpha-3 code listed in the ISO 3166-1 standard.
3
4   The Work Track is not proposing to remove from delegation of any 3-letter codes that
5   have already been delegated.
6
7   The 2012 Applicant Guidebook provisions related to this category are inconsistent with
8   the GNSO policy recommendations contained in the Introduction of New Generic Top-
9   Level Domains from 8 August 2007. This recommendation makes the policy consistent
10   with the 2012 Applicant Guidebook, and therefore represents a change to the existing
11   policy recommendation.
12
13   **PRELIMINARY RECOMMENDATION #4:**
14
15   The Work Track recommends continuing to consider the following category a country
16   and territory name which is reserved at the top level and unavailable for delegation, as
17   stated in the 2012 Applicant Guidebook section 2.2.1.4.1.ii:
18
19   ● long-form name listed in the ISO 3166-1 standard.
20
21   The 2012 Applicant Guidebook provisions related to this category are inconsistent with
22   the GNSO policy recommendations contained in the Introduction of New Generic Top-
23   Level Domains from 8 August 2007. This recommendation makes the policy consistent
24   with the 2012 Applicant Guidebook, and therefore represents a change to the existing
25   policy recommendation. As currently written, the recommendation does not address
26   the issue of translations of these strings, which were reserved in the 2012 Applicant
27   Guidebook. Please see questions for community input in section e.
28
29   **PRELIMINARY RECOMMENDATION #5:**
30
31   The Work Track recommends continuing to consider the following category a country
32   and territory name which is reserved at the top level and unavailable for delegation, as
33   stated in the 2012 Applicant Guidebook section 2.2.1.4.1.iii:
34
35   ● short-form name listed in the ISO 3166-1 standard.
36
37   The 2012 Applicant Guidebook provisions related to this category are inconsistent with
38   the GNSO policy recommendations contained in the Introduction of New Generic Top-
39   Level Domains from 8 August 2007. This recommendation makes the policy consistent
40   with the 2012 Applicant Guidebook, and therefore represents a change to the existing
41   policy recommendation. As currently written, the recommendation does not address
42   the issue of translations of these strings, which were reserved in the 2012 Applicant
43   Guidebook. Please see questions for community input in section e.

Commented [A13]: Paul McGrady: Suggestion to change "drafted" to "written"

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PRELIMINARY RECOMMENDATION #6:

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

- short- or long-form name association with a code that has been designated as "exceptionally reserved"[14] by the ISO 3166 Maintenance Agency.

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

PRELIMINARY RECOMMENDATION #7:

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

- separable component of a country name designated on the "Separable Country Names List." This list is included as an appendix to the 2012 Applicant Guidebook.

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

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[14] 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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Commented [A17]: Jaap Akkerhuis: There is no "exceptionally reserved" list designated by ISO 3166 at this time.

Commented [A18]: Staff note: staff has suggested adding a question about this issue for community input. I addition, staff is reviewing this issue with GDD and reaching out to ISO for additional clarification.

Commented [A19]: Footnote updated based on feedback from Jaap that the definition in Section 7.5 of the standard is more authoritative than the glossary.

Commented [A20]: Revision based on feedback from Paul McGrady and Alan Greenberg.

Commented [A21]: Revision based on feedback from Paul McGrady and Alan Greenberg.

Commented [A22]: Paul McGrady: Suggestion to change "drafted" to "written"

Commented [A23]: Staff note: edited

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

1
2   **PRELIMINARY RECOMMENDATION #8:**
3
4   The Work Track recommends clarifying 2012 Applicant Guidebook section 2.2.1.4.1.vi,
5   which designates the following category as a country and territory name which is
6   reserved at the top level and unavailable for delegation:
7
8   ●   permutation or transposition of any of the names included in items (i) through
9   (v). Permutations include removal of spaces, insertion of punctuation, and
10   addition or removal of grammatical articles like "the." A transposition is
11   considered a change in the sequence of the long or short–form name, for
12   example, "RepublicCzech" or "IslandsCayman."
13
14   The Work Track recommends clarifying that permutations and transpositions of the
15   following strings are reserved:
16
17   ●   long-form name listed in the ISO 3166-1 standard.
18   ●   short-form name listed in the ISO 3166-1 standard.
19   ●   short- or long-form name association with a code that has been designated as
20   "exceptionally reserved" by the ISO 3166 Maintenance Agency.
21   ●   separable component of a country name designated on the "Separable Country
22   Names List." This list is included as an appendix to the 2012 Applicant
23   Guidebook.
24
25   Permutations and transpositions of alpha-3 code listed in the ISO 3166-1 standard
26   should be allowed.
27
28   The 2012 Applicant Guidebook provisions related to this category are inconsistent with
29   the GNSO policy recommendations contained in the Introduction of New Generic Top-
30   Level Domains from 8 August 2007. This recommendation clarifies the text from the
31   2012 Applicant Guidebook and updates the policy to be consistent with the Work
32   Track's interpretation of 2012 Applicant Guidebook section 2.2.1.4.1.vi.
33
34   **PRELIMINARY RECOMMENDATION #9:**
35
36   The Work Track recommends continuing to consider the following category a country
37   and territory name which is reserved at the top level and unavailable for delegation, as
38   stated in the 2012 Applicant Guidebook section 2.2.1.4.1.vii:
39
40   ●   name by which a country is commonly known, as demonstrated by evidence that
41   the country is recognized by that name by an intergovernmental or treaty
42   organization.

Commented [A24]: Revision based on feedback from Paul McGrady and Alan Greenberg.

1
2 The 2012 Applicant Guidebook provisions related to this category are inconsistent with
3 the GNSO policy recommendations contained in the Introduction of New Generic Top-
4 Level Domains from 8 August 2007. This recommendation makes the policy consistent
5 with the 2012 Applicant Guidebook, and therefore represents a change to the existing
6 policy recommendation.
7
8 **PRELIMINARY RECOMMENDATION #10:**
9
10 The Work Track recommends continuing to consider the following category a
11 geographic name requiring government support at the top level. Applications for these
12 strings must be accompanied by documentation of support or non-objection from the
13 relevant governments or public authorities:
14
15   ● An application for any string that is a representation of the capital city name of
16   any country or territory listed in the ISO 3166-1 standard.
17
18 The 2012 Applicant Guidebook provisions related to this category are inconsistent with
19 the GNSO policy recommendations contained in the Introduction of New Generic Top-
20 Level Domains from 8 August 2007. This recommendation makes the policy consistent
21 with the 2012 Applicant Guidebook, and therefore represents a change to the existing
22 policy recommendation. As currently written, the recommendation does not address
23 the issue of translations of these strings, which required support/non-objection in the
24 2012 Applicant Guidebook. Please see questions for community input regarding
25 translations in section e.
26
27 **PRELIMINARY RECOMMENDATION #11:**
28
29 The Work Track recommends continuing to consider the following category a
30 geographic name requiring government support at the top level. Applications for these
31 strings must be accompanied by documentation of support or non-objection from the
32 relevant governments or public authorities:
33
34   ● An application for a city name, where the applicant declares that it intends to
35   use the gTLD for purposes associated with the city name. An application for a city
36   name will be subject to the geographic names requirements (i.e., will require
37   documentation of support or non-objection from the relevant governments or
38   public authorities) if: (a) It is clear from applicant statements within the
39   application that the applicant will use the TLD primarily for purposes associated
40   with the city name; and (b) The applied-for string is a city name as listed on
41   official city documents
42

Commented [A25]: Revision based on feedback from Paul McGrady and Alan Greenberg.

Commented [A26]: Paul McGrady: Suggestion to change "drafted" to "written"

Commented [A27]: Staff note: edited

Commented [A28]: Christopher Wilkinson: This text, and elsewhere, omits to refer to the issue of non-geographical use. Whereas that has been a major issue for Work Track 5. The recommendation must address non-geographical use as also requiring prior authorisation.

Use of geographical names for 'generic and brand contexts' has the major Drawback that future geographical use would be prevented, whereas under Proposed Problem 6.1, (p.16) we have Proposed solution 6.1.2 "… to maximize the opportunities for future applicants for geographic names." (Names that meanwhile have been freely available for non-geographic use. I don't think so!)

This dichotomy must be explained clearly in the text.

Remedy: The only exception to geographic use could be limited to pre-existing trademark rights recognised in the jurisdiction concerned and subject to prior authorisations.

Commented [A29]: Staff note: See section f for further discussion of non-geographical use and the different perspectives in the WT on this issue.

Commented [A30]: Robin Gross: I disagree with recommendation number 11 as it ignores free expression rights to use words with geographic meaning in lawful ways.

Commented [A31]: Jorge Cancio: Preliminary recommendation 11: as "intended use" has been and is hotly debated in the work track, I feel it is premature to include this preliminary recommendation as it stands.

Commented [A32]: Staff note: If the Work Track agrees that this should be removed as a recommendation, it can be removed and included only in the options section. Perhaps this is something the WT needs to discuss further?

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

PRELIMINARY RECOMMENDATION #12:

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

- 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.

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

PRELIMINARY RECOMMENDATION #13:

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

- "An application for a string listed as a UNESCO region[15] or appearing on the "Composition of macro geographical (continental) regions, geographical sub-regions, and selected economic and other groupings"[16] list.

  In the case of an application for a string appearing on either of the lists above, documentation of support will be required from at least 60% of the respective national governments in the region, and there may be no more than one written

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[15] See http://www.unesco.org/new/en/unesco/worldwide/

[16] See http://unstats.un.org/unsd/methods/m49/m49regin.htm

statement of objection to the application from relevant governments in the region and/or public authorities associated with the continent or the region.

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

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

Commented [A37]: Revision based on feedback from Paul McGrady and Alan Greenberg.

d.   *What are the options under consideration, along with the associated benefits / drawbacks?*

Given the large volume of proposals and options put forward by Work Track members and noting the importance of providing context for each of these proposals, all options and proposals are included under the appropriate sub-sections of the deliberations in section f.

Commented [A38]: Based on feedback from Work Track members that the structure and content of this section lacked clarity and had the potential to cause confusion for readers, staff is proposing to integrate proposals into the deliberations text where they are presented in the context of related discussions. All comments that apply to text previously included in section d are now addressed in the relevant sub-sections of the deliberations text (section f).

e.   *What specific questions are the PDP WG seeking feedback on?*

Overarching Issues

- e1: The Work Track encourages feedback from applicants or other stakeholders who were involved in the 2012 round. The Work Track is particularly interested in hearing about the experiences of the following groups and individuals:
    - Applicants who applied for terms defined as geographic names in the 2012 Applicant Guidebook, as well as those who considered applying for such strings but chose not to apply.
    - Applicants who applied for terms not defined as geographic names in the 2012 Applicant Guidebook but who had experiences in the process related to the geographic connotations of the applied-for string.
    - Other parties who raised objections to an application, provided support for an application, or otherwise engaged during the course of the application process for applications in the two categories above.

Commented [A39]: Added based on suggestion by David McAuley on 7 November call.

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

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

- e3: The Work Track has discussed different types of mechanisms that can be used to protect geographic names in the New gTLD Program. These mechanisms fall broadly into two categories, noting that the categories are not mutually exclusive and measures from both categories can be used in combination:
  - Preventative: Measures in this category include reserving certain strings to make them unavailable for delegation or requiring letters of support/non-objection from relevant governments or public authorities, either in all cases or dependent on intended usage of the TLD.
  - Curative: Measures in this category include objections mechanisms, contractual provisions incorporated into the registry agreement, enforcement of those provisions, and post-delegation dispute resolution mechanisms.

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

- e4: Work Track members have considered a series of principles that may be used to guide development of future policy on geographic names. The principles were discussed in the context of city names and terms not included in the 2012 Application Guidebook, but they may be applicable more broadly. Proposed principles include:
  - In alignment with Principle C from the 2007 GNSO recommendations on new gTLDs, the program should allow for the introduction of new gTLDs.
  - In alignment with Principle A from the 2007 GNSO recommendations on new gTLDs, enhance the predictability for all parties.

○ Reduce the likelihood of conflicts within the process, as well as after the process concludes and TLDs are delegated.
○ Policies and processes should be simple to the extent possible.

Please see the deliberations section of this document for additional discussion of these principles. Do you support these principles? Why or why not? Are there additional principles that the Work Track should consider? Please explain. Please see deliberations section f.1.3 on pages 42-43 for context on this question.

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

Please explain. Please see deliberations section f.1.2.1 on pages 25-28 and section f.1.2.3 on pages 30-34 for context on this question.

Country and Territory Names

- e6: In the 2012 Applicant Guidebook, a string was considered unavailable if it was a translation **in any language** of the following categories of country and territory names:
    ○ long-form name listed in the ISO 3166-1 standard.
    ○ short-form name listed in the ISO 3166-1 standard.
    ○ separable component of a country name designated on the "Separable Country Names List."

In developing recommendations for future treatment of country and territory names, the Work Track has considered several alternatives related to translation:
    ○ continue to reserve as unavailable translations in any language
    ○ reserve as unavailable translations in UN languages
    ○ reserve as unavailable translations in UN languages and the official languages of the country
    ○ reserve as unavailable translations in official languages of the country
    ○ reserve as unavailable translations in official and commonly used languages
    ○ reserve as unavailable translations in official and relevant national, regional, and community languages
    ○ reserve as unavailable 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

○ a combination of two or more categories above

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

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

Geographic Names Requiring Government Support in the 2012 Applicant Guidebook

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

○ translations in UN languages
○ translations in UN languages and the official languages of the country
○ translations in official languages of the country
○ translations in official and commonly used languages
○ translations in official and relevant national, regional, and community languages
○ 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
○ a combination of two or more categories above

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

● e9: In the 2012 round, applicants were required to obtain letters of support or non-objection from the relevant governments or public authorities for "An application for a city name, where the applicant declares that it intends to use

the gTLD for purposes associated with the city name." The requirement applied
if: "(a) It is clear from applicant statements within the application that the
applicant will use the TLD primarily for purposes associated with the city name;
and (b) The applied-for string is a city name as listed on official city documents."
Do you think that this requirement should be kept, eliminated, or modified in
subsequent procedures? Please explain. Please see deliberations section f.2.3.2
on pages 59-69 for context on this question.

- e10: Section f.2.3.2 of this report outlines a series of proposals that Work Track
  members have put forward for the future treatment of non-capital city names.
  What is your view of these proposals? Are there any that you support the Work
  Track considering further? Do you have alternate proposals you would like the
  Work Track to consider? Please explain. Please see deliberations section f.2.3.2,
  and specifically pages 62-69, for context on this question.
-

Additional Categories of Terms

- e11: In the 2012 round, the Applicant Guidebook listed categories of terms that
  were considered geographic names and had specific rules (see section b for
  additional information about these categories).
  - Some Work Track members have expressed support for
    protecting/restricting additional categories of geographic names in future
    versions of Applicant Guidebook.
  - Some Work Track members have expressed that no additional types of
    terms should be protected/restricted beyond those included in the 2012
    Applicant Guidebook.
  - Some Work Track members have expressed that compared to the 2012
    round, fewer types of terms should be protected/restricted in
    subsequent procedures.

  Work Track members who support including additional terms in the Applicant
  Guidebook have proposed protecting/restricting the following categories:
  - Geographic features (rivers, mountains, etc)
  - Names of additional sub-national and regional places not included in the
    2012 Applicant Guidebook
  - Non-ASCII geographic terms not included in the 2012 Applicant
    Guidebook
  - Any term that can be considered geographic in nature
  - Geographical Indications

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Commented [A46]: Christopher Wilkinson: Additional Categories or Terms (p.20) – Geographical Indications

One would have thought, after all the time and effort that has been expended on Work Track 5, that there should be a specific Recommendation on Geographical Indications. To find these relegated, again, to an afterthought right at the end of the document, is not correct.

We know from the previous Round that the issue is a live one and must be addressed. Appropriate text is available on the List and in the Transcripts.

Commented [A47]: Staff note: See text on Geographical Indications in the deliberations section of this report (section f). It is also included in the questions section (section e).

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Two Work Track members stated that currency codes listed in under ISO 4217 should be protected as geographic names. A number of other Work Track members responded that they do not view these codes as geographic names, and believe that such codes are therefore out of scope, noting that the broader issue of reserved names is in scope for the full New gTLD Subsequent Procedures PDP Working Group.

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

f. Deliberations

f.1 PART I - ISSUE OVERVIEW

f.1.1 INTRODUCTION

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

The Work Track used a number of different strategies to gather input from the diverse set of participants in the group. The Work Track revisited the 2007 policy and did a deep dive into understanding the rules and procedures as implemented in the 2012 application round. It mapped and analyzed the different elements of the 2012 process with respect to geographic names to ensure that there is a common understanding of the different program elements. It reviewed recent resolutions by the ICANN Board regarding specific cases from the 2012 round.[17] The Work Track reflected on both

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[17] 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).

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Commented [A48]: Edited based on feedback from Christopher Wilkinson on 7 November call.

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1 positive and negative experiences from the 2012 application round and considered
2 issues experienced by applicants and other parties. It worked to develop principles that
3 may guide the evaluation of options for future treatment of geographic names. The
4 Work Track considered "pros" and "cons" of existing treatment from the 2012 Applicant
5 Guidebook, as well as "pros" and "cons" of alternatives proposed by Work Track
6 members. Finally, the Work Track sought to find convergence on areas where there
7 might be agreement regarding future treatment.
8
9 Deliberations uncovered some areas of possible compromise where members tended to
10 either support or accept the existing terms in the 2012 Applicant Guidebook. Noting
11 that no official consensus calls have been taken prior to publication of the Initial Report,
12 all preliminary recommendations are for discussion purposes at this stage and may
13 change based on community input received through public comment, as well as further
14 deliberations by the Work Track.
15
16 In those areas where the Work Track put forward preliminary recommendations, the
17 preliminary recommendations tended to support either maintaining or making minor
18 adjustments to the existing provisions contained in the 2012 Applicant Guidebook.
19 Some Work Track members noted that it may be difficult to move away from the 2012
20 Applicant Guidebook terms, because these provisions already represented a form of
21 compromise. As there was no clear legal foundation upon which to base
22 protections/restrictions, the 2012 treatment was the result of negotiation between the
23 GAC, the ccNSO, and the ICANN Organization based on public policy and public interest
24 considerations.
25
26 In other topic areas, there is not yet a clear path forward. For these issue areas, the
27 report includes options in section f and questions for community input in section e. The
28 Work Track looks forward to receiving input from the community through public
29 comment on preliminary recommendations, options, and questions that may help to
30 inform further refinement of the Work Track's outputs.
31
32 **f.1.2 KEY ISSUES AND POINTS OF VIEW**
33
34 Through the deliberations process, it was apparent that there are different views in the
35 Work Track about which issues need to be addressed through policy and which
36 corresponding mechanisms should exist in the implementation of the New gTLD
37 Program. This section summarizes high-level themes that emerged in the discussions
38 and outlines some of the points of view held by Work Track members.
39
40 **f.1.2.1 Who owns a string? Who has rights to a string? What is the appropriate role of**
41 **geographic communities and governments?**
42
43 The 2012 Applicant Guidebook sought to address these questions by putting in place a
44 combination of preventative and curative measures. Preventative measures included

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

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

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

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

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

- The use of a string with geographic connotations in the DNS would have effects in the place associated with that term, and therefore there must be a voice in the process that represents the interests of the people.
- Rules should take into account that there may be different norms and cultural factors in different parts of the world.

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

- 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.
- 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, blocking rights and other systems that prevent a TLD from entering the market.
- 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-

1 objection from relevant governments or public authorities grants preventative rights to
2 those governments or public authorities. Some believe that:
3
4 ● This rule provides a role for governments and public authorities in which the
5   government or public authority can choose to deny or withhold support/non-
6   objection, and as a result the application will not move forward. Therefore, these
7   mechanism provides a preventative right to governments and public authorities.
8
9 Some believe that:
10
11 ● This rule does not provide a preventative right to governments and public
12   authorities, but instead places a requirement on applicants while still allowing
13   any interested parties to apply.
14
15 **f.1.2.3 What law and policy considerations should be taken into account? Which**
16 **should take precedent?**
17
18 In the 2012 round, no clear legal basis was identified to justify special treatment of
19 geographic names. The 2012 Applicant Guidebook represents and compromise between
20 the GAC, the ccNSO, and the ICANN Organization based on public policy and public
21 interest considerations.
22
23 In discussions about applicability of law and policy, Work Track members referenced,
24 but had different interpretations of Section 1.2 (a) of the ICANN Bylaws. Section 1.2 (a)
25 states: "In performing its Mission, ICANN must operate in a manner consistent with
26 these Bylaws for the benefit of the Internet community as a whole, carrying out its
27 activities in conformity with relevant principles of international law and international
28 conventions and applicable local law, through open and transparent processes that
29 enable competition and open entry in Internet-related markets."[18]
30
31 With respect to international law[19], some believe that:

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[18] 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."

[19] 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."

- 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.

With respect to international law, some believe that:

- Ongoing work at UNESCO and WIPO on geographic names is international law "in the making" and should be reflected in policy.

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

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

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

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

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

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

1

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

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[20] 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 the 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

Some believe that:

- National and local law providing protection for geographic names does not give governments rights beyond those of other stakeholders in the context of the New gTLD Program, including the application process.
- National and local laws only apply in the jurisdiction where the applicant is located, therefore the WT should look to international law as a basis for any recommendations related to geographic names.

The Work Track discussed the role and applicability of intellectual property law in the context of the New gTLD Program. Some believe that:

- Trademark holders 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. In order to operate a .brand registry, an applicant must produce a trademark registration certificate which shows consent of at least one government to use that trademark. In this view, an entity with a trademark registration for a term has a right to use that term. From this perspective, the term is used in connection with certain goods and services and has no geographic meaning.
- Trademarks may evoke positive associations and have "secondary meaning," which is the association between the mark and the attributes of the source or origin of the products and services. This secondary meaning (or "goodwill") in turn is a key component of the value and strength of the mark.
- Some marks have long histories and significant value. Marks may be used in many countries and may be known by large numbers of people. From this perspective, under trademark law, trademark assets and rights are "owned" and controlled by particular parties.

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by states; (c) the general principles of law recognized by civilized nations; (d) and in some cases judicial decisions and writings/teachings of the most highly qualified publicists (professors, experts, etc) as subsidiary means for the determination of rules of law. According to this Work Track member, a local rule is an internationally binding norm only if it is also a general principle of law where clear and convincing evidence is provided that a local norm or practice is also a general and consistent practice of states and viewed as legally binding by those states, and thus binding customary law.

● The civil code of one country should not take precedence over the trademark code of another country. In this perspective, the narrower, more focused right should take precedence since it is less limiting of others.

Some believe that:

● 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 legally stop another party from imitating a mark or confusing customers.
● The right is limited and curative in nature. It is focused on consumer protection and prevention of imitations.
● "Monopolization" of a city name by private parties is forbidden under laws pertaining to business names and trademark registration in some jurisdictions.
● Rights granted to geographic locations to protect geographic names are qualitatively different than intellectual property rights. In this view, civil rights are more general in scope and therefore more significant.

Work Track members discussed the role of public policy in the context of the New gTLD Program. Some believe that:

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

f.1.2.4 What is a geographic name for the purposes of the New gTLD Program? Does the intended use of the string matter?

In the 2012 Applicant Guidebook, there were specific lists provided to define which terms were eligible for special rules. This included a definition of country and territory names that were considered unavailable for delegation, and a definition of geographic names that required governments support or non-objection from relevant governments or public authorities.

Work Track members had different perspectives on what constitutes a geographic name for the purposes of the New gTLD Program. For example, some believe that:

● For the purposes of the program, geographic names should be clearly defined in the Applicant Guidebook along with any corresponding rules or requirements for those strings. Any strings not listed in the Applicant Guidebook are not

geographic names for the purposes of the program and should have no special rules, requirements or restrictions.

However, some believe in a broader definition that:

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

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

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

- TLDs are a unique resource. Some Work Track members have contrasted this unique quality of TLDs with the use of names under trademark law. From this perspective, under trademark law, the principles of specialty and of trademark "fair use" apply, according to which it is possible for two brands to register trademarks for the same term in the same jurisdiction, as long as no confusion or infringement pursuant to the law arises. In this view, the DNS is different because "parallel use" is not possible. In other words, if a string corresponding to a geographic term is delegated to one party, others who have an interest in that

string are prevented from using it, potentially for a significant period of time or permanently.

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

However, some believe that:

- The unique nature of a TLD does not give a government primacy over the use of that TLD.
- If a string is being used in a generic or brand context, there is no basis for a support/non-objection mechanism related to the use of that string. The geographic meaning should not prejudice the use of the string in another context.
- The Registry Agreement includes the following language: "All material information provided and statements made in the registry TLD application, and statements made in writing during the negotiation of this Agreement, were true and correct in all material respects at the time made, and such information or statements continue to be true and correct in all material respects as of the Effective Date except as otherwise previously disclosed in writing by Registry Operator to ICANN." This provision provides a possible means for recourse if the applicant misrepresented information in the application.
- It should be possible to establish intended use in the application process, especially in the case of .brands. It should be feasible to put in place protections that help to ensure a non-geographic TLD does not mislead end-users or imply

that it is an "official" TLD associated with a geographic place. Applicants could make and be held accountable to uphold commitments on how the registry will operate and how names will be allocated. Applicants could also demonstrate a willingness to cancel names which are used in a manner outside the way the registry operator intended.

- In the case of .Brands, there are strict contractual qualifications included in Specification 13 of the Registry Agreement. If an applicant wants to keep benefits associated with Specification 13, it needs to abide by the terms of Specification 13. .Brands are not likely to change the use of the TLD because that undermines the qualification for Specification 13.

- To the extent that there is risk of confusion, it should be possible to create a standard against which to manage these risks, for example by ensuring that the applicant does not represent that it is endorsed by a city or is the "official" TLD of a city when this is not the case. .Brands operate in such a manner that there should not be any confusion between a brand and TLD that is being operated in a geographic context.

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

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

- Applicants who applied for terms defined as geographic names in the 2012 Applicant Guidebook.
- Applicants who applied for terms not defined as geographic names in the 2012 Applicant Guidebook but who had experiences in the process related to the geographic connotations of the applied-for string.
- Other parties involved in applications associated with either of the two categories above. This includes parties who raised objections to an application, provided support for an application, or otherwise engaged during the course of the application process.

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

Nonetheless, some Work Track members proposed solutions to problems they believe exist.

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

- There was insufficient predictability, transparency and consistency in ICANN's implementation of the Applicant Guidebook.
- It was not always clear to an applicant if special rules were applicable to a particular string.
- Some applicants found it difficult to determine which relevant government or public authority was the appropriate point of contact for a letter of support or non-objection.
- 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.
- 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.
- Stakeholders may not be familiar with the ICANN and its processes
- There was a perception that some applicants were required to make concessions to governments to obtain support/non-objection. Other Work Track members strongly opposed this point, stating that there are not facts to support this claim. Some Work Track members suggested that additional facts should be gathered about specific cases. At the time of publication, the Work Track had not undertaken this additional fact finding work.
- Applicants faced challenges in applying for strings that were not included as geographic names in the Applicant Guidebook but were considered to be geographic names by other parties. For example, some applicants experienced what appeared to be a de-facto requirement to obtain support/non-objection for strings not included in the Applicant Guidebook.
- There were cases where an applicant was required to obtain a letter of support/non-objection, the relevant government or public authority did not provide a letter of support/non-objection, and the applicant disagreed with this decision.

Work Track members proposed specific measures to mitigate some of the problems identified. These proposals do not change the underlying program requirements related

to specific types of strings. Instead they seek to supplements and improve that status quo, as implemented in the 2012 round.

- Proposal to address the suggested problem that it was not always clear to an applicant if special rules were applicable to a particular string: **Develop an online tool for prospective applicants.** The searchable tool indicates whether a string is eligible for delegation and whether there are issues that require further action (for example obtaining a letter of support or non-objection from relevant governments or public authorities). This could be a stand-alone tool or a function integrated into the application system that flags if a term is geographic and has special requirements/restrictions.
- Proposal to address the suggested problem that some applicants found it difficult to determine which relevant government or public authority was the appropriate point of contact for a letter of support or non-objection: **GAC members could 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.
- Proposal to address the suggested problem that there were cases where an applicant was required to obtain a letter of support/non-objection, the relevant government or public authority did not provide a letter of support/non-objection, and the applicant disagreed with this decision: **If government support/non-objection is required for an application, provide mediation 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**

1   **must respond to the request**. If no response is received, this is taken as non-
2   objection.
3

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.	

4
5
6   Work Track members expressed different perspective on the scope of
7   protections/restrictions from the 2012 round. Some believe that
8   protections/restrictions were too strong, while others felt they were too weak. Work
9   Track members put forward proposals to change the level of protection/restriction in
10   the program overall. For proposals relating to specific categories of strings, please see
11   the relevant sub-sections.
12
13   The following proposals were put forward by Work Track members who believe that
14   existing protections/restrictions included in the 2012 Applicant Guidebook should be
15   reduced:
16
17   ● **Once a gTLD is registered with an intended use that is geographic in nature, all**
18   **other variations and translations of this term are unconditionally available for**
19   **registration.**
20   ● **An applicant for a string with geographic meaning must provide notice to each**
21   **relevant government or public authority that the applicant is applying for the**
22   **string.** The applicant is not required to obtain a letter of support on non-
23   objection. This proposal relies on curative mechanisms to protect geographic
24   names in contrast with support/non-objection requirements that are
25   preventative in nature. Each government or public authority has a defined
26   opportunity to object based on standards to be established. The right to object
27   expires after a set period of time. Objections are filed through one of the existing
28   objection processes or a variation on an existing process. A set of standards

Commented [A51]: Jorge Cancio: page 14: the meaning of the first bullet under point 2 is unclear, e.g. what means "unconditionally" "available"? to whom?

Commented [A52]: Staff note: May require additional clarification by the member who proposed this option.

1 would need to be established to determine what constitutes a relevant
2 government or public authority. This proposal could apply to all or some of the
3 categories of geographic names included in the 2012 Applicant Guidebook.
4
5 The following proposals were put forward by Work Track members who believe that
6 existing protections/restrictions included in the 2012 Applicant Guidebook should be
7 increased:
8
9 ● **If an applicant applies for a string that is confusingly similar to a geographic**
10   **term that requires a letter of government support or non-objection, the**
11   **applicant should be required to obtain a letter of government support/non-**
12   **objection.** As an example, a common misspelling of a geographic name would be
13   considered confusingly similar.
14 ● **At the end of the registry contract period, a government entity has the option**
15   **of becoming engaged and can add provisions to the contract** that specifies
16   conditions rather than there being an assumption that the contract will be
17   renewed.
18

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.

19
20 ● **Applicants for geographic names must apply to the GAC to receive permission**
21   **to submit an application for the string.**
22
23

Benefits	Drawbacks
	It is unclear on what basis this authority would be provided.

24
25 ● **A TLD associated with geography should be incorporated within the jurisdiction**
26   **of the relevant government and subject to local law**.
27

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

- 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

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

- In alignment with Principle C from the 2007 GNSO recommendations on new gTLDs, the program should allow for the introduction of new gTLDs.
- In alignment with Principle A from the 2007 GNSO recommendations on new gTLDs, enhance the predictability for all parties.
- Reduce the likelihood of conflicts within the process, as well as after the process concludes and TLDs are delegated.
- Policies and processes should be simple to the extent possible.

Work Track members discussed the applicability of national and international law in the discussion of principles. Perspectives on this issue are summarized in section f.1.2.3. The Work Track also considered additional values that may be taken into account in considering policy options for subsequent procedures. These include competition and consumer choice,[21] security and stability, and transparency.

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

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[21] 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.

1 Similarly, Work Track members did not reach agreement about how these principles and
2 values may be weighed against one another in cases where they come in conflict. For
3 example, some Work Track members felt that the principle of simplicity should be
4 considered a key principle in evaluating all possible solutions, while others felt that the
5 objective of simplicity should be balanced against other program objectives and the
6 needs of different stakeholders in the process.
7
8 **f.2 PART II - CATEGORIES OF STRINGS INCLUDED IN THE 2012 APPLICANT**
9 **GUIDEBOOK**
10
11 **f.2.1 TWO-LETTER ASCII STRINGS**

12 The 2012 Applicant Guidebook specified that two-character[22] ASCII strings were not
13 permitted to be delegated, which was consistent with recommendations of the
14 Reserved Names Working Group referenced in the 2007 Policy. This included
15 combinations of two letters (for example .yz), combinations of two digits (for example
16 .12), and combinations of a letter and a digit (for example .a1 or .1a). The Work Track
17 noted that Work Track 2 of the New gTLD Subsequent Procedures PDP Working Group is
18 considering single letter and single digit combinations. Members generally agreed that
19 two-character codes containing digits are not geographic names and therefore focused
20 on letter-letter combinations.

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

22 ● If letter-digit combinations are available in subsequent procedures, there may be
23 a risk of confusion between certain letter-digit combinations and confusingly
24 similar letter-letter combinations (for example .I0 and .IO).
25
26 Some believe that:

27 ● In the 2012 round, string similarity processes took into account all existing TLDs,
28 including ccTLDs. If future processes work in the same manner, risk of similarity
29 will be addressed through these processes.
30
31 This issue will be explored further by the full Working Group as it considers public
32 comments on the full Working Group's Initial Report.

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[22] The term "character" refers to either a single letter (for example "a") or a single digit (for example "1").

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

- There is a longstanding association between two-character ASCII letter-letter combinations and ccTLDs, which is rooted in early Internet Engineering Task Force (IETF) Requests for Comments (RFCs).
- The current AGB rules restricting two-character ASCII letter-letter combinations as gTLDs has helped to make a clear distinction between the ccTLD space and the gTLD space.
- Reliance on the ISO 3166 Part 1 list of alpha-2 codes as a basis for two-letter country codes has historically worked well and offers a predictable system to use as a point of reference.
- Two-letter combinations are available in case new entries are added to the ISO 3166 Part 1 list of alpha-2 codes and new countries are established that want a ccTLD. According to RFC 1591, the IANA is not in the business of deciding what is and what is not a country.
- End users can see a clear distinction between ccTLDs and gTLDs, which may help to avoid confusion between the two.
- Provides an objective, consistent rule that is easy to apply.
- Is consistent with preliminary outcomes of the Cross-Community Working Group of Use of Country and Territory Names as TLDs. The CCWG reached preliminary consensus in support of maintaining the 2012 treatment for two-character ASCII strings.[23]

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

- There is a possibility of opportunities lost in the gTLD space, although these are difficult to assess.
- The distinction between ccTLDs being two-characters and gTLDs being three or more characters is meaningless and unnecessary.
- Some ccTLDs essentially operate as gTLDs without the restrictions associated with gTLDs, blurring the distinction between ccTLDs and gTLDs. TLDs are taking advantage of the assumption that all 2-letter TLDs are ccTLDs. It does not make

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[23] https://ccnso.icann.org/sites/default/files/field-attached/ccwg-ctn-final-paper-15jun17-en.pdf

1 sense to say that 2-letter strings should be reserved for countries when some
2 ccTLDs are not operating in a manner consistent with this approach.
3   ○ Others believe that in most cases ccTLD operators are not-for-profit
4   organizations that work to improve their local Internet ecosystems, give
5   back to their country and represent their country's name in the best
6   possible way.
7 ● Some ccTLD managers also operate gTLDs, further blurring the distinction
8   between ccTLDs and gTLDs.
9
10 There was no clear agreement to change the terms included in the 2012 Applicant
11 Guidebook. Therefore, the Work Track is putting forward a preliminary
12 recommendation for community feedback to maintain reservation of two-letter ASCII
13 strings, consistent with provisions in the 2012 Applicant Guidebook.

14 **f.2.2 COUNTRY AND TERRITORY NAMES**

15 As described in section a, no reserved geographic names were anticipated in the 2007
16 Policy. The 2012 Applicant Guidebook diverges from the policy and lists seven categories
17 of country and territory names that were reserved and unavailable for delegation (see
18 section b for a list of these categories). The Work Track discussed, in general, the
19 reservation of country and territory names on this list, as well as issues related to
20 specific categories of country and territory names.

21 **f.2.2.1 Themes**

22 **f.2.2.1.1 Delegation of Country and Territory Names**

23 As an overarching issue applying to country and territory names, there are different
24 opinions about whether these strings should be available for delegation, and if they
25 should be delegated, which parties should be eligible to apply. Some believe that these
26 strings should be widely available for delegation to different parties. Some believe they
27 should simply remain reserved. Some believe that countries should have an exclusive
28 opportunity to apply for their country and territory names. Among those who support
29 delegation of these strings to countries and territories exclusively, there are different
30 perspectives about how this delegation should occur. Some believe that:

31 ● These names should not be delegated through the New gTLD process.
32 ● Delegation of country and territory names should only occur through local policy
33   authorities.
34 ● These strings should be delegated as something other than a gTLD, for example a
35   ccTLD or a new category of TLD.
36
37 Some believe that:

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

There are different perspectives in the Work Track about whether it is within the scope of Work Track 5 to answer broad questions about which specific entities can apply for country and territory names and how these TLDs may be treated (for instance, as a gTLD, a ccTLD or something else). It has been suggested that this topic should be deferred to another ICANN process or vehicle created to specifically to address this topic.

f.2.2.1.2 Reservation of Translations "In Any Language"

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

- long-form name listed in the ISO 3166-1 standard.
- short-form name listed in the ISO 3166-1 standard.
- separable component of a country name designated on the "Separable Country Names List."

Some Work Track members raised points in support of maintaining the "in any language" standard. Some believe that:

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

Some Work Track members raised points against maintaining the "in any language" standard. Some believe that:

- The provision is overbroad, results in a very large number of reserved strings, and does not provide a clear, objective, and finite list that can be used as reference.
- It is not predictable or transparent.
- It contradicts the overarching policy concept that reserving strings should be done conservatively and must be based on an underlying policy justification.

- Some languages are spoken by very few people, therefore reserving representations in all languages may not be appropriate.

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

- continue to reserve as unavailable translations in any language
  - Variant: "in any script"
- reserve as unavailable translations in UN languages
  - Variants: "including but not limited to official UN languages," UN languages plus Portuguese
  - Points in support: clear, finite list
  - Points against: official UN languages are not necessarily the most important languages in many countries
- reserve as unavailable 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 used as 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
- reserve as unavailable translations in UN languages and the official languages of the country
  - See above for relevant points in support and against
- reserve as unavailable 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
- reserve as unavailable 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

- ● reserve as unavailable 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.

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

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.[24] 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:

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[24] https://ccnso.icann.org/sites/default/files/field-attached/ccwg-ctn-final-paper-15jun17-en.pdf

- 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.
- There are potential missed opportunities for gTLDs comprised of three letters, for example .can, .iot, .idn, .gin, .gum, .fin, .cub, and .pry.
- There is no opportunity for an applicant supported by the relevant country to move forward with an application.

The Work Track discussed the issue of whether alpha-3 codes listed on the ISO 3166 Part 1 standard should be delegated exclusively to governments, ccTLD managers, and public interest entities. Some believe that:

- Governments, ccTLD managers, and public interest entities have a strong association with these strings and should have the opportunity to use them.

Some believe that:

- There is no "tradition" of or technological reason for alpha-3 codes on the ISO 3166 Part 1 standard being used for top level domain names connected with the related countries and territories, and therefore there is no reason to exclusively delegate them to governments, ccTLD managers, and public interest entities.
- There are three letter strings that correspond to ISO three-letter codes but also have a generic meaning. The future use of these strings should not be determined by countries when other uses are possible.

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

- Delegate these strings as gTLDs with the requirement of government support/non-objection until a future process is designed specifically for the delegation of three-character codes.
- The ISO should not be the source of 3-character strings used by ICANN to identify geographic names.

There was no clear agreement to change the terms included in the 2012 Applicant Guidebook. Therefore, the Work Track is putting forward a preliminary recommendation for community feedback to maintain reservation alpha-3 codes listed

1 on the ISO 3166 Part 1 standard, consistent with provisions in the 2012 Applicant
2 Guidebook.

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

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

7 ● The ISO list provided an easy, predictable, and objective standard to follow.
8 Work Track members raised points against continuing to reserve short-form and long-
9 form names listed in the ISO 3166-1 standard. Some believe:

10 ● There are potential missed opportunities for gTLDs.
11 ● There is no opportunity for an applicant supported by the relevant country to
12   move forward with an application.
13 For discussion of provisions reserving translations "in any language," including points in
14 support and against, as well as alternatives proposed, please see section f.2.2.1.2. For
15 discussion about the delegation of country and territory names to governments, please
16 see section f.2.2.1.1.

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

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

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

29 There was no clear agreement to change the terms included in the 2012 Applicant
30 Guidebook. Therefore, the Work Track is putting forward a preliminary
31 recommendation for community feedback to maintain reservation of short- and long-
32 form names association with a code that has been designated as "exceptionally
33 reserved" by the ISO 3166 Maintenance Agency, consistent with provisions in the 2012
34 Applicant Guidebook.

35 **f.2.2.5 Separable component of a country name designated on the "Separable Country**
36 **Name List", or is a translation of a name appearing on the list, in any language**

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

5   For discussion of provisions reserving translations "in any language," including points in
6   support and against, as well as alternatives proposed, please see section f.2.2.1.2.

7   There was no clear agreement to change the terms included in the 2012 Applicant
8   Guidebook. Therefore, the Work Track is putting forward a preliminary
9   recommendation for community feedback to maintain reservation of separable
10 components of a country name designated on the "Separable Country Name List,"
11 consistent with provisions in the 2012 Applicant Guidebook. It is not making a
12 preliminary recommendation at this time regarding translations of these names and is
13 instead seeking community input.

14 **f.2.2.6 Permutation or transposition**

15 Work Track members raised several concerns about provisions related to permutations
16 and transpositions of country and territory names in the Applicant Guidebook.
17 According to the Applicant Guidebook, a string is reserved if "it is a permutation or
18 transposition of any of the names included in items (i) through (v).[25] Permutations
19 include removal of spaces, insertion of punctuation, and addition or removal of
20 grammatical articles like "the." A transposition is considered a change in the sequence
21 of the long or short–form name, for example, "RepublicCzech" or "IslandsCayman"."

22 Work Track members expressed that it is unclear from this text whether reservation of
23 transpositions applied to categories of country and territory names beyond short-form
24 and long-form names. There was general agreement that intent of the text was that
25 only transpositions of short-form and long-form names were reserved but
26 transpositions of other forms of country and territory names were permitted. However,
27 Work Track members pointed out that the text could also be interpreted to mean that
28 transpositions of three-letter codes and other forms of country and territory names
29 were also reserved. Work Track members further noted that because this provision does

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[25] In the 2012 Applicant Guidebook, items (i) through (v) referred to: (i)it is an alpha-3 code listed in the ISO 3166-1 standard. (ii) it is a long-form name listed in the ISO 3166-1 standard, or a translation of the long-form name in any language. (iii) it is a short-form name listed in the ISO 3166-1 standard, or a translation of the short-form name in any language. (iv) it is the short- or long-form name association with a code that has been designated as "exceptionally reserved" by the ISO 3166 Maintenance Agency. (v) it is a separable component of a country name designated on the "Separable Country Names List," or is a translation of a name appearing on the list, in any language. See the Annex at the end of this module.

not reference a specific list, it may not be clear to applicants and other stakeholders which strings are covered by this provision.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- The mechanism worked well for different groups in the 2012 round.
- The 2012 Applicant Guidebook provisions represent a compromise position in which different parties found a middle ground.

- It is the role of governments to protect the public interest, and this mechanism allows government to protect the public interest and the interest of residents/communities.
- Public authorities act under applicable laws and are accountable according to their legal systems and these rules allows them to act on these responsibilities.
- These rules are consistent with a government's rights and responsibilities under national and local law and public policy.
- A TLD is a unique resource. Even if a string is being used for a non-geographic purpose, there may be political, historical, economic, religious, and/or social connotations for the populations and communities affected. This process allows governments to act on those concerns. Even if the applicant intends to use the string in a way that is not directly associated with the place, they may still benefit from positive connotations associated with the name of the place.
- Provides flexibility for different solutions. Some governments may have a "laissez-faire" approach. Other governments may end up participating in governance of the string or pursuing joint initiatives with applicants and other parties. It is therefore respectful of different legal, cultural and policy approaches, without imposing one single solution to all.
- Governments do not need to actively monitor the application process to determine whether ICANN is reviewing an application that the government may consider relevant. The mechanism fairly puts the burden on the applicant to reach out to the relevant public authorities, which, especially in the case of developing countries, may be unaware of ICANN and may lack the resources to actively monitor ICANN's activities.
- Applicants have a more predictable process. By engaging with governments early in the process, they become aware early of any opposition by governments and therefore prevent conflicts between interested parties.
- The requirement is a way to promote cooperation between different parties that have an interest in the string.
- An open market for these TLDs absent support/non-objection requirements is not sustainable.
- This mechanism is consistent with ICANN's obligation to act in conformity with applicable local law.
- This mechanism is a flexible instrument that allows applications from any kind of interested applicant, including businesses, brands, and communities.

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

- The 2012 Applicant Guidebook only represents a compromise between the GAC and ICANN staff and therefore does not represent the needs and interests of all parts of the ICANN community.
- These requirements create financial and logistical burdens for applicants and a lack of predictability. It may be difficult for applicants to determine where to seek consent from governments.
- Support/non-objection mechanism may cause rent-seeking and distort markets.
- This process does not sufficiently take into account the rights of intellectual property rights holders.
- It is beneficial for there to be more TLDs, and ICANN should eliminate unnecessary barriers to establishing new TLDs absent evidence of harm.
- Governments do not have a legal basis for claiming the right to provide support/non-objection. National law and local law on the protection of geographic names is only applicable within the country in which the law exists. If there is a relevant local or national law, it should be enforced by the applicable government, not by ICANN.
- Governments should not have special rights or privileges absent explicit justification under international law.
- This process violates the freedom of expression rights of applicants.
- There may be legitimate applications that a government opposes and that not all government represent the public interest.
- Engaging with governments early in the application process many reduce the competitive advantage for an applicant and encourage competing applications for the same string that might not otherwise have been pursued.

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

f.2.3.1 Capital City Names

For capital city names, there is divergence between the 2007 Policy and Implementation in the 2012 Applicant Guidebook. The 2007 Policy anticipated that these strings would be available without any special requirements and did not mention a provision requiring

1 support/non-objection.[26] The 2012 Applicant Guidebook required support/non-
2 objection from relevant governments or public authorities for an application for any
3 string that is a representation, **in any language**, of the capital city name of any country
4 or territory listed in the ISO 3166-1 standard.

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

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

13 ● This provision should remain in place unless there is a factual basis for limiting
14   the languages covered in this provision.
15 ● Many languages may be spoken by and relevant to communities within a given
16   country, and the list should therefore not be limited.
17 ● To reduce uncertainty, ICANN could produce an exhaustive list of all translations
18   in all languages.
19
20 Some Work Track members raised points against maintaining the "in any language"
21 standard. Some believe:
22
23 ● The provision is overbroad, results in a very large number of strings with
24   additional requirements, and does not provide a clear, objective, and finite list
25   that can be used as reference.

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[26] 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.

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

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

- continue the current standard: translations in any language
  - Variant: "in any script"
- translations in UN languages
  - Variants: "including but not limited to official UN languages," UN languages plus Portuguese
  - Points in support: clear, finite list
  - 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.

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

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

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

- The application/delegation process can take time and city administrations may change, which could create unstable conditions for the applicant who is required to have government support/non-objection.
- If a string is being used in a generic or brand context, there is no harm or risk of

confusion and therefore support/non-objection process is not necessary in these cases.

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

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

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

f.2.3.2 Non-Capital City Names

For non-capital city names, there is divergence between the 2007 Policy and Implementation in the 2012 Applicant Guidebook. The 2007 Policy anticipated that these strings would be available without any special requirements and did not mention a provision requiring support/non-objection.[27] The 2012 Applicant Guidebook required support/non-objection from relevant governments or public authorities for city names where the applicant declares that it intends to use the gTLD for purposes associated with the city name. Please see section b for a full summary of applicable provisions.

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[27] 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.

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

- The term "city" was not defined, which could be a source of uncertainty. At the same time, because support/non-objection was only required if the applicant intended to operate the TLD for purposes associated with the city name, the impact of this lack of precision may have been limited. Work Track members pointed out that there are different definitions of the term "city."[28]
- 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.

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

- 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.

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

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

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

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

Some members support changing the 2012 requirement so that government support/non-objection is always required, regardless of intended use. Some members support maintaining existing provisions. Some members support removing support/non-objection requirements for this category. Please see sections f.1.2.3 on law and policy f.1.2.4 on intended use and f.2.3 for general arguments in support of and against support/non-objection requirements.

The following proposals have been put forward by Work Track members as possible options for the future treatment of city names that are not capital city names:

- **Maintain provisions included in the 2012 Applicant Guidebook that require applicants to obtain letters of support or non-objection from the relevant governments or public authorities for "An application for a city name, where the applicant declares that it intends to use the gTLD for purposes associated with the city name."** The requirement applies if: "(a) It is clear from applicant statements within the application that the applicant will use the TLD primarily for purposes associated with the city name; and (b) The applied-for string is a city name as listed on official city documents." See the deliberations section of this paper for pros and cons associated with maintaining the treatment included in the 2012 Applicant Guidebook. As with other applications, curative measures available include objections processes, use of Public Interest Commitments, contractual provisions and enforcement, and post-delegation dispute resolution.
  - **Variant 1: Implement provisions to prevent misrepresentation.** Applicants who intend to represent a connection the authority of a non-capital city will need to provide a letter of support/non-objection. However, if the applicant does not intend to represent a connection to the authority of non-capital city names, protections will be enhanced by inserting contractual requirements into the Registry Agreement that prevent the applicant from misrepresenting their connection or association to the geographic term. This proposal changes the standard for when a letter is needed for non-capital city names from usage associated with the city name to usage intended to represent a connection to the authority of the non-capital city name. This proposal increases contractual requirements and therefore enhances protections for geographic places.

Benefits of Variant 1	Drawbacks of Variant 1
Some believe that this standard would be more fair and clear to applicants.	Some believe that this proposal only provides protections against specific types of misrepresentations, and does not address

	other core concerns about the association of the string with the city and its people.

- ○ Variant 2: **Change the text of part (a) describing when support/non-objection applies**. Change the text "(a) It is clear from applicant statements within the application that the applicant will use the TLD primarily for purposes associated with the city name" to "(a) The Geographic Names Panel determines that the foreseeable use of 2nd level domains by registrants will be to a significant degree for purposes associated with the city name."

Benefits of Variant 2	Drawbacks of Variant 2
Some believe that this will protect against an applicant applying to use the string in a generic manner and later allowing second level registrations related to the city name.	Some believe that this standard would not be sufficiently predictable and clear for applicants.

- ○ Variant 3: **Change the text of part (a) describing when support/non-objection applies**. Change the text "(a) It is clear from applicant statements within the application that the applicant will use the TLD primarily for purposes associated with the city name" to "(a) The applicant is able and will confirm that neither he nor his sales channel will use the TLD as a geographic identifier."

- ● **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.

Commented [A59]: Christopher Wilkinson: The reference in sub para 3 to 'Objectors pay for the objection…' is so far off-the-wall, that I am surprised that it is still being maintained. Note that in any eventual 'curative' regime for non-geographic use, most of the objectors might be private parties.

Commented [A60]: Staff note: this appears to be a substantive comment on the proposal. Are any edits to the proposal suggested?

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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 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.

Commented [A61]: Added based on feedback from Justine Chew on 7 November call.

Commented [A62]: Added based on comment from Christopher Wilkinson on 7 November call.

1
2
3   ● **Always require a letter of support or non-objection from the relevant**
4   **governments or public authorities regardless of intended use.**
5   ○ For general arguments in favor and against intended use provisions,
6   please see section f.2.3. The following are points that specifically address
7   this proposal.
8

Benefits	Drawbacks
Some believe that this would be consistent	Some believe that there is no legal basis for

with some cities' national laws, a requirement in ICANN's Bylaws. Please see sections f.1.2.3 on law and policy.	such a requirement. Please see sections f.1.2.3 on law and policy.
Some believe that city names are geographic names regardless of intended use. Please see section f.1.2.4 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 f.1.2.4 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.

- **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 public authorities for strings on this list, regardless of the way the applicant intends to use the string.** The list of large cities could be developed based one of the following standards or a combination of these standards:
  - Absolute population of the city: the city has a certain minimum population, for example 500,000 residents or 1,000,000 residents.
  - Relative population of the city: the city is relatively large by population compared to other cities in the country or sub-national region, for example it is one of the 10 largest cities in a country or 3 largest cities in a sub-national region.
  - Percentage of a country's population: The city holds a certain minimum percentage of the country's population.

WT members suggested a number of possible sources of data for the development of this list, including:
- World's largest urban areas
- United Nations - The world's cities in 2016

1 • Council of European Municipalities and Regions comments on ICANN's
2   draft version 3 of the New gTLD Applicant Guidebook (ccre.org)
3 • World Population Review
4 • United Nations DESA/Population Division World Population Prospects
5   2017
6 • UN Statistics Division - Demographic Yearbook 2015
7 • United Nations Data Booklet - The World's Cities in 2016
8 • Homeland Infrastructure Foundation Level Data (HIFLD)
9 • List of cities with airports (International Airport Transportation)
10 • GeoNames
11 • United Nations Committee of Experts on Global Geospatial Information
12   Management - Working Group A Core Data
13 • United Nations Committee of Experts on Global Geospatial Information
14   Management - Core Spatial Data Theme 'Geographical Names'
15   Recommendation for Content
16

Benefits	Drawbacks
Some believe that providing protections is consistent with some cities' national laws, a requirement in ICANN's Bylaws.	Some believe that cities do not have internationally recognized rights to their names.
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.

- **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.

Benefits	Drawbacks
Some believe that providing protections is consistent with some cities' national laws, a requirement in ICANN's Bylaws.	Some believe that cities do not have internationally recognized rights to their names.

- **Reserve city names that have "global recognition."** If a city wants apply for a gTLD, it can apply for a string containing the name of the city followed by the applicable country code. This would allow multiple cities with the same name located in different countries to obtain a gTLD.

Benefits	Drawbacks
Some believe that providing protections is consistent with some cities' national laws, a requirement in ICANN's Bylaws.	The scope of this category is not clearly defined.

- **Raise awareness and increase knowledge among potential applicants about the opportunity to apply for TLDs. This proposal does not impact the level of protection/restriction and could supplement any of the above proposals.**

Benefits	Drawbacks

Some believe that this would help to ensure that potential applicants for "city TLDs" can make informed decisions about whether to apply for a string.	There are potential costs associated with awareness raising campaigns.
Some believe that this approach is more consistent with the overall design of the program compared to proposals focused exclusively on reservation and/or support/non-objection.	

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3   **Summary of Proposals - Relative to the 2012 AGB**
4

Proposal	Level of Protection/Restriction	Focus
Maintain 2012 AGB	Status Quo	Preventative and Curative
Variant 1 of maintaining 2012 AGB: Prevent Misrepresentation	Increased in some respects and decreased in other respects	Preventative and Curative
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

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

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

For strings in this category, there is divergence between the 2007 Policy and Implementation in the 2012 Applicant Guidebook. The 2007 Policy anticipated that these strings would be available without any special requirements and did not mention a provision requiring support/non-objection. The 2012 Applicant Guidebook required support/non-objection from relevant governments or public authorities if a string was an exact match of a sub-national place name, such as a county, province, or state listed in ISO 3166 Part 2.

Please see section f.2.3 for general arguments in support of and against the support/non-objection mechanism in general.

Specifically in relation to sub-national place names, Work Track members raised points in support of continuing the 2012 Applicant Guidebook treatment for this category. Some believe that:

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

Specifically in relation to sub-national place names, Work Track members raised points against continuing the 2012 Applicant Guidebook treatment for this category. Some believe that:

- There may be tensions between communities associated with regions and the corresponding governments. In this view, a legitimate applicant could be

1   punished or evaluated negatively because a government entity does not agree
2   with the applicant's position or entitlement.
3   ● The case of .tata was provided as an example of a string in this category that had
4   challenges in the 2012 round. From one perspective, a large multinational brand
5   needed to obtain support/non-objection from a small province in Morocco that
6   had not expressed interest in establishing a TLD related to that string. For some
7   Work Track members, this is an indication that there is a problem with this
8   provision.
9   ● If a string is being used in a generic or brand context, there is no harm or risk of
10   confusion and therefore support/non-objection process is not necessary in these
11   cases.
12
13   The following proposals have been put forward by Work Track members with respect to
14   this category:

15   ● Eliminate support/non-objection requirements.
16   ● Applicants who intend to represent a connection the authority of a sub-national
17   place will need to provide a letter of support/non-objection. However, if the
18   applicant does not intend to represent a connection to the authority of the
19   geographic terms listed above, protections will instead be achieved by inserting
20   contractual requirements into the Registry Agreement that prevent the applicant
21   from misrepresenting their connection or association to the geographic term.
22   ● If the string corresponds to a geographic name but the applicant intends to use
23   the string in a generic or brand context, there is no requirement for a letter of
24   support or non-objection from any governments or public authorities.
25
26   There was no clear agreement to change the terms included in the 2012 Applicant
27   Guidebook. Therefore, the Work Track is putting forward a preliminary
28   recommendation for community feedback to continue to consider this category a
29   geographic name requiring government support at the top level, consistent with the
30   2012 Applicant Guidebook.

31   **f.2.3.4 Strings listed as UNESCO Regions[29] or Appearing on the "Composition of macro**
32   **geographical (continental) regions, geographical sub-regions, and selected economic**
33   **and other groupings" list[30]**

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[29] See http://www.unesco.org/new/en/unesco/worldwide/.

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

Please see section f.2.3 for general arguments in support of and against the support/non-objection mechanism.

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

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

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

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

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

- Eliminate support/non-objection requirements.

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[30] See http://unstats.un.org/unsd/methods/m49/m49regin.htm.

- Applicants who intend to represent a connection the authority of a UNESCO region, or region appearing on the "Composition of macro geographical (continental) regions, geographical sub-regions, and selected economic and other groupings" list will need to provide a letter of support/non-objection. However, if the applicant does not intend to represent a connection to the authority of the geographic terms listed above, protections will instead be achieved by inserting contractual requirements into the Registry Agreement that prevent the applicant from misrepresenting their connection or association to the geographic term.
- If the string corresponds to a geographic name but the applicant intends to use the string in a generic or brand context, there is no requirement for a letter of support or non-objection from any governments or public authorities.

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

f.2.4 ADDITIONAL TYPES OF TERMS NOT INCLUDED IN THE 2012 APPLICANT GUIDEBOOK

The Work Track discussed additional categories of strings that were not listed as geographic names in the 2012 Applicant Guidebook. Perspectives on this issue surfaced through conversations on specific applications from the 2012 round. Work Track members referenced examples from the 2012 round where different parties had different perspectives on whether a term was geographic in nature and the resulting process caused uncertainty and costs for parties involved. These include .Thai, .GCC, .PersianGulf, and .Amazon, and .Patagonia. In further discussions, the Work Track tried to identify the issues, if any, that arose in these and other cases in the 2012 round, and attempted to determine if there is a problem that needs to be solved through policy. The Work Track discovered that the definition of the issue can be highly subjective, and therefore it may be difficult to reach agreement on any possible next steps in the discussion.

Some believe that:

- There were names with geographic meaning that were not covered by the 2012 Applicant Guidebook definitions and rules and that should be included in the Applicant Guidebook as geographic terms in the future.
- The issue is that the AGB was not sufficiently clear.

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Commented [A65]: Jorge Cancio: page 16: proposed solution 4.4.1. seems to repeat the "intended use" idea – this approach, as said above, should be consolidated under one single point.

Commented [A66]: Staff note: Suggest moving the proposal under the specific categories within the deliberations where it is being proposed since it applies to a specific subset of all categories (not capital city names).

● It is desirable to create rules for a greater number of strings, because it will create more predictability in the process and reduce conflicts between different parties.

Some believe that:

● No additional restrictions or preferences should exist that were not included in the 2012 Applicant Guidebook.
● The issue in the above referenced cases is one of government overreach. The rules in the 2012 Applicant Guidebook were clear.
● There is no cause of action and no basis for complaints that were made about these applications. From this perspective, the complaints should not have been allowed to go forward.
● Existing mechanisms, such as objections procedures should be used if there is opposition to an application.
● Existing measures discussed elsewhere in this report may be leveraged, such as .Brands making assurances about the use of the string.

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

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

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

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

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

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

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

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

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

- Geographical Indications are an important component of the economy in many regions, and therefore their protection and use affect the livelihoods of many Internet users.

- Geographic Indications are generally protected by applicable local laws.

Some believe that:

- This category does not have clear boundaries. Protections of geographical indications vary significantly from country to country.
- There is no standard terminology and there are no treaties in relation to Geographical Indications. There is no overall common basis for protection.
- To the extent the Geographical Indications are protected under local law, the protection varies significantly.
- The topic of Geographical Indications is being discussed as a trade issue in many other fora, and has become a sensitive political issue. Individuals and groups with in-depth expertise are currently debating these issues elsewhere. Therefore, Work Track 5 should be very cautious about attempting to address this issue.

In conversations about potential additional categories of strings, Work Track members discussed scope and applicability of law. Please see section f.1.2.3 for additional information about this issue.

Work Track members put forward proposals related to terms not currently listed in the Applicant Guidebook as having special rules or restrictions.

Some believe that it may be unclear to an applicant if a government, public authority, or other party considers a string to be a geographic term, and therefore conflicts may arise later in the process.

Some suggest that the best way address this problem is to ensure that the rules are explicit and therefore clear for all parties, which will prevent conflicts from arising later in the process:

- Proposal: **Apply a "bright-line" rule that any geographic term that is not explicitly and expressly protected is unprotected**. No objection or non-consent can be used to stop its registration.

Benefits	Drawbacks

Some believe that this proposal would increase predictability for applicants.	Some believe that this proposal would not be acceptable to governments and public authorities.

Commented [A72]: Added based on comments by Christopher Wilkinson on 7 November call.

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
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.	Some believe that the geographic names panel should have a focused mandate and rules should be sufficiently clear that there are no "hard cases."
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.	Has a financial impact, potentially on ICANN, if this is intended to be cost-free to potential applicants.

● 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
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.	Some believe that such a resource would be difficult and expensive to maintain.
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.	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.
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.	Some believe that there is a risk that once such a resource exists, people will find a use for it, potentially without sufficient basis.

- 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
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.

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

- Proposal: **Require that an applicant demonstrates that it has researched whether the applied-for string has a geographic meaning and performed any outreach deemed necessary by the applicant prior to submitting the**

Commented [A73]: Jorge Cancio: 2) page 13: text in the box should read "From one perspective, this enhanced role for the GAC members…"

Commented [A74]: Edited.

application. The proposal would be in addition to the existing measures related to the Geographic Names Panel.

● Proposal: **If the applicant is applying for a geographic name, including terms not listed in the 2012 Applicant Guidebook, the applicant is required to contact/consult with the relevant government authority and provide evidence that it has done so.**

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

● New gTLD Subsequent Procedures PDP Working Group - outputs of full Working Group and Work Tracks 1-4
● Recommendations of the Competition, Consumer Trust, and Consumer Choice Review Team
● GAC Geographic Names Working Group
● Cross-Community Working Group on the Use of Country and Territory Names (completed)

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Commented [A75]: Jorge Cancio: page 14, first and second bullets: these proposed solutions have been made in relation to non-AGB terms. This should be clarified. They would not replace the evaluation by the GNP.

Commented [A76]: Staff note: Proposed clarification to this text.

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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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4 Background

3

4.1 Process Background

On 25 June 2014, the GNSO Council created the New gTLD Subsequent Procedures Discussion Group. On 1 June 2015, the Discussion Group delivered its final deliverables with the GNSO Council.

- In response to the deliverables of the Discussion Group, on 24 June 2015, the GNSO Council resolved to request an Issue Report. In the Final Issue Report, ICANN staff recommended that the GNSO Council commence a PDP on New gTLD Subsequent Procedures.

- On 4 December 2015, ICANN staff published a Final Issue Report for the GNSO Council to consider the commencement of a Working Group.

- On 17 December 2015, the GNSO Council initiated a Policy Development Process and chartered the New gTLD Subsequent Procedures Working Group.

- On 21 January 2016, the GNSO Council resolved to adopt the charter of the Working Group.

- On 27 January 2016, a Call for Volunteers was issued for the Working Group and the WG held its first meeting on 22 February 2016.

- On 22 October 2017, a Call for Volunteers was issued for Work Track 5 and the WT held its first meeting on 15 November 2017.

- On 3 July 2018, the WG published its Initial Report for public comment[31].

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[31] See public comment proceeding here: https://www.icann.org/public-comments/gtld-subsequent-procedures-initial-2018-07-03-en

1   ## 4.2 Issue Background

2   The New gTLD Subsequent Procedures PDP Working Group was tasked with determining
3   what, if any changes may be needed in regards to the existing GNSO's *Final Report on*
4   *Introduction of New Generic Top-Level Domains*[32]. As the original policy
5   recommendations as adopted by the GNSO Council and the ICANN Board have "been
6   designed to produce a systemized and ongoing mechanisms for applicants to propose
7   new top-level domains," those policy recommendations remain in place for subsequent
8   rounds of the New gTLD Program unless the GNSO Council would decide to modify
9   those policy recommendations via a policy development process. The work of the PDP
10 follows the efforts of the New gTLD Subsequent Procedures Discussion Group (DG),
11 which identified a set of subjects for this PDP to consider in their deliberations. The DG
12 anticipated that the WG might complete its work by:

13

14 ■   Clarifying, amending or overriding existing policy principles, recommendations, and
15   implementation guidelines;

16 ■   Developing new policy principles, recommendations, and implementation
17   guidelines

18

19 ## 4.2.1 Related Work by the GNSO and the Community

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

21 ■   New gTLD Subsequent Procedures PDP Working Group overarching issues and
22   Work Tracks 1-4

23 ■   Competition, Consumer Trust & Consumer Choice Review Team (CCT-RT)

24 ■   GAC Geographic Names Working Group

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26

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[32] See the Final Report – Introduction of New Generic Top-Level Domains here:
https://gnso.icann.org/en/issues/new-gtlds/pdp-dec05-fr-parta-08aug07.htm

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5 Approach Taken by the Working Group

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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:

14

	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
12	Ali Hussein Kassim	At-Large
13	Andrei Kolesnikov	At-Large
14	Ann-Cathrin Marcussen	ccNSO
15	**Annebeth Lange Co-Leader**	ccNSO
16	Ashley Heineman	GAC
17	Aslam Mohamed	Individual
18	Avri Doria	Individual
19	Aziz Hilali	At-Large
20	Barrack Ongondo Otieno	ccNSO
21	Bernd Neujahr	GAC
22	Bonnie Mtengwa	ccNSO
23	Bram Fudzulani	At-Large
24	Brian Scarpelli	IPC
25	Brian Winterfeldt	IPC
26	Bruna Martins dos Santos	NCSG
27	Carlos Dionisio Aguirre	At-Large
28	Carlos Raul Gutierrez	RySG
29	Charles Semapondo	GAC

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 (Badiei)	NCUC
50	Francis Olivier Cubahiro	GAC

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	**Javier Rúa-Jovet Co-Leader**	At-Large
74	Jeff Neuman (Co-chair new	Individual

	gTLD Subpro WG)	
75	Jelena Ozegovic	ccNSO
76	Jessica Flores	Individual
77	Jessica Hooper	RySG
78	Jim Prendergast	Individual
79	Joe Alagna	Individual
80	John Rodriguez	GAC
81	Jon Nevett	RySG
82	Jonathan Agmon	IPC
83	Jorge Cancio	GAC
84	Juan Manuel Rojas	NPOC
85	Judy Song-Marshall	RySG
86	Justine Chew	At-Large
87	Katrin Ohlmer	Individual
88	Kavouss Arasteh	GAC
89	Kerim Begliyev	GAC
90	Kiran Malancharuvil	IPC
91	Krishna Seeburn (Kris)	NCUC
92	Kristina Rosette	RySG
93	Leonard Obonyo	ccNSO
94	Liz Orembo	At-Large
95	Liz Williams	GNSO
96	Luca Barbero	IPC
97	Marcelo Ferreira dos Santos	Individual

98	Marita Moll	At-Large
99	Maritza Aguero Minano	At-Large
100	**Martin Sutton Co-Leader**	RySG
101	Mason Cole	RySG
102	Matthew Johnson	IPC
103	Maureen Hilyard	At-Large
104	Michael Flemming	IPC
105	Miguel Ignacio Estrada	ccNSO
106	Mike Rodenbaugh	
107	Mirjana Tasic	ccNSO
108	Narine Khachatryan	Individual
109	Neli Marcheva	Individual
110	Nelson Imoa Kaunda	Individual
111	Nick Wenban-Smith	ccNSO
112	**Olga Cavalli - Co-Leader**	GAC
113	Pascal Bekono	At-Large
114	Paul McGrady	IPC
115	Paul Rosenzweig	NCSG
116	Pedro Huichalaf Roa	Individual
117	Peter Van Roste	ccNSO
118	Phillip Vincent Marano	IPC
119	Philippe Fouquart	ISPCP
120	Poncelet Ileleji	NPOC
121	Rahman Khan	Individual

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 Tamanikaiwaimaro	NCSG
130	Samantha Demetriou	RySG
131	Sanna Sahlman	ccNSO
132	Sarah Langstone	RySG
133	Sophia Feng	RySG
134	Sophie Hey	Individual
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

146	Timo Võhmar	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

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.

* 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

1   IPC – Intellectual Property Constituency
2   ISPCP – Internet Service Providers and Connectivity Providers Constituency
3   NPOC – Not-for-Profit Organizations Constituency
4   ALAC – At-Large Advisory Community
5   ccNSO – Country Code Names Supporting Organization
6   GAC – Governmental Advisory Committee
7
8   ** This list was accurate as of the publication of this report. Note that some members
9   joined the WG only after it began meeting, and WG members that have since left are
10   indicated with ++ against their names.
11

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[33] (2) Community Comment 1 (CC1)[34] (2) Community Comment 2 (CC2)[35]. 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.[36]

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.

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[33] See outreach and inputs received on the Wiki here: https://community.icann.org/x/2R6OAw
[34] See Community Comment 1 outreach and inputs received, on the Wiki here: https://community.icann.org/x/3B6OAw
[35] See Community Comment 2 outreach and inputs received, on the Wiki here: https://community.icann.org/x/Gq7DAw
[36] 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