

# ICANN | GNSO

Generic Names Supporting Organization

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

### Status of This Document

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

**Commented [A1]:** Parentheticals adjusted for clarity following suggestion from Greg Shatan.

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### Preamble

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

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

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

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

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

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

13

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

20

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

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Commented [A4]: Suggested addition from Greg Shatan.

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## 1 Executive Summary

### 1.1 Introduction

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

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

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. [Work Track 5](#) leadership is coordinated by the PDP  
23 WG Co-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 ASC

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

38  
39 A Call for Volunteers to [Work Track 5](#) was issued on 22 October 2017. [Work Track 5](#) held  
40 its first meeting on 15 November 2017 and has met regularly since that time.  
41

**Commented [A5]:** Justine Chew: The terms/abbreviations “Work Track 5”, “the Work Track”, “WT”, “WT5” have been used interchangeable throughout the report. I noted that only the “WG” abbreviation has been defined. It would be nice to apply some consistency; although I don’t believe regular stakeholders will be confused, let’s consider the readability of this document to other folks. Some already have to grapple with the mentioned WTs 1-4. Thanks.

**Commented [A6R5]:** Staff note: Thanks, Justine. Updated throughout.

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## 1.2 Preliminary Recommendations

As noted in the Preamble, the Work Track 5 Supplemental Report does not contain a “Statement of level of consensus” for the recommendations presented in the Initial Report. In addition, in some circumstances, Work Track 5 did not reach agreement on preliminary recommendations and instead, has provided options for consideration and/or questions to seek input for further deliberations. Similar to the Initial Report, rather than including the set of preliminary recommendations, options, and questions in the Executive Summary, they will be made available in a table in Annex B.

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### 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: Work Track 5 preliminary recommendation suggests clarifying that permutations and transpositions of the following are reserved. This is an adjustment to the 2012 Applicant Guidebook:
  - 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 codes listed in the ISO 3166-1 standard should be allowed

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Commented [A7]: Justine Chew: Spell out? All instances of “AGB” except for those in tables?

Commented [A8R7]: Staff note: Corrected.

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Commented [A9]: Justine Chew: See: page 18

\* For these items, translations in any language were reserved in the 2012 Applicant Guidebook. Work Track 5 has not yet agreed on whether translations should be reserved in the future, and if so, in which languages.

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

\*\* For this item, translations in any language were reserved in the 2012 [Applicant Guidebook](#), Work Track 5 has not yet agreed on whether translations should require support/non-objection in the future, and if so, in which languages.

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

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

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

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21  
22  
23  
24 During the public comment period, feedback is welcome on all aspects of the report,  
25 including ideas, positions, and proposals discussed in Part 2, section f.  
26

### 27 1.3 Deliberations and Community Input

28 The full Working Group formally sought community input through public comment on  
29 three occasions: (1) conducted outreach to all ICANN Supporting Organizations (SOs)

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

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

18  
19 In addition, some members of the GAC submitted written feedback about some of the  
20 issues being addressed by Work Track 5.<sup>4</sup>

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## 22 1.4 Conclusions and Next Steps

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

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## 27 2 Deliberations of the Working Group

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

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

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

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

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

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

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

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

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

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

28  
29 Reserved Names Working Group Final Report further states:

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

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

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

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

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



1 accompanied by a letter of support or non-objection from the relevant government or  
2 public authority.

3  
4 The ICANN Board, at the urging of the ccNSO and GAC, directed staff to exclude country  
5 and territory names from delegation in version four of the [Applicant Guidebook](#). Other  
6 geographic names, listed in section 2.2.1.4.2 of the [Applicant Guidebook](#) (see below),  
7 required a letter of support or non-objection, though for non-capital city names, the  
8 need for the letter was dependent upon intended usage of the string.

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9  
10 This implementation, described more fully directly below, was substantially different  
11 from the GNSO's policy recommendations.<sup>7</sup>

12  
13 In the final version of the 2012 Applicant Guidebook, Section 2.2.1.3.2 String  
14 Requirements, Part III, 3.1 states, "Applied-for gTLD strings in ASCII must be composed  
15 of three or more visually distinct characters. Two- character ASCII strings are not  
16 permitted, to avoid conflicting with current and future country codes based on the ISO  
17 3166-1 standard."

18  
19 According to Section 2.2.1.4.1 Treatment of Country or Territory Names, the following  
20 strings are considered country and territory names and were not available in the 2012  
21 application round:

- 22  
23 i. it is an alpha-3 code listed in the ISO 3166-1 standard.  
24 ii. it is a long-form name listed in the ISO 3166-1 standard, or a translation of the  
25 long-form name in any language.  
26 iii. it is a short-form name listed in the ISO 3166-1 standard, or a translation of the  
27 short-form name in any language.  
28 iv. it is the short- or long-form name association with a code that has been  
29 designated as "exceptionally reserved" by the ISO 3166 Maintenance Agency.  
30 v. it is a separable component of a country name designated on the "Separable  
31 Country Names List," or is a translation of a name appearing on the list, in any  
32 language. See the Annex at the end of this module.  
33 vi. it is a permutation or transposition of any of the names included in items (i)  
34 through (v). Permutations include removal of spaces, insertion of punctuation, and  
35 addition or removal of grammatical articles like "the." A transposition is  
36 considered a change in the sequence of the long or short-form name, for example,  
37 "RepublicCzech" or "IslandsCayman."  
38 vii. it is a name by which a country is commonly known, as demonstrated by

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<sup>7</sup> 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%20Backgroud%20Paper.pdf>

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

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

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

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

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

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

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

- 28  
29 3. An application for any string that is an exact match of a sub-national place name,  
30 such as a county, province, or state, listed in the ISO 3166-2 standard.  
31 4. An application for a string listed as a UNESCO region<sup>9</sup> or appearing on the  
32 “Composition of macro geographical (continental) regions, geographical sub-  
33 regions, and selected economic and other groupings” list.<sup>10</sup> In the case of an

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<sup>8</sup> City governments with concerns about strings that are duplicates, nicknames or close renderings of a city name should not rely on the evaluation process as the primary means of protecting their interests in a string. Rather, a government may elect to file a formal objection to an application that is opposed by the relevant community, or may submit its own application for the string.

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

<sup>10</sup> See <http://unstats.un.org/unsd/methods/m49/m49regin.htm>

1 application for a string appearing on either of the lists above, documentation of  
2 support will be required from at least 60% of the respective national  
3 governments in the region, and there may be no more than one written  
4 statement of objection to the application from relevant governments in the  
5 region and/or public authorities associated with the continent or the region.  
6 Where the 60% rule is applied, and there are common regions on both lists, the  
7 regional composition contained in the “Composition of macro geographical  
8 (continental) regions, geographical sub-regions, and selected economic and  
9 other groupings” takes precedence.

10  
11 The Governmental Advisory Committee has produced the following documents  
12 addressing the use of geographic names at the top level:

- 13
- 14 • [GAC Principles and Guidelines for the Delegation and Administration of Country](#)  
15 [Code Top Level Domains](#) (2005), paragraphs 4.1.1. , 4.1.2. and 8.3.
- 16 • [GAC Principles Regarding New gTLDs \(2007\)](#), sections 1.2 , 2.1 ,2.2, 2.3, 2.4 , 2.7  
17 and 2.8.
- 18 • [GAC Nairobi Communiqué \(2010\): Application of 2007 Principles.](#)
- 19 • [GAC Beijing Communiqué \(2013\): GAC Objections to Specific Applications.](#)
- 20 • [GAC Durban Communiqué \(2013\): Future application of 2007 Principles.](#)
- 21 • [GAC Helsinki Communiqué \(2016\): 3-letter codes.](#)
- 22

23 This list is non-exhaustive. Additional resources and documents on this topic from the  
24 GAC and other sources can be found on the Work Track [5](#) wiki [page](#).

25  
26 In the 2012 round of the New gTLD Program, there were 66 applications that self-  
27 identified as geographic names pursuant to Section 2.2.1.4.3 of the Applicant  
28 Guidebook.<sup>11</sup> The Geographic Names Panel determined that 6 of these 66 did not fall  
29 within the criteria for a geographic name as defined in Section 2.2.1.4 of the Applicant  
30 Guidebook (VEGAS, ZULU, RYUKYU, SCOT, IST, FRL). The Geographic Names Panel  
31 identified 3 applications that did not self-identify as geographic names but the applied-  
32 for string fell within the criteria for geographic names, requiring relevant support or  
33 non-objections (TATA, BAR, TUI). Of the 63 that fell within the Applicant Guidebook  
34 criteria for a geographic name, 56 had acceptable supporting documentation of support  
35 or non-objection from the relevant applicable governmental authority, and of those, 54  
36 have been delegated.  
37

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<sup>11</sup> <https://gtldresult.icann.org/applicationstatus/viewstatus>

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

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

### 19 **c. What are the preliminary recommendations and/or** 20 **implementation guidelines?**

21  
 22 Where recommendations reference the provisions of the 2012 Applicant Guidebook below, they  
 23 refer to the text of the Applicant Guidebook as written and do not refer to any subsequent  
 24 application of the Applicant Guidebook.  
 25

#### 26 **PRELIMINARY RECOMMENDATION #1:**

27  
 28 As described in recommendations 2-9, **Work Track 5** recommends, unless or until  
 29 decided otherwise, maintaining the reservation of certain strings at the top level in  
 30 upcoming processes to delegate new gTLDs. As described in recommendations 10-13,  
 31 **Work Track 5** recommends, unless or until decided otherwise, requiring applications for  
 32 certain strings at the top level to be accompanied by documentation of support or non-  
 33 objection from the relevant governments or public authorities, **as applicable**.  
 34

#### 35 **PRELIMINARY RECOMMENDATION #2:**

36  
 37 **Work Track 5** recommends continuing to reserve all two-character<sup>13</sup> letter-letter ASCII  
 38 combinations at the top level for existing and future country codes.  
 39

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

<sup>13</sup> The term "character" refers to either a single letter (for example "a") or a single digit (for example "1").

**Commented [A10]:** Greg Shatan suggested changing "Some" to "Most" as only two of these strings were on the lists (Roma and Africa).

**Commented [A11R10]:** Staff note: Text edited.

**Deleted:** Some

**Commented [A12]:** Greg Shatan suggested inserting this sentence to clarify the message of the next sentence.

**Commented [A13R12]:** Staff note: Text edited.

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**Commented [A14]:** Greg Shatan: suggested adding "some or all". Per Greg "This takes into account the "intended use" aspect."

**Commented [A15R14]:** Staff note: Some members did not feel comfortable with this edit. Staff has added "as applicable" following suggestion from Alan Greenberg.

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**Commented [A16]:** Greg Shatan: What does as applicable refer to?

**Commented [A17R16]:** Staff suggestion: How about removing "as applicable" and adding a sentence: "In these recommendations, non-capital city names only require documentation of support/non-objection if the applicant intends to use the gTLD for purposes associated with the city name."

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- The starting point of this recommendation is Section 2.2.1.3.2 String Requirements, Part III, 3.1 of the 2012 Applicant Guidebook, which states, “Applied-for gTLD strings in ASCII must be composed of three or more visually distinct characters. Two-character ASCII strings are not permitted, to avoid conflicting with current and future country codes based on the ISO 3166-1 standard.”
- Work Track 5’s recommendation specifically addresses letter-letter combinations because the focus of the Work Track is on geographic names. Work Track 5 considers letter-letter combinations to be within the scope of this subject area.
- Work Track 5 notes that Work Track 2 of the New gTLD Subsequent Procedures PDP Working Group is considering two-character letter-number combinations and two-character number-number combinations.

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

**PRELIMINARY RECOMMENDATION #3:**

Work Track 5 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.i:

- alpha-3 code listed in the ISO 3166-1 standard.

Work Track 5 is not proposing to remove from delegation any 3-letter codes that have already been delegated.

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 #4:**

Work Track 5 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.ii:

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

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**Commented [A18]:** Greg Shatan: I do not support this as a reserved list; rather, it should be subject to an intended use exclusion. These are not ccTLDs, nor is there any reason to believe they will be used as such in the foreseeable future. There are numerous 3-letter strings in this list with other meanings (common nouns in English or other languages, popular or technical abbreviations), that would be foreclosed without good reason. These include AND, ARE, ARM, BEL, BEN, BRA, BRB, CAN, CHE, COD, COG, CUB, DOM, ESP, FIN, FRO, GEO, GIN, GUM, GUY, HUM, IDN, IOT, IRK, JAM, KIR, LIE, LUX, MAC, NIC, NOR, PAN, PER, PRY, QAT, SAU, SUR, TON, TUN, and VAT. At the very least, these should be available for use with a letter of support if the intended use relates to the geographic meaning of the term, and available without a letter of support where the TLD use will not relate to geographic meaning of the string.

**Commented [A19R18]:** Staff note: Incorporated into pros and cons listed in the deliberations sub-section on this topic. See f.2.2.2.

**Commented [A20R18]:** Justine Chew: I support the treatment of Greg’s comment under f.2.2.2

**Commented [A21R18]:** Ann-Catherin Marcussen: I strongly support the recommendation as it is. In my opinion this has been discussed several times, and the recommendation reflects the view of the WT 5 as a whole. It is too late to start the discussion again at this late point in time, and every stakeholder can submit their view and comments in the public comment period.

**Commented [A22R18]:** Staff note: Recommendation will be left as-is.

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

8  
9 **PRELIMINARY RECOMMENDATION #5:**

10  
11 Work Track 5 recommends continuing to consider the following category a country and  
12 territory name which is reserved at the top level and unavailable for delegation, as  
13 stated in the 2012 Applicant Guidebook section 2.2.1.4.1.iii:

- 14  
15 • short-form name listed in the ISO 3166-1 standard.

16  
17 The 2012 Applicant Guidebook provisions related to this category are inconsistent with  
18 the GNSO policy recommendations contained in the Introduction of New Generic Top-  
19 Level Domains from 8 August 2007. This recommendation makes the policy consistent  
20 with the 2012 Applicant Guidebook, and therefore represents a change to the existing  
21 policy recommendation. As currently written, the recommendation does not address  
22 the issue of translations of these strings, which were reserved in the 2012 Applicant  
23 Guidebook. Please see questions for community input in section e.

24  
25 **PRELIMINARY RECOMMENDATION #6:**

26  
27 Work Track 5 recommends continuing to consider the following category a country and  
28 territory name which is reserved at the top level and unavailable for delegation, as  
29 stated in the 2012 Applicant Guidebook section 2.2.1.4.1.iv:

- 30  
31 • short- or long-form name association with a code that has been designated as  
32 “exceptionally reserved”<sup>14</sup> by the ISO 3166 Maintenance Agency.

33  
34 The 2012 Applicant Guidebook provisions related to this category are inconsistent with  
35 the GNSO policy recommendations contained in the Introduction of New Generic Top-  
36 Level Domains from 8 August 2007. This recommendation makes the policy consistent

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 [A23]: Staff note: Deliberations section has been updated to reflect recent inputs on the topic of exceptionally reserved codes.

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1 with the 2012 Applicant Guidebook, and therefore represents a change to the existing  
2 policy recommendation.

3  
4 **PRELIMINARY RECOMMENDATION #7:**

5  
6 Work Track 5 recommends continuing to consider the following category a country and  
7 territory name which is reserved at the top level and unavailable for delegation, as  
8 stated in the 2012 Applicant Guidebook section 2.2.1.4.1.v:

- 9  
10 ● separable component of a country name designated on the “Separable Country  
11 Names List.” This list is included as an appendix to the 2012 Applicant  
12 Guidebook.

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

21  
22 **PRELIMINARY RECOMMENDATION #8:**

23  
24 Work Track 5 recommends clarifying 2012 Applicant Guidebook section 2.2.1.4.1.vi,  
25 which designates the following category as a country and territory name which is  
26 reserved at the top level and unavailable for delegation:

- 27  
28 ● permutation or transposition of any of the names included in items (i) through  
29 (v). Permutations include removal of spaces, insertion of punctuation, and  
30 addition or removal of grammatical articles like “the.” A transposition is  
31 considered a change in the sequence of the long or short-form name, for  
32 example, “RepublicCzech” or “IslandsCayman.”

33  
34 Work Track 5 recommends clarifying that permutations and transpositions of the  
35 following strings are reserved:

- 36  
37 ● long-form name listed in the ISO 3166-1 standard.  
38 ● short-form name listed in the ISO 3166-1 standard.  
39 ● short- or long-form name association with a code that has been designated as  
40 “exceptionally reserved” by the ISO 3166 Maintenance Agency.

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

4  
5       Permutations and transpositions of alpha-3 codes listed in the ISO 3166-1 standard  
6       should be allowed.

7  
8       The 2012 Applicant Guidebook provisions related to this category are inconsistent with  
9       the GNSO policy recommendations contained in the Introduction of New Generic Top-  
10      Level Domains from 8 August 2007. This recommendation clarifies the text from the  
11      2012 Applicant Guidebook and updates the policy to be consistent with Work Track 5’s  
12      interpretation of 2012 Applicant Guidebook section 2.2.1.4.1.vi.

#### 13       **PRELIMINARY RECOMMENDATION #9:**

14  
15  
16      Work Track 5 recommends continuing to consider the following category a country and  
17      territory name which is reserved at the top level and unavailable for delegation, as  
18      stated in the 2012 Applicant Guidebook section 2.2.1.4.1.vii:

- 19  
20      • name by which a country is commonly known, as demonstrated by evidence that  
21      the country is recognized by that name by an intergovernmental or treaty  
22      organization.

23  
24      The 2012 Applicant Guidebook provisions related to this category are inconsistent with  
25      the GNSO policy recommendations contained in the Introduction of New Generic Top-  
26      Level Domains from 8 August 2007. This recommendation makes the policy consistent  
27      with the 2012 Applicant Guidebook, and therefore represents a change to the existing  
28      policy recommendation.

#### 29       **PRELIMINARY RECOMMENDATION #10:**

30  
31  
32      Work Track 5 recommends continuing to consider the following category a geographic  
33      name requiring government support at the top level. Applications for these strings must  
34      be accompanied by documentation of support or non-objection from the relevant  
35      governments or public authorities:

- 36  
37      • An application for any string that is a representation of the capital city name of  
38      any country or territory listed in the ISO 3166-1 standard.

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

**Commented [A24]:** Justine Chew: Would it be too pedantic to say “Strings resulting from permutations and transpositions of alpha-3 codes ...”? After all those will no longer be alpha-3 codes. Note plural ... codes.

**Commented [A25R24]:** Staff note: Item for discussion -- The language used here mirrors the way the 2012 AGB referred to permutations and transpositions, but if WT members find this unclear, it can be changed.

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1 policy recommendation. As currently written, the recommendation does not address  
2 the issue of translations of these strings, which required support/non-objection in the  
3 2012 Applicant Guidebook. Please see questions for community input regarding  
4 translations in section e.

5  
6 **PRELIMINARY RECOMMENDATION #11:**

7  
8 Work Track 5 recommends continuing to consider the following category a geographic  
9 name requiring government support at the top level. Applications for these strings must  
10 be accompanied by documentation of support or non-objection from the relevant  
11 governments or public authorities:

- 12  
13
- 14 • An application for a city name, where the applicant declares that it intends to  
15 use the gTLD for purposes associated with the city name. An application for a city  
16 name will be subject to the geographic names requirements (i.e., will require  
17 documentation of support or non-objection from the relevant governments or  
18 public authorities) if: (a) It is clear from applicant statements within the  
19 application that the applicant will use the TLD primarily for purposes associated  
20 with the city name; and (b) The applied-for string is a city name as listed on  
21 official city documents

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

27  
28 **PRELIMINARY RECOMMENDATION #12:**

29  
30 Work Track 5 recommends continuing to consider the following category a geographic  
31 name requiring government support at the top level. Applications for these strings must  
32 be accompanied by documentation of support or non-objection from the relevant  
33 governments or public authorities:

- 34  
35
- 36 • An application for any string that is an exact match of a sub-national place name,  
37 such as a county, province, or state, listed in the ISO 3166-2 standard.

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

**Commented [A26]:** Staff note: Based on discussion on the 14 Nov call, the co-leaders have suggested leaving this recommendation as-is to support additional discussion and community input, noting that there is ample opportunity to make changes prior to the publication of the Final Report. See deliberations section for material on the different perspectives and proposals for this topic.

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**PRELIMINARY RECOMMENDATION #13:**

Work Track 5 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<sup>15</sup> or appearing on the “Composition of macro geographical (continental) regions, geographical sub-regions, and selected economic and other groupings”<sup>16</sup> 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 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.

**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.

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Commented [A27]: Greg Shatan suggested updating the link to <https://unstats.un.org/unsd/methodology/m49/>

Commented [A28R27]: Staff note: see comments above.

Commented [A29]: Greg Shatan suggested changing this to “An application for a string listed as a UNESCO region<sup>1</sup> or appearing as a “geographic region,” “sub-region,” “intermediary region” or “other grouping”<sup>1</sup> on the “Standard country or area codes for statistical use”<sup>1</sup> list maintained by the United Nations Statistical Commission and commonly referred to as the M49 standard.”

Commented [A30R29]: Greg Shatan: This resource is no longer known by this name. The hard copy has not been published since 1999 and the online version does not use this name. Nonetheless, it seems people (but not the UN, as far as I can tell) still use it out of force of habit. Using this title also creates an ambiguity, since the list now includes “intermediary regions” which are parts of sub-regions. I suggest adding “intermediary regions” explicitly to avoid future disputes.

Commented [A31R29]: Staff note: Given the timing of this feedback, staff suggests leaving this text as-is in the preliminary recommendation, noting this issue in the deliberations section (see f.2.3.4), and stating that additional research is underway (staff has this as an action item to investigate). Adjustments can be incorporated for the Final Report.

Commented [A32R29]: Justine Chew: Noted. Looking forward to staff update on this research – hoping to see prior and current lists.

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

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

1 **e. What are the specific questions on which the PDP WG is seeking**  
2 **feedback?**

3  
4 **Overarching Issues**

- 5
- 6 ● e1: Work Track 5 encourages feedback from applicants or other stakeholders  
7 who were involved in the 2012 round. Work Track 5 is particularly interested in  
8 hearing about the experiences of the following groups and individuals:  
9
    - 10 ○ Applicants who applied for terms defined as geographic names in the  
11 2012 Applicant Guidebook, as well as those who considered applying for  
12 such strings but chose not to apply.
    - 13 ○ Applicants who applied for terms not defined as geographic names in the  
14 2012 Applicant Guidebook but who had experiences in the process  
15 related to the geographic connotations of the applied-for string.
    - 16 ○ Other parties who raised objections to an application, provided support  
17 for an application, or otherwise engaged during the course of the  
18 application process for applications in the two categories above.

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

- 21
- 22 ● e2: The definition of the term “geographic name” could impact development of  
23 policy and implementation guidance, as well as program implementation details,  
24 such as guidance for the Geographic Names Panel in the New gTLD application  
25 process. In your view, how should the term “geographic name” be defined for  
26 the purposes of the New gTLD Program? Should there be any special  
27 requirements or implications for a term that is considered a “geographic name”?  
28 Is “geographic name” the appropriate term to use in this context, as opposed to,  
29 for example, “term with geographic meaning”? Why or why not? Please see  
30 deliberations section f.1.2.4 on pages 34 - 36 for context on this question.

- 31
- 32 ● e3: Work Track 5 has discussed different types of mechanisms that can be used  
33 to protect geographic names in the New gTLD Program. These mechanisms fall  
34 broadly into two categories, noting that the categories are not mutually  
35 exclusive and measures from both categories can be used in combination:  
36
    - 37 ○ Preventative: Measures in this category include reserving certain strings  
38 to make them unavailable for delegation or requiring letters of  
39 support/non-objection from relevant governments or public authorities,  
either in all cases or dependent on intended usage of the TLD.

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Commented [A33]: Greg Shatan: suggests adding “Is  
“geographic name” the proper term to use?” From Greg:  
I think we need to ask this question. The very use of  
the term creates issues (vs. e.g., “term with geographic  
meaning”), since it creates the impression that the  
strings in question are uniquely “geographic names”.

Commented [A34R33]: Staff note: added question.

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1           ○ Curative: Measures in this category include objection mechanisms,  
2           contractual provisions incorporated into the registry agreement,  
3           enforcement of those provisions, and post-delegation dispute resolution  
4           mechanisms.

5  
6           In your view, what is the right balance or combination of preventative and  
7           curative rights mechanisms in relation to protection of geographic names in the  
8           New gTLD Program? Please see deliberations section f.1.2.2 on **pages 28-29** for  
9           context on this question.

- 10           ● e4: Work Track members have considered a series of principles that may be used  
11           to guide the development of future policy on geographic names. The principles  
12           were discussed in the context of city names and terms not included in the 2012  
13           Application Guidebook, but they may be applicable more broadly. Proposed  
14           principles include:
- 15           ○ In alignment with [Principle C](#) from the 2007 GNSO recommendations on  
16           new gTLDs, the program should allow for the introduction of new gTLDs.
  - 17           ○ In alignment with [Principle A](#) from the 2007 GNSO recommendations on  
18           new gTLDs, enhance the predictability for all parties.
  - 19           ○ Reduce the likelihood of conflicts within the process, as well as after the  
20           process concludes and TLDs are delegated.
  - 21           ○ Policies and processes should be simple to the extent possible.

22           Do you support these principles? Why or why not? Are there additional  
23           principles that Work Track 5 should consider? Please explain. Please see  
24           deliberations section f.1.3 on pages 42-43 for context on this question and  
25           [additional discussion of these principles](#).

- 26           ● e5: To what extent should the following serve as a basis for the development of  
27           policies regarding geographic names?
- 28           ○ International law
  - 29           ○ National/local law and policy
  - 30           ○ Norms and values (please specify)
  - 31           ○ Another basis not categorized above (please specify)

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

### 34 35 Country and Territory Names 36

**Deleted:** Please see the deliberations section of this document for additional discussion of these principles.

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**Commented [A35]:** Staff note: combined two sentences in this paragraph to improve clarity following suggestion by Justine Chew.

**Commented [A36]:** Justine Chew: should be 5.

**Commented [A37R36]:** Staff note: corrected.

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

8       In developing recommendations for future treatment of country and territory  
9       names, Work Track 5 has considered several alternatives related to translation:

- 10       ○ continue to reserve as unavailable translations in any language
- 11       ○ reserve as unavailable translations in UN languages
- 12       ○ reserve as unavailable translations in UN languages and the official  
13       languages of the country
- 14       ○ reserve as unavailable translations in official languages of the country
- 15       ○ reserve as unavailable translations in official and commonly used  
16       languages
- 17       ○ reserve as unavailable translations in official and relevant national,  
18       regional, and community languages
- 19       ○ reserve as unavailable translations in “principal languages” where the  
20       principal languages are the official or de facto national languages and the  
21       statutory or de facto provincial languages of that country
- 22       ○ a combination of two or more categories above

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

- 26
- 27       • e7: Some Work Track members have expressed that there should be a process in  
28       place to delegate 3-letter codes and/or other country and territory names to  
29       specific parties, such as relevant governments and public authorities or other  
30       entities. Do you believe that this is an issue on which Work Track 5 should make  
31       a recommendation? Please see deliberations section f.2.2.1.1 on page 46 for  
32       context on this question.

### 34 **Geographic Names Requiring Government Support in the 2012 Applicant** 35 **Guidebook**

- 36
- 37       • e8: In the 2012 round, applicants were required to obtain letters of support or  
38       non-objection from the relevant governments or public authorities for “An  
39       application for any string that is a representation, **in any language**, of the capital

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1 city name of any country or territory listed in the ISO 3166-1 standard”  
2 (emphasis added). In developing recommendations for future treatment of  
3 capital city names, Work Track 5 has considered several alternatives related to  
4 the “in any language” standard:

- 5 ○ translations in UN languages
- 6 ○ translations in UN languages and the official languages of the country
- 7 ○ translations in official languages of the country
- 8 ○ translations in official and commonly used languages
- 9 ○ translations in official and relevant national, regional, and community  
10 languages
- 11 ○ translations in “principal languages” where the principal languages are  
12 the official or de facto national languages and the statutory or de facto  
13 provincial languages of that country
- 14 ○ a combination of two or more categories above

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

- 18
- 19 ● e9: In the 2012 round, applicants were required to obtain letters of support or  
20 non-objection from the relevant governments or public authorities for “An  
21 application for a city name, where the applicant declares that it intends to use  
22 the gTLD for purposes associated with the city name.” The requirement applied  
23 if: “(a) It is clear from applicant statements within the application that the  
24 applicant will use the TLD primarily for purposes associated with the city name;  
25 and (b) The applied-for string is a city name as listed on official city documents.”  
26 Do you think that this requirement should be kept, eliminated, or modified in  
27 subsequent procedures? Please explain. Please see deliberations section f.2.3.2  
28 on pages 59-69 for context on this question.
- 29
- 30 ● e10: Section f.2.3.2 of this report outlines a series of proposals that Work Track  
31 members have put forward for the future treatment of non-capital city names.  
32 What is your view of these proposals? Are there any that you support Work  
33 Track 5 considering further? Do you have alternate proposals you would like  
34 Work Track 5 to consider? Please explain. Please see deliberations section  
35 f.2.3.2, and specifically pages 62-69, for context on this question.

### 36

### 37 **Additional Categories of Terms**

### 38

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

13       Work Track members who support including additional terms in the Applicant  
14       Guidebook have proposed protecting/restricting the following categories:

- 15           ○ Geographic features (rivers, mountains, etc)
- 16           ○ Names of additional sub-national and regional places not included in the  
17           2012 Applicant Guidebook
- 18           ○ Non-ASCII geographic terms not included in the 2012 Applicant  
19           Guidebook
- 20           ○ Any term that can be considered geographic in nature
- 21           ○ Geographical Indications

22  
23       Two Work Track members stated that currency codes listed under ISO 4217  
24       should be protected as geographic names. A number of other Work Track  
25       members responded that they do not view these codes as geographic names,  
26       and believe that such codes are therefore out of scope, noting that the broader  
27       issue of reserved names is in scope for the full New gTLD Subsequent Procedures  
28       PDP Working Group.

29  
30       Should additional types of strings have special treatment or rules in the  
31       Applicant Guidebook? If so, which ones and on what basis? Can the scope of the  
32       category be effectively established and limited? What are the boundaries of the  
33       category? If not, why not? As opposed to preventative restrictions, would any  
34       changes to objections, post-delegation mechanisms, or contractual provisions  
35       mitigate concerns related to these strings? Please see deliberations section f.2.4  
36       on **pages 72-78** for context on this question.

## 37 38 39 **f. Deliberations** 40

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

2  
3 **f.1.1 INTRODUCTION**

4  
5 Work Track 5 was launched in November 2017 and has worked for nearly a year to  
6 review the policy and implementation from the 2012 round and develop preliminary  
7 recommendations on the future treatment of geographic names at the top-level in the  
8 New gTLD Program. Given the diversity of views on this topic and the fact that the  
9 ICANN has been debating related issues for many years, finding an agreed path forward  
10 has been a challenging task.

11  
12 Work Track 5 used a number of different strategies to gather input from the diverse set  
13 of participants in the group. Work Track 5 revisited the 2007 policy and did a deep dive  
14 into understanding the rules and procedures as implemented in the 2012 application  
15 round. It mapped and analyzed the different elements of the 2012 process with respect  
16 to geographic names to ensure that there is a common understanding of the different  
17 program elements. It reviewed recent resolutions by the ICANN Board regarding specific  
18 cases from the 2012 round.<sup>17</sup> Work Track 5 reflected on both positive and negative  
19 experiences from the 2012 application round and considered issues experienced by  
20 applicants and other parties. It worked to develop principles that may guide the  
21 evaluation of options for future treatment of geographic names. Work Track 5  
22 considered “pros” and “cons” of existing treatment from the 2012 Applicant Guidebook,  
23 as well as “pros” and “cons” of alternatives proposed by Work Track members. Finally,  
24 Work Track 5 sought to find convergence on areas where there might be agreement  
25 regarding future treatment.

26  
27 Deliberations uncovered some areas of possible compromise where members tended to  
28 either support or accept the existing terms in the 2012 Applicant Guidebook. Noting  
29 that no official consensus calls have been taken prior to publication of the Initial Report,  
30 all preliminary recommendations are for discussion purposes at this stage and may  
31 change based on community input received through public comment, as well as further  
32 deliberations by Work Track 5.

33  
34 In those areas where Work Track 5 put forward preliminary recommendations, the  
35 preliminary recommendations tended to support either maintaining or making minor  
36 adjustments to the existing provisions contained in the 2012 Applicant Guidebook.  
37 Some Work Track members noted that it may be difficult to move away from the 2012  
38 Applicant Guidebook terms, because these provisions already represented a form of  
39 compromise. There was no clear legal foundation upon which to base

17 Specifically, Work Track 5 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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1 protections/restrictions. The initial draft version of the Applicant Guidebook was drafted  
 2 by the ICANN Organization drawing on policies and implementation guidance developed  
 3 through the GNSO. The 2012 treatment of geographic names reflected in the final  
 4 version of the Applicant Guidebook was primarily the result of discussions between the  
 5 GAC, the ccNSO, and the ICANN Board and subsequent directives aimed at the ICANN  
 6 Organization based on public policy and public interest considerations, with the GNSO  
 7 and others having the opportunity to submit public comment on each updated draft  
 8 version.

9  
 10 In other topic areas, there is not yet a clear path forward. For these issue areas, the  
 11 report includes options in section f and questions for community input in section e.  
 12 Work Track 5 looks forward to receiving input from the community through public  
 13 comment on preliminary recommendations, options, and questions that may help to  
 14 inform further refinement of Work Track 5's outputs.

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

16  
 17 Through the deliberations process, it was apparent that there are different views in  
 18 Work Track 5 about which issues need to be addressed through policy and which  
 19 corresponding mechanisms should exist in the implementation of the New gTLD  
 20 Program. This section summarizes high-level themes that emerged in the discussions  
 21 and outlines some of the points of view held by Work Track members.

#### 22 **f.1.2.1 Who owns a string? Who has rights to a string? What is the appropriate role of 23 geographic communities and governments?**

24  
 25 The 2012 Applicant Guidebook sought to address these questions by putting in place a  
 26 combination of preventative and curative measures. Preventative measures included  
 27 reserving country and territory names, therefore making them unavailable for use, and  
 28 requiring applicants to obtain letters of support/non-objection from relevant  
 29 governments or public authorities for specific types of geographic names. A range of  
 30 curative rights were incorporated into the program more broadly and could be used in  
 31 relation to geographic strings, as well as all other types of applications.

32  
 33 There are fundamental differences in perspectives about whether certain parties have  
 34 rights to either determine the use of a string at the top level or be consulted during the  
 35 application process at the top level for a string if that string has geographic  
 36 connotations. For example, some believe that:

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Commented [A38]: Greg Shatan: As per Annabeth's suggestion, add "of geographic names" after "treatment."

Commented [A39R38]: Staff note: Updated.

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Commented [A40]: Annebeth Lange: This sentence should be modified. It could read as the complete 2012 Applicant Guidebook primarily was the result of discussions between the GAC etc. The GNSO presented a first version of the guidebook that caused a lot of discussion among the other stakeholders, since they had not been involved from the start (as they are now). What we are referring to here, is the result of the treatment of geographic names, where the GAC, the ccNSO had strong opinions, feeling that public interests had not been taken into consideration in the first place. So I would suggest changing it with adding the paragraphs containing the geonames.

Commented [A41]: Greg Shatan: Just curious – was GNSO involved in these "negotiations"? As the body tasked with developing gTLD policy, one would have thought GNSO would have had a seat at the table. If so, GNSO should be added.

Commented [A42R41]: Suggested edit.

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

16  
17 With respect to people and communities associated with a place, some believe that:

- 18  
19       ● Geographic terms have political, historical, economic, social, and sometimes  
20       religious connotations for populations and communities associated with those  
21       terms. People and communities associated with a geographic location have a  
22       strong interest in the use of these terms.  
23       ● The perspectives of people associated with a geographic location are essential in  
24       determining how and where a geographic name will be used in different  
25       contexts.  
26       ● The use of a string with geographic connotations in the DNS would have effects  
27       in the place associated with that term, and therefore there must be a voice in  
28       the process that represents the interests of the people.  
29       ● Rules should take into account that there may be different norms and cultural  
30       factors in different parts of the world.

31  
32 With respect to governments and public authorities, some believe that:

- 33  
34       ● Governments are representatives of the public interest and have responsibilities  
35       regarding the names of geographic locations as the primary identifiers in social,  
36       national, political and economic interactions and as identification of their  
37       peoples.

- 1       • The relevant governments and public authorities represent the interests of the  
2       people in a geographic region and have a responsibility to uphold the laws of  
3       that country.
- 4       • Governments should have a special role in determining the use of strings  
5       associated with geography in the DNS.
- 6       • City names in particular are subject to general/public interests represented by  
7       that city government. City governments act according to the laws and policies of  
8       the countries in which they are established and accountable under those laws  
9       and policies. Therefore, city governments should be consulted by those applying  
10      for city names.

11  
12 With respect to brand applicants, some believe that:

- 13
- 14       • Brand applicants have legitimate interests in a string that corresponds to a brand  
15       and is also associated with the name of a city or other geographic location. These  
16       legitimate interests must be taken into account in the New gTLD Program.

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

20 Work Track 5 discussed the role of the Governmental Advisory Committee both in the  
21 2012 round and in subsequent procedures. In the 2012 round, a member of the GAC  
22 could provide an Early Warning on a New gTLD application, including but not limited to  
23 an application for a geographic name. This was a notice that an application was seen as  
24 potentially sensitive or problematic by one or more governments. An Early Warning was  
25 not a formal objection, nor did it directly lead to a process that could result in rejection  
26 of the application. In addition the GAC could provide consensus advice on any  
27 application to the ICANN Board, as described in Module 3 of the Applicant Guidebook.

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

- 29       • The GAC plays a unique role in the ICANN context and governments represented  
30       in the GAC have a particular interest and stake in the treatment of geographic  
31       terms.
- 32       • The role played by the GAC in the 2012 round was appropriate.
- 33       • There may be opportunities to expand the role of the GAC to support  
34       predictability in the process.

35  
36 Some believe that:

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

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

### 12 **the process?**

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

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

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

16 more broadly.

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

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

19 geographic names. Work Track 5 discussed two possible categories of mechanisms,

20 noting that it is possible to use a combination of different types of mechanisms in

21 program implementation. Preventative mechanisms in the Applicant Guidebook include

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

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

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

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

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

27 in Work Track 5 believe that preventative and curative protections could be combined

28 for creative solutions.

29 Some believe that protections in the New gTLD Program should focus on curative

30 mechanisms, or at a minimum, believe that no additional preventative mechanisms

31 should be adopted. More specifically, some believe that:

- 32 ● ICANN policy has consistently disfavored reservations, blocking rights, and other
- 33 systems that prevent a TLD from entering the market (other than for technical
- 34 reasons).
- 35 ● In the past, any list-based exclusionary right has undergone strict scrutiny and
- 36 has been applied narrowly.

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**Commented [A43]:** Greg Shatan: I'm not sure what "blocking rights" refers to; this should probably be deleted. Same thing with "other systems that prevent a TLD from entering the market" (which could mean just about anything).

**Commented [A44R43]:** Staff note: Greg, this was actually from an email you sent to the mailing list on 12 May: "ICANN policy has consistently disfavored reservations (other than for technical reasons), blocking rights and other systems that prevent a TLD (or second level domain) from entering the market. Any list-based exclusionary right has undergone strict scrutiny and has been applied narrowly, to a few particularly deserving parties." Therefore, it's no problem to remove the associated text here.

**Commented [A45R43]:** Greg Shatan: The text of my email was revised in a way that turned the meaning upside down. When the parenthetical around "other than for technical reasons" was removed, it made it look like the sentence said that "ICANN disfavors reservations other than for ... blocking rights and other systems, etc." That is the opposite of the intended meaning.

Instead of removing the text, please reorder the text as follows:

"ICANN policy has consistently disfavored reservations, blocking rights, and other systems that prevent a TLD from entering the market (other than for technical reasons)."

Alternatively, the parenthetical could be put after "disfavored." Either one is fine and preserves the original, intended meaning.

**Commented [A46R43]:** Staff note: Updated.

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

- 1       • The ICANN policy-making process has traditionally favored curative rights over  
2       preventative rights.  
3       • It is not unusual for different types of stakeholders to conduct monitoring  
4       related to gTLDs in which they are interested so that they may exercise curative  
5       rights. The scale of the gTLD environment is relatively limited, and automated  
6       processes can assist with monitoring. It should be possible for governments and  
7       other entities to effectively use curative mechanisms.

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

- 11  
12       • Reliance on curative rights presents a significant burden on governments, some  
13       of whom are not aware of ICANN or its activities, to monitor the application  
14       process to see if an application of interest has been submitted.  
15       • Curative rights may present a particular burden for governments in developing  
16       countries with limited resources.  
17       • Reliance on curative rights also presents a significant burden on communities of  
18       people associated with a place.  
19       • This challenge would potentially be even greater in a scenario where applications  
20       are accepted at regular intervals or on an ongoing basis in the future and if  
21       application volumes are high.  
22       • It is a further burden to monitor the operation of TLDs and take action if a TLD is  
23       not meeting commitments stated in the application.

24  
25       There are differences of opinion about whether preventative mechanisms grant rights  
26       to parties, for example whether requiring applicants to obtain a letter of support/non-  
27       objection from relevant governments or public authorities grants preventative rights to  
28       those governments or public authorities. Some believe that:

- 29  
30       • This rule provides a role for governments and public authorities in which the  
31       government or public authority can choose to deny or withhold support/non-  
32       objection, and as a result the application will not move forward. Therefore, this  
33       mechanism provides a preventative right to governments and public authorities.

34  
35       Some believe that:

- 36  
37       • This rule does not provide a preventative right to governments and public  
38       authorities, but instead places a requirement on applicants to obtain a letter of  
39       support or non-objection while still allowing any interested parties to apply.

**Deleted:** these

**Commented [A47]:** Greg Shatan: I don't see how this is not a preventative right. If the government or public authority chooses not to provide a letter of support or non-objection, the applicant is prevented from moving forward.

**Commented [A48R47]:** Staff note: Since this statement is prefaced by "Some believe that," staff suggests leaving as-is for readers to judge. This is also something WT members can comment on in public comment.

**Commented [A49R47]:** Justine Chew: Agree, should leave as-is. It's a belief of some.

1  
2 **f.1.2.3 What law and policy considerations should be taken into account? Which**  
3 **should take precedent?**  
4

5 In the 2012 round, no clear legal basis was identified to justify special treatment of  
6 geographic names. The initial draft version of the Applicant Guidebook was drafted by  
7 the ICANN Organization drawing on policies and implementation guidance developed  
8 through the GNSO. The 2012 treatment of geographic names reflected in the final  
9 version of the Applicant Guidebook was primarily the result of discussions between the  
10 GAC, the ccNSO, and the ICANN Board and subsequent directives aimed at the ICANN  
11 Organization based on public policy and public interest considerations, with the GNSO  
12 and others having the opportunity to submit public comment on each updated draft  
13 version.

14  
15 In discussions about applicability of law and policy, Work Track members referenced,  
16 but had different interpretations of Section 1.2 (a) of the ICANN Bylaws. Section 1.2 (a)  
17 states: “In performing its Mission, ICANN must operate in a manner consistent with  
18 these Bylaws for the benefit of the Internet community as a whole, carrying out its  
19 activities in conformity with relevant principles of international law and international  
20 conventions and applicable local law, through open and transparent processes that  
21 enable competition and open entry in Internet-related markets.”<sup>18</sup>

22  
23 With respect to international law<sup>19</sup>, some believe that:

- 24  
25
- There is no basis in international law for governments to assert the right to  
26 provide support/non-objection for certain strings, which some members  
27 consider to be a "veto" power over applications for these strings.
  - ICANN should not set policy by anticipating what international law may exist in  
28 the future.
- 29  
30

31 With respect to international law, some believe that:  
32

---

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

<sup>19</sup> One Work Track member submitted for Work Track 5’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.](#)”

**Commented [A50]:** Greg Shatan: As per Annabeth’s suggestion, add “of geographic names” after “treatment.”

**Commented [A51R50]:** Staff note: Updated.

**Commented [A52]:** Annebeth Lange: This sentence should be modified. It could read as the complete 2012 Applicant Guidebook primarily was the result of discussions between the GAC etc. The GNSO presented a first version of the guidebook that caused a lot of discussion among the other stakeholders, since they had not been involved from the start (as they are now). What we are referring to here, is the result of the treatment of geographic names, where the GAC, the ccNSO had strong opinions, feeling that public interests had not been taken into consideration in the first place. So I would suggest changing it with adding the paragraphs containing the geonames.

**Commented [A53]:** Greg Shatan: Just curious – was GNSO involved in these “negotiations”? As the body tasked with developing gTLD policy, one would have thought GNSO would have had a seat at the table. If so, GNSO should be added.

**Commented [A54R53]:** Staff note: Suggested edit.

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

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

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

- 5  
6 ● Freedom of expression rights give different types of applicants the right to apply  
7 for strings, including strings with geographic connotations.

8  
9 Some looked at freedom of expression from the standpoint of potential registrants or  
10 constituents in a geographical location and believe that:

- 11  
12 ● Freedom of expression rights give rights to people associated with a place. If a  
13 business controls a TLD with geographic connotations, and the people associated  
14 with that place later want to use that name as a TLD but are unable to do so, this  
15 may impact the free expression rights of the people connected to the geographic  
16 place.

17  
18 Work Track 5 discussed the applicability of national law in relation to the use of  
19 geographic names as TLDs. Some believe that:

- 20  
21 ● The rights and responsibilities of national and local governments with respect to  
22 geographic names are established in public policy and law instruments in  
23 different countries.  
24 ● Delegation of TLDs with geographic connotations have impacts within the  
25 applicable country, and a legal challenge based on national law would have an  
26 impact worldwide.  
27 ● ICANN is obligated to follow applicable national and local laws and policies that  
28 give governments rights and responsibilities over geographic names.  
29 ● GDPR provides an example of a case where ICANN is making efforts to comply  
30 with local law.

31  
32 Specific laws and legal cases in different jurisdictions were cited by certain Work Track  
33 members as evidence that national law applies to the use of geographic names in the  
34 DNS.<sup>20</sup>

---

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

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Commented [A55]: Ann-Catherin Marcussen: I support this as a suitable example

Commented [A56R55]: Staff note: Substantive comment. No edit needed.

- 
- 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 [5](#) member, under Italian law, the elected body (the mayor, the president of the regional council) of the corresponding name may act to protect the interest of the community it represents.
  - A Work Track member shared a [link](#) to rules in the UK regarding unacceptable trademarks. The page states that "We cannot guarantee that the name of a company accepted for registration at Companies House is acceptable by us as a registered trade mark. The company name may not qualify as a trade mark because, for example: It may indicate geographical origin."
  - A Work Track member shared [UK rules](#) on what may and may not be a company name. According to the Work Track [5](#) 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 Statute of the International Court of Justice as an authoritative codification of International Law sources. Art 38 requires the ICJ to apply: (a) international conventions [treaties] whether general or particular, establishing rules expressly recognized by states; (b) international custom, as evidence of a general practice accepted as law by states; (c) the general principles of law recognized by civilized nations; (d) and in some cases 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.



1 Some believe that:

- 2 • National and local law providing protection for geographic names does not give  
3 governments rights beyond those of other stakeholders in the context of the  
4 New gTLD Program, including the application process.  
5 National and local laws only apply in the jurisdiction where the applicant is  
6 located, therefore Work Track 5 should look to international law as a basis for  
7 any recommendations related to geographic names.<sup>21</sup>
- 8 • GDPR is a poor example in this case, as GDPR contains specific extraterritorial  
9 effects and, by its terms, applies only to entities outside the EU that process the  
10 data of persons located in the EU.

11  
12 Work Track 5 discussed the role and applicability of intellectual property law in the  
13 context of the New gTLD Program. Some believe that:

- 14 • Trademark holders have legitimate interests in a string that corresponds to a  
15 brand and is also associated with the name of a city or other geographic location.  
16 In order to operate a .brand registry, an applicant must produce a valid  
17 trademark registration certificate issued by at least one government to use that  
18 trademark. In this view, an entity with a trademark registration for a term has a  
19 right to use that term. From this perspective, the term is used in connection with  
20 certain goods and services and has no geographic meaning.
- 21 • Trademarks may evoke positive associations and have "secondary meaning,"  
22 which is the association between the mark and the attributes of the source or  
23 origin of the products and services. This secondary meaning (or "goodwill") in  
24 turn is a key component of the value and strength of the mark.
- 25 • Some marks have long histories and significant value. Marks may be used in  
26 many countries and may be known by large numbers of people.
- 27 • Trademark assets and rights are owned and controlled by particular parties.
- 28 • The civil code of one country should not take precedence over the trademark  
29 code of another country. In this perspective, the narrower, more focused right  
30 should take precedence since it is less limiting of others.

31  
32  
33 Some believe that:  
34

<sup>21</sup> Some believe that the question of jurisdiction and the applicability of national law is more complicated than stated in this bullet point. From this perspective, it is not given that it will always be the national law of the applicant that will be applicable in a possible legal dispute concerning a part of an application for a next-round gTLD-string.

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Commented [A57]: Ann-Catherin Marcussen: The question of jurisdiction and the applicability of national law, is much more complicated than stated in this bullet point, and I suggest that it should be modified; it is not given that it will always be the national law of the applicant that will be applicable in a possible legal dispute concerning a part of an application for a next-round gTLD-string.

Commented [A58R57]: Staff note: rather than altering points made by others and prefaced by "some believe that" staff suggests adding a footnote (see footnote 21 below) indicating that some see this as a misinterpretation or incomplete interpretation of applicable law.

Commented [A59]: Staff note: Typo identified by Justine Chew and Greg Shatan. Corrected.

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Commented [A60]: Additional text suggested by Greg Shatan.

Commented [A61R60]: Given that this section simply lists points from one perspective, there will hopefully be no objections to adding the bullet.

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Commented [A62]: Greg Shatan noted that this is not a consent relationship. Staff edited the text following support for this comment from Justine Chew and suggested edit from Justine. Edit does not appear to change the core meaning of the point.

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Commented [A63]: Greg Shatan suggested to remove "From this perspective, under trademark law" and begin the following sentence with a new bullet.

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From this perspective, under trademark law, trademark assets and rights are "owned" and controlled by particular parties.

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Commented [A64]: Greg Shatan: Please remove quotation marks, as this is not an analogy. Trademark ownership is an essential aspect of trademark law.

Commented [A65R64]: Updated.

Deleted: Trademark

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- 1 ● Trademarks offer a specific right in a specific jurisdiction to use the mark in
- 2 connection with specific goods and services, and, where that right is infringed, to
- 3 legally stop another party from imitating a mark or confusing customers.
- 4 ● The right is limited and curative in nature. It is focused on consumer protection
- 5 and prevention of imitations.
- 6 ● "Monopolization"<sup>22</sup> of a city name by private parties is forbidden under laws
- 7 pertaining to business names and trademark registration in some jurisdictions.
- 8 ● Rights granted to geographic locations to protect geographic names are civil
- 9 rights, which are qualitatively different than intellectual property rights.
- 10 ● Civil rights are more general in scope than intellectual property rights and
- 11 therefore more significant.

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

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

#### 21 f.1.2.4 What is a geographic name for the purposes of the New gTLD Program? Does 22 the intended use of the string matter?

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

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

- 30 ● For the purposes of the program, geographic names should be clearly defined in
- 31 the Applicant Guidebook along with any corresponding rules or requirements for
- 32 those strings. Any strings not listed in the Applicant Guidebook are not
- 33
- 34
- 35

<sup>22</sup> One Work Track member stated that this is a term with a specific meaning in antitrust/competition law, and it is not used properly in this context. Note that the point is written as expressed by another Work Track member, and therefore the Initial Report seeks to reflect the point as it was raised.

**Commented [A66]:** Greg Shatan: This is a term with a specific meaning in antitrust/competition law, and it is not used properly here. Where are we discussing legal rights, we should use legal terms carefully and within their legal meaning.

**Commented [A67R66]:** Staff note: Footnote added.

**Commented [A68R66]:** Justine Chew: How about just "Exclusive use of a city name ..."? If change considered too drastic then I'm fine with the existing footnote.

**Commented [A69R66]:** Ann-Catherin Marcussen: I suggest to add which jurisdiction this word has specific legal meaning – in the text or in the footnote – so that it becomes clear that the word "monopolization" may have other legal meaning in for example European legislation.

**Commented [A70R66]:** Staff note: For Work Track discussion.

**Deleted:** In this view, c

**Commented [A71]:** Suggested edit from Greg Shatan: suggested adjusting the final sentence to read: "In this view, these rights are "civil: rights are more general in scope and therefore more significant."

**Commented [A72R71]:** Staff note: Unclear what is being proposed here. Clarification on proposed edit is welcome.

**Commented [A73R71]:** Justine Chew: Agree. Unclear as to meaning.

**Commented [A74R71]:** Ann-Cathrin Marcussen: I am not sure I understand the purpose of adding the last sentence. I suggest that the sentence should be put into a separate bullet-point to better separate the meaning of the original statement from the suggested one.

**Commented [A75R74]:** Greg Shatan: Edit should be: "In this view, rights granted to geographic locations to protect geographic names are "civil rights," and civil rights are more general in scope and therefore more significant."

**Commented [A76R71]:** Staff note: Staff has attempted to incorporate feedback from Ann-Cathrin and Greg to improve clarity. Edits do not intend to change the underlying meaning of the points raised.

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

3  
4 However, some believe in a broader definition that:

- 5  
6 ● A geographic name for the purposes of the New gTLD Program should be any  
7 term that has a geographic meaning or connotation according to a government  
8 or community associated with that term. Rights, rules, and or requirements  
9 should exist to ensure that these interested stakeholders “have a say” in the  
10 process for any application of this type.
- 11 ● Some Work Track members suggested that [Work Track 5](#) should draw on the  
12 Manual for the national standardization of geographical names by United  
13 Nations Group of Experts on Geographical Names as a resource. The Manual  
14 defines a geographical name as the proper name (a specific word, combination  
15 of words, or expression) used consistently in language to refer to a particular  
16 place, feature or area having a recognizable identity on the surface of the Earth
- 17 ● Another suggestion was to use the [U.S. Board on Geographic Names](#) as a  
18 resource to define what constitutes a geographic name.

19  
20 Work Track members discussed whether the intended use of the string, as presented in  
21 an application for a TLD, should be taken into consideration in the treatment of the  
22 application. In other words, is a string with a geographic connotation in addition to  
23 other meanings always a geographic name regardless of the way it is used? Alternately,  
24 is it only a geographic name if it is used in association with its geographic meaning?  
25 [Work Track 5](#) discussed that a term corresponding to a geographic location could  
26 correspond to the names of other geographic locations, and could also correspond to a  
27 generic word or a brand. Numerous specific examples of such strings were discussed.

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

30 Some believe that:

- 31 ● TLDs are a unique resource. Some Work Track members have contrasted this  
32 unique quality of TLDs with the use of names under trademark law. From this  
33 perspective, under trademark law, [a sign is always registered in relation to](#)  
34 [certain goods and/or services \(principle of specialty\)](#), [so](#) it is possible for two  
35 brands to register trademarks for the same term in the same jurisdiction, as long

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Commented [A77]: Staff note: Edit suggested by Jorge Cancio.

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Deleted: and of trademark "fair use" apply, according to which

1 as no confusion or infringement pursuant to the law arises.<sup>23</sup> In addition,  
 2 mechanisms<sup>24 25</sup> exist in domestic trademark laws to allow third parties to use  
 3 descriptive terms (like for instance geographic terms, which are generally  
 4 descriptive for the origin of goods and services),<sup>26</sup> even if these terms are part of  
 5 a registered trademark. In this view, the DNS is different because “parallel use” is  
 6 not possible. In other words, if a string corresponding to a geographic term is  
 7 delegated to one party, others who have an interest in that string are prevented  
 8 from using it, potentially for a significant period of time or permanently.

- 9 ● Even if the intended use is non-geographic, the word still may have geographic
- 10 connotations, and the applicant may benefit from these geographic associations.
- 11 ● It is important for governments or people associated with a place to be “at the
- 12 table” for decisions about delegation, regardless of use, because of the unique
- 13 nature of a TLD and the connotations of the word.
- 14 ● Regardless of the intended use, consumers may be confused about the potential
- 15 association of a string and a geographic term.
- 16 ● Even where there is no risk of confusion, the same rules should apply due to the
- 17 unique nature of the string.
- 18 ● It is impractical and challenging to set objective criteria for evaluating intended
- 19 use in the application process and difficult to enforce distinctions based on
- 20 intended use.

Commented [A78]: Greg Shatan: suggested inserting “they are used for unrelated goods and services and”

Commented [A79R78]: Staff note: Instead of editing text that another WT member has submitted, staff has added a footnote.

Commented [A80]: Staff note: Additional text suggested by Jorge Cancio.

Commented [A81R80]: Greg Shatan: Rather than editing that another WT member has submitted, I have added two footnotes to this new text and new footnote.

Commented [A82R80]: See new footnotes 25 and 26.

<sup>23</sup> Some Work Track members believe that it would be a more accurate reflection of the law to state: “. . . under trademark law, it is possible for two brands to register trademarks for the same term in the same jurisdiction for unrelated goods and services, as long as no confusion or infringement pursuant to the law arises.”

<sup>24</sup> Certain jurisdictions apply a disclaimer on descriptive terms. The “fair use” exception used in certain jurisdictions allows a trademarked word or phrase to be used by a third party in a non-trademark sense, as a descriptor of the third party’s goods or services or their geographic origin. Under other jurisdiction, the protection granted by trademark law does simply not extend to descriptive terms.

<sup>25</sup> With regard to the prior footnote: Some Work Track members believe that it would be a more accurate reflection of the law to state “Certain jurisdictions may require a disclaimer in a trademark registration when a descriptive term is used generically as an element of the mark.” Also, some Work Track members believe that it would be a more accurate reflection of the law to state: “In other jurisdictions, the protection granted by trademark law does simply not extend to descriptive terms when used in connection with the goods and/or services they describe. However, trademark protection may be extended to a descriptive term when it acquires distinctiveness through use and promotion of the brand.”

<sup>26</sup> Some Work Track members believe that it would be a more accurate reflection of the law to state: “In addition, mechanisms exist in domestic trademark laws to allow third parties to use descriptive terms in a non-trademark sense (like for instance geographic terms, which are geographically descriptive when the goods and services originate from that place, the place is generally known to the public, and the public would make an association between the goods or services and the place named in the mark), even if these terms are part of a registered trademark.”

- 1       ● Obligations included in the contract between ICANN and the registry may have  
2       limited impact on what registrants do in practice. Therefore, an applicant may  
3       claim that they intend to use a term in a generic manner but the TLD may in  
4       practice be used in association with its geographic meaning, possibly without  
5       sufficient recourse.

6  
7   However, some believe that:

- 8       ● The unique nature of a TLD does not give a government primacy over the use of  
9       that TLD.
- 10      ● If a string is being used in a generic or brand context, there is no basis for a  
11      support/non-objection mechanism related to the use of that string. The  
12      geographic meaning should not prejudice the use of the string in another  
13      context.
- 14      ● The Registry Agreement includes the following language: “All material  
15      information provided and statements made in the registry TLD application, and  
16      statements made in writing during the negotiation of this Agreement, were true  
17      and correct in all material respects at the time made, and such information or  
18      statements continue to be true and correct in all material respects as of the  
19      Effective Date except as otherwise previously disclosed in writing by Registry  
20      Operator to ICANN.” This provision provides a possible means for recourse if the  
21      applicant misrepresented information in the application.
- 22      ● It should be possible to establish intended use in the application process,  
23      especially in the case of .brands. It should be feasible to put in place protections  
24      that help to ensure a non-geographic TLD does not mislead end-users or imply  
25      that it is an “official” TLD associated with a geographic place. Applicants could  
26      make and be held accountable to uphold commitments on how the registry will  
27      operate and how names will be allocated. Applicants could also demonstrate a  
28      willingness to cancel names which are used in a manner outside the way the  
29      registry operator intended.
- 30      ● In the case of .Brands, there are strict contractual qualifications included in  
31      Specification 13 of the Registry Agreement. If an applicant wants to keep  
32      benefits associated with Specification 13, it needs to abide by the terms of  
33      Specification 13. .Brands are not likely to change the use of the TLD because that  
34      undermines the qualification for Specification 13.
- 35      ● To the extent that there is risk of confusion, it should be possible to create a  
36      standard against which to manage these risks, for example by ensuring that the  
37      applicant does not represent that it is endorsed by a city or is the “official” TLD  
38      of a city when this is not the case. .Brands operate in such a manner that there

1 should not be any confusion between a brand and TLD that is being operated in  
2 a geographic context.  
3

#### 4 **f.1.2.5 What are the key takeaways from the 2012 round for the purposes of future** 5 **policy development and implementation?**

6 Work Track 5 reflected on positive and negative experiences from the 2012 round,  
7 including from the perspective of:

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

17  
18 Work Track 5 discussed a number of specific examples of cases where some believed  
19 that there were issues that need to be addressed in future policy and implementation.  
20 In many cases, there were differences of opinion about how the issue should be framed,  
21 whether a problem exists, and where there is agreement that a problem exists, how  
22 that problem should be defined. This fundamental challenge made it difficult for the  
23 group to progress to agreeing on possible solutions to address the problems identified.  
24 Nonetheless, some Work Track members proposed solutions to problems they believe  
25 exist.  
26

27 Some of the problems and negative experiences that Work Track members identified  
28 from the 2012 round include the following. Some believe that:

- 29  
30 • There was insufficient predictability, transparency and consistency in ICANN's  
31 implementation of the Applicant Guidebook.
- 32 • It was not always clear to an applicant if special rules were applicable to a  
33 particular string.
- 34 • Some applicants found it difficult to determine which relevant government or  
35 public authority was the appropriate point of contact for a letter of support or  
36 non-objection.

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Commented [A83]: Greg Shatan: Suggested adding the word "negative." From Greg: "Experiences" is too vague and does not convey any actual information.

Commented [A84R83]: Staff note: Edited, as the Work Track did not discuss any positive experiences with respect to this issue from this group.

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Commented [A85]: Staff note: This list has been updated based on comments from Greg Shatan on page 43.

- 1 ● Some applicants were unable to obtain a timely response when they reached out  
2 to a relevant government or public authority to obtain a letter of support or non-  
3 objection.
- 4 ● Governments, public authorities, and other stakeholders are unaware of ICANN  
5 and the New gTLD Program, which may make it difficult for them to raise  
6 objections and, in the case of governments, respond effectively and quickly to  
7 requests for support/non-objection.
- 8 ● Stakeholders may not be familiar with ICANN and its processes.
- 9 ● Rules in the 2012 Applicant Guidebook worked poorly for applicants who  
10 intended to use a string in association with a meaning other than its geographic  
11 meaning. These applicants experienced difficulties, delays, and expenses. From  
12 this perspective, requirements to obtain letters of support or non-objection from  
13 relevant governments or public authorities imposed an arbitrary and unfair  
14 burden without any basis other than coincidence. The inability to delegate and  
15 operate these TLDs in a timely manner had negative effects on diversity,  
16 innovation, and competition in the TLD space.
- 17 ● There was a perception that some applicants were required to make concessions  
18 to governments to obtain support/non-objection. Other Work Track members  
19 strongly opposed this point, stating that there are not facts to support this claim.  
20 Some Work Track members suggested that additional facts should be gathered  
21 about specific cases. At the time of publication, Work Track 5 had not  
22 undertaken this additional fact finding work.
- 23 ● Applicants faced challenges in applying for strings that were not included as  
24 geographic names in the Applicant Guidebook but were considered to be  
25 geographic names by other parties. For example, some applicants experienced  
26 what appeared to be a de-facto requirement to obtain support/non-objection  
27 for strings not included in the Applicant Guidebook.
- 28 ● There were cases where an applicant was required to obtain a letter of  
29 support/non-objection, the relevant government or public authority did not  
30 provide a letter of support/non-objection, and the applicant disagreed with this  
31 decision.

32  
33 Work Track members proposed specific measures to mitigate some of the problems  
34 identified. These proposals do not change the underlying program requirements related  
35 to specific types of strings. Instead they seek to supplement and improve that status  
36 quo, as implemented in the 2012 round.

- 37  
38 ● Proposal 1 to address the suggested problem that it was not always clear to an  
39 applicant if special rules were applicable to a particular string: **Develop an online**

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1 **tool for prospective applicants.** The searchable tool indicates whether a string is  
2 eligible for delegation and whether there are issues that require further action  
3 (for example obtaining a letter of support or non-objection from relevant  
4 governments or public authorities). This could be a stand-alone tool or a function  
5 integrated into the application system that flags if a term is geographic and has  
6 special requirements/restrictions.

- 7 • Proposal 2 to address the suggested problem that some applicants found it  
8 difficult to determine which relevant government or public authority was the  
9 appropriate point of contact for a letter of support or non-objection: **GAC**  
10 **members could assist applicants** in identifying which governments and/or public  
11 authorities would be applicable in cases where an applicant must obtain a letter  
12 of government support or non-objection.
- 13 • Proposal 3 to address the suggested problem that there were cases where an  
14 applicant was required to obtain a letter of support/non-objection, the relevant  
15 government or public authority did not provide a letter of support/non-  
16 objection, and the applicant disagreed with this decision: **If government**  
17 **support/non-objection is required for an application, provide mediation**  
18 **services** to assist if the applicant disagrees with the response received by a  
19 government or public authority.
- 20 • Proposal 4 to address the suggested problem that governments, public  
21 authorities, and other stakeholders are unaware of ICANN and the New gTLD  
22 Program, which may make it difficult for them to raise objections and, in the  
23 case of governments, respond effectively and quickly to requests for  
24 support/non-objection: **Establish a program to heighten the awareness** of  
25 governments and others regarding the gTLD program so that they will be more  
26 likely to seek or support a registration for the relevant geographic name. This  
27 could be accompanied by structured support and advice to maximize the  
28 opportunities for future applicants for geographic names.
- 29 • Proposal 5 to address the suggested problem that some applicants were unable  
30 to obtain a timely response when they reached out to a relevant government or  
31 public authority to obtain a letter of support or non-objection: **In any**  
32 **circumstance where a letter of support or non-objection is required from a**  
33 **relevant government authority, establish a deadline by which the government**  
34 **must respond to the request.** If no response is received, this is taken as non-  
35 objection.  
36

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.	

1  
2  
3 Work Track members expressed different perspective on the scope of  
4 protections/restrictions from the 2012 round. Some believe that  
5 protections/restrictions were too strong, while others felt they were too weak. Work  
6 Track members put forward proposals to change the level of protection/restriction in  
7 the program overall. For proposals relating to specific categories of strings, please see  
8 the relevant sub-sections.

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

- 14 • **Proposal 6: Once a gTLD is delegated with an intended use that is geographic in**  
15 **nature, all other variations and translations of this term are unconditionally**  
16 **available for application by any entity or person. Objection procedures could**  
17 **potentially still apply.**

Commented [A86]: Staff note: Correction based on comment by Alan Greenberg on 14 Nov.

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Commented [A87]: Staff note: Correction based on comment by Alan Greenberg on 14 Nov.

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Commented [A88]: Staff note: Updated based on recent comments on list and on the 14 Nov call.

<u>Benefits</u>	<u>Drawbacks</u>
<u>Some believe that this proposal addresses the underlying concern that serves as a basis for the support/non-objection requirement -- that options should be preserved so that someday a public authority or the relevant citizenry (or perhaps, a "supported" private, for-profit company) can eventually apply for and operate a gTLD that matches that geographic term. From this perspective, once any one of the potential options is delegated</u>	<u>Some believe that in multilingual countries, there is usually no formal hierarchy of language versions of the same geo-name. Thus all versions of a name – at least in official and local languages and scripts – would have to be treated equally. There is likely to be no basis in local law or practice for awarding any priority to any one language version of a particular name.</u>

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<p>as a gTLD, this reason no longer exists. The place has its gTLD. There's no longer any need to reserve or create requirements for other variations and translations.</p>	
	<p>Some believe that this proposal could encourage gaming, for example an entity could apply for a version of the name in a language that is less commonly used in order to make available other versions and translations.</p>

**Commented [A89]:** Staff note: formatting error corrected based on feedback from Greg Shatan.

**Commented [A90]:** Staff note: Added based on comment by Alexander Schubert on 14 Nov call

- Proposal 7:** An applicant for a string with geographic meaning must provide notice to each relevant government or public authority that the applicant is applying for the string. The applicant is not required to obtain a letter of support on non-objection. This proposal relies on curative mechanisms to protect geographic names in contrast with support/non-objection requirements that are preventative in nature. Each government or public authority has a defined opportunity to object based on standards to be established. The right to object expires after a set period of time. Objections are filed through one of the existing objection processes or a variation on an existing process. A set of standards would need to be established to determine what constitutes a relevant government or public authority. This proposal could apply to all or some of the categories of geographic names included in the 2012 Applicant Guidebook.

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

- Proposal 8:** If an applicant applies for a string that is confusingly similar to a geographic term that requires a letter of government support or non-objection, the applicant should be required to obtain a letter of government support/non-objection. As an example, a common misspelling of a geographic name would be considered confusingly similar.
- Proposal 9:** At the end of the registry contract period, a government entity has the option of becoming engaged and can add provisions to the contract that specifies conditions rather than there being an assumption that the contract will be renewed.

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.

- **Proposal 10: A TLD associated with geography should be incorporated within the jurisdiction of the relevant government and subject to local law.**

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?**

Work Track 5 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:

**Commented [A91]:** Greg Shatan suggested adding: “Work Track members discussed negative experiences in the 2012 round, with a focus on TLDs for which the applicant intended to use the string in association with a meaning other than its geographic meaning. Some believe that:

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

**Commented [A92R91]:** Greg Shatan comment: There needs to be a parallel statement to the one above.

**Commented [A93R91]:** Staff note: Incorporated into the list of problems identified. See page 38.

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

9  
10 Work Track members asked if there might be alternatives to the support/non-objection  
11 requirement that would bring applicants, governments, and other parties “to the table”  
12 to express and address concerns. No specific proposals were put forward in this regard.

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

14  
15  
16 ~~Work Track 5 discussed potential principles that may be used to guide the development~~  
17 ~~of future policy on geographic names. The principles were discussed in the context of~~  
18 ~~city names (see section f.2.3.2) and additional types of terms not included in the 2012~~  
19 ~~Application Guidebook (see section f.2.4), but they may be applicable more broadly.~~  
20 Proposed principles include:

- 21 • In alignment with [Principle C](#) from the 2007 GNSO recommendations on new
- 22 gTLDs, the program should allow for the introduction of new gTLDs.
- 23 • In alignment with [Principle A](#) from the 2007 GNSO recommendations on new
- 24 gTLDs, enhance the predictability for all parties.
- 25 • Reduce the likelihood of conflicts within the process, as well as after the process
- 26 concludes and TLDs are delegated.
- 27 • Policies and processes should be simple to the extent possible.

28  
29  
30 Work Track members discussed the applicability of national and international law in the  
31 discussion of principles. Perspectives on this issue are summarized in section f.1.2.3.

32 ~~Work Track 5 also considered additional values that may be taken into account in~~  
33 ~~considering policy options for subsequent procedures. These include competition and~~  
34 ~~consumer choice,<sup>27</sup> security and stability, and transparency.~~

35  
36 Work Track members expressed different opinions about how to bring policy in line with  
37 these principles. For example, some believe that the best way to achieve predictability is

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<sup>27</sup> The New gTLD Subsequent Procedures PDP Working Group and Work Track 5 will take into account recommendations from the Competition, Consumer Trust, and Consumer Choice Review Team as applicable.

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1 to apply the support/non-objection mechanism more broadly as a means to reduce  
2 conflicts later in the application process or after delegation. Others believe that the best  
3 way to ensure predictability is to have clear, transparent criteria that apply to all  
4 applications, to evaluate applications and objections based on objective standards, and  
5 to clarify in the Applicant Guidebook that, where a string is not listed as a geographic  
6 term, public authorities do not have the right to prevent an application from moving  
7 forward.

8  
9 Similarly, Work Track members did not reach agreement about how these principles and  
10 values may be weighed against one another in cases where they come in conflict. For  
11 example, some Work Track members felt that the principle of simplicity should be  
12 considered a key principle in evaluating all possible solutions, while others felt that the  
13 objective of simplicity should be balanced against other program objectives and the  
14 needs of different stakeholders in the process.

## 15 **f.2 PART II - CATEGORIES OF STRINGS INCLUDED IN THE 2012 APPLICANT** 16 **GUIDEBOOK**

### 17 **f.2.1 TWO-LETTER ASCII STRINGS**

18  
19  
20 The 2012 Applicant Guidebook specified that two-character<sup>28</sup> ASCII strings were not  
21 permitted to be delegated, which was consistent with recommendations of the  
22 Reserved Names Working Group referenced in the 2007 Policy. This included  
23 combinations of two letters (for example .yz), combinations of two digits (for example  
24 .12), and combinations of a letter and a digit (for example .a1 or .1a). Work Track 5  
25 noted that Work Track 2 of the New gTLD Subsequent Procedures PDP Working Group is  
26 considering single letter and single digit combinations. Members generally agreed that  
27 two-character codes containing digits are not geographic names and therefore focused  
28 on letter-letter combinations.

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

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

33  
34 Some believe that:

---

<sup>28</sup> The term “character” refers to either a single letter (for example “a”) or a single digit (for example “1”).

Deleted: The

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

4  
5 This issue will be explored further by the full Working Group as it considers public  
6 comments on the full Working Group's Initial Report.

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

- 10       ● There is a longstanding association between two-character ASCII letter-letter  
11       combinations and ccTLDs, which is rooted in early Internet Engineering Task  
12       Force (IETF) Requests for Comments (RFCs).  
13       ● The current [Applicant Guidebook](#) rules restricting two-character ASCII letter-  
14       letter combinations as gTLDs has helped to make a clear distinction between the  
15       ccTLD space and the gTLD space.  
16       ● Reliance on the ISO 3166 Part 1 list of alpha-2 codes as a basis for two-letter  
17       country codes has historically worked well and offers a predictable system to use  
18       as a point of reference.  
19       ● Two-letter combinations are available in case new entries are added to the ISO  
20       3166 Part 1 list of alpha-2 codes and new countries are established that want a  
21       ccTLD. According to RFC 1591, the IANA is not in the business of deciding what is  
22       and what is not a country.  
23       ● End users can see a clear distinction between ccTLDs and gTLDs, which may help  
24       to avoid confusion between the two.  
25       ● Provides an objective, consistent rule that is easy to apply.  
26       ● Is consistent with preliminary outcomes of the Cross-Community Working Group  
27       of Use of Country and Territory Names as TLDs. The CCWG reached preliminary  
28       consensus in support of maintaining the 2012 treatment for two-character ASCII  
29       strings.<sup>29</sup>

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

- 32       ● There is a possibility of opportunities lost in the gTLD space, although these are  
33       difficult to assess.

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<sup>29</sup> <https://ccnso.icann.org/sites/default/files/field-attached/ccwg-ctn-final-paper-15jun17-en.pdf>

- 1 ● The distinction between ccTLDs being two-characters and gTLDs being three or  
2 more characters is meaningless and unnecessary.
- 3 ● Some ccTLDs essentially operate as gTLDs without the restrictions associated  
4 with gTLDs, blurring the distinction between ccTLDs and gTLDs. TLDs are taking  
5 advantage of the assumption that all 2-letter TLDs are ccTLDs. It does not make  
6 sense to say that 2-letter strings should be reserved for countries when some  
7 ccTLDs are not operating in a manner consistent with this approach.
  - 8 ○ Others believe that in most cases ccTLD operators are not-for-profit  
9 organizations that work to improve their local Internet ecosystems, give  
10 back to their country and represent their country's name in the best  
11 possible way.
- 12 ● Some ccTLD managers also operate gTLDs, further blurring the distinction  
13 between ccTLDs and gTLDs.

14  
15 There was no clear agreement to change the terms included in the 2012 Applicant  
16 Guidebook. Therefore, Work Track 5 is putting forward a preliminary recommendation  
17 for community feedback to maintain reservation of two-letter ASCII strings, consistent  
18 with provisions in the 2012 Applicant Guidebook.

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

20 As described in section a, no reserved geographic names were anticipated in the 2007  
21 Policy. The 2012 Applicant Guidebook diverges from the policy and lists seven categories  
22 of country and territory names that were reserved and unavailable for delegation (see  
23 section b for a list of these categories). Work Track 5 discussed, in general, the  
24 reservation of country and territory names on this list, as well as issues related to  
25 specific categories of country and territory names.

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### 26 **f.2.2.1 Themes**

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

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

- 36 ● These names should not be delegated through the New gTLD process.

- 1       • Delegation of country and territory names should only occur through local policy  
2       authorities.  
3       • These strings should be delegated as something other than a gTLD, for example a  
4       ccTLD or a new category of TLD.

5  
6       Some believe that:

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

11  
12       There are different perspectives in Work Track 5 about whether it is within the scope of  
13       Work Track 5 to answer broad questions about which specific entities can apply for  
14       country and territory names and how these TLDs may be treated (for instance, as a  
15       gTLD, a ccTLD or something else). It has been suggested that this topic should be  
16       deferred to another ICANN process or vehicle created to specifically to address this  
17       topic.

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

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

- 21  
22       • long-form name listed in the ISO 3166-1 standard.  
23       • short-form name listed in the ISO 3166-1 standard.  
24       • separable component of a country name designated on the “Separable Country  
25       Names List.”

26  
27       Some Work Track members raised points in support of maintaining the “in any  
28       language” standard. Some believe that:

- 29  
30       • This provision should remain in place unless there is a factual basis for limiting  
31       the languages covered in this provision.  
32       • Many languages may be spoken by and relevant to communities within a given  
33       country, and the list should therefore not be limited.  
34       • To reduce uncertainty, ICANN could produce an exhaustive list of all translations  
35       in all languages.

36  
37       Some Work Track members raised points against maintaining the “in any language”  
38       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, Work Track 5 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

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- 1 • reserve as unavailable translations in official and relevant national, regional, and  
2 community languages
  - 3 ○ Points in support: this category would cover languages used by people in  
4 the country that are important to specific communities
  - 5 ○ Points against: This is not a category with clear boundaries or definition
- 6 • reserve as unavailable translations in “principal languages” where the principal  
7 languages are the official or de facto national languages and the statutory or de  
8 facto provincial languages of that country
  - 9 ○ Points in support: this category address some of the concerns raised  
10 about the limitations of “official languages,” draws on existing  
11 categorization from [ethnologue.com](http://ethnologue.com)
  - 12 ○ Points against: Additional work would be needed to ensure this category  
13 has clear boundaries
- 14 • a combination of two or more categories above

16 Work Track 5 welcomes community feedback on these alternatives. Please see section e  
17 for a specific question for community feedback on this topic.

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

19  
20 Work Track 5 considered that the Cross-Community Working Group on Use of Country  
21 and Territory Names (CWG-UCTN) discussed extensively the treatment of alpha-3 codes  
22 listed on the ISO 3166 Part 1 standard. An analysis of the different positions on this issue  
23 is available in the CWG-UCTN Final Report.<sup>30</sup> Work Track 5 noted that the CWG-UCTN  
24 was unable to reach consensus on the future treatment of these strings.

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

- 27 • This has historically been a challenging issue for the ICANN community to resolve  
28 and absent evidence that a different approach is supported, the 2012 Applicant  
29 Guidebook treatment should apply.
- 30 • Avoids potential end user confusion related to the geographic connotations of  
31 these codes.
- 32 • Allows countries to protect codes with which many nations identify themselves  
33 strongly.

<sup>30</sup> <https://ccnso.icann.org/sites/default/files/field-attached/ccwg-ctn-final-paper-15jun17-en.pdf>

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Commented [A94]: Staff note: Edits to this subsection reflect comments from Greg Shatan on recommendation 3.

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Commented [A95]: Ann-Catherin Marcussen: Based on the discussions we have had I suggest to add a separate bullet-point something like this: “A large number of, if not almost all, countries/nations have political, cultural and societal or even legal reasons for the need to be in charge of the use of the alpha-3 codes.” I also suggest to reflect somewhere in this section the view taken by some WT members that the principle of subsidiarity/sovereignty would/should be applied to a potential use of these 3 letter-codes. Even if there are no legal rights, there are other kind of rights, like political, territorial and local needs.

Commented [A96R95]: Staff comment: The first point has been added to the list here. The second point is included on the following page under discussion about possible delegation of these strings.

Commented [A97R95]: Greg Shatan: If these points are added, the following counterpoints need to be added as well: 1. “Other Work Track members question the validity of this expansive claim, made without evidence, particularly as it regards TLDs.” 2. “The “principle of subsidiarity/sovereignty” is not a principle of ICANN policy-making. The question of whether and how these would ever be applied to ICANN policy, and the extent to which they are consistent or inconsistent with ICANN policy-making is beyond the scope of this discussion.”

Commented [A98R95]: Staff note: Text added with small suggested adjustments.

1 ● A large number of, if not almost all, countries/nations have political, cultural and  
2 societal or even legal reasons for the need to be in charge of the use of the  
3 alpha-3 codes.

4 ● Only reserves a small subset of all possible combinations of three letters, leaving  
5 plenty of opportunity for applicants to apply for other available strings that are  
6 comprised of three letters.

7  
8 Work Track members raised points against continuing to reserve alpha-3 codes listed on  
9 the ISO 3166 Part 1 standard. Some believe that:

10 ● There is no clear historical justification for maintaining reservation of these  
11 strings. Absent such a justification, these strings should be available for  
12 delegation.

13 ● There is no clear justification to the assertion that governments “own” these  
14 strings. COM is the alpha-3 code for Comoros according to the ISO 3166 Part 1  
15 standard, but .com was delegated long ago, indicating that there is not an  
16 established practice of governments “owning” alpha-3 codes listed on the ISO  
17 3166 Part 1 standard. These codes are not ccTLDs.

18 ● There are potential missed opportunities for gTLDs comprised of three letters,  
19 including common nouns in English and other languages, as well as popular or  
20 technical abbreviations. Examples include .and, .are, .arm, .bel, .ben, .bra, .brb,  
21 .can, .che, .cod, .cog, .cub, .dom, .esp, .fin, .fro, .geo, .gin, .gum, .guy, .hum, .idn,  
22 .iot, .irk, .jam, .kir, .lie, .lux, .mac, .nic, .nor, .pan, .per, .pry, .qat, .sau, .sur, .ton,  
23 .tun, and .vat.

24 ● There is no opportunity for an applicant supported by the relevant country to  
25 move forward with an application.

26 ● Regarding the point “A large number of, if not almost all, countries/nations have  
27 political, cultural and societal or even legal reasons for the need to be in charge  
28 of the use of the alpha-3 codes,” some Work Track members question the  
29 validity of this claim, particularly as it regards TLDs, and invite Work Track  
30 members to provide supporting evidence.

31  
32 Work Track 5 discussed the issue of whether alpha-3 codes listed on the ISO 3166 Part 1  
33 standard should be delegated exclusively to governments, ccTLD managers, and public  
34 interest entities. Some believe that:

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

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- 1 • The principle of subsidiarity/sovereignty should be applied to a potential use of  
2 these alpha-3 codes.

Commented [A99]: Staff note: Added based on comment from Ann-Catherin Marcussen.

3  
4 Some believe that:

- 5 • There is no "tradition" of or technological reason for alpha-3 codes on the ISO  
6 3166 Part 1 standard being used for top level domain names connected with the  
7 related countries and territories, and therefore there is no reason to exclusively  
8 delegate them to governments, ccTLD managers, and public interest entities.
- 9 • There are three letter strings that correspond to ISO three-letter codes but also  
10 have a generic meaning. The future use of these strings should not be  
11 determined by countries when other uses are possible.
- 12 • The "principle of subsidiarity/sovereignty" is not a principle of ICANN policy-  
13 making. The question of whether and how these would be applied to ICANN  
14 policy, and the extent to which they are consistent or inconsistent with ICANN  
15 policy-making is beyond the scope of this discussion.

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

- 19 • Proposal 10: Delegate these strings as gTLDs with the requirement of  
20 government support/non-objection until a future process is designed specifically  
21 for the delegation of three-character codes.
- 22 • Proposal 11: Delegate these strings as gTLDs with the requirement of  
23 government support/non-objection only in cases where the applicant intends to  
24 use the TLD as it relates to the geographic meaning of the term. For all other  
25 cases, the TLD should be available with no letter of support/non-objection.
- 26 • Proposal 12: The ISO should not be the source of 3-character strings used by  
27 ICANN to identify geographic names.

Commented [A100]: Justine Chew: there is something wrong with this phrase.

Commented [A101R100]: Staff note: corrected.

28  
29 There was no clear agreement to change the terms included in the 2012 Applicant  
30 Guidebook. Therefore, Work Track 5 is putting forward a preliminary recommendation  
31 for community feedback to maintain reservation alpha-3 codes listed on the ISO 3166  
32 Part 1 standard, consistent with provisions in the 2012 Applicant Guidebook.

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

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

1       • The ISO list provided an easy, predictable, and objective standard to follow.  
2 Work Track members raised points against continuing to reserve short-form and long-  
3 form names listed in the ISO 3166-1 standard.

4 Some believe that:

- 5       • There are potential missed opportunities for gTLDs.
- 6       • There is no opportunity for an applicant supported by the relevant country to  
7       move forward with an application.

8  
9 For discussion of provisions reserving translations “in any language,” including points in  
10 support and against, as well as alternatives proposed, please see section f.2.2.1.2. For  
11 discussion about the delegation of country and territory names to governments, please  
12 see section f.2.2.1.1.

13 There was no clear agreement to change the terms included in the 2012 Applicant  
14 Guidebook. Therefore, Work Track 5 is putting forward a preliminary recommendation  
15 for community feedback to maintain reservation of short-form and long-form name  
16 listed in the ISO 3166-standard, consistent with provisions in the 2012 Applicant  
17 Guidebook. It is not making a preliminary recommendation at this time regarding  
18 translations of these names and is instead seeking community input.

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

21 Work Track 5 discussed points in support of and against continuing to reserve names in  
22 this category. Work Track members noted that these are similar to benefits and  
23 drawbacks identified for short-form and long-form names listed in the ISO 3166 Part 1  
24 standard.

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25 One Work Track member raised the following points about exceptionally reserved  
26 codes:

- 27       • They are not officially reserved code points, although data about these codes is  
28 available at the ISO's Online Browsing Platform,<sup>31</sup> and the definition of  
29 "exceptional reservations" is included in the current standard, (ISO 3166-  
30 1:2013(E/F)) Section 7.5, Reservation of Code Elements.
- 31       • The list may be out of date.
- 32       • Not all exceptionally reserved codes have a short and long form name associated  
33 with them.

---

<sup>31</sup> The decoding table is available at <https://www.iso.org/obp/ui/#iso:pub:PUB500001:en>

- 1 • Some exceptionally reserved codes do not refer to a country or territory (for  
2 example "UN" for United Nations).
- 3 • Some places may have more than one code associated with their name, for  
4 example Tristan da Cunha has both an assigned 2-letter code (SH) and an  
5 exceptionally reserved code (TA).

6 It was also noted that because these names are reserved, they are not available for use  
7 for entities or places associated with those names.

8 Work Track members noted that while there may be certain inconsistencies and outliers  
9 associated with this category, it is a relatively small list of names, and no problem has  
10 been identified that urgently needs to be resolved.

11 There was no clear agreement to change the terms included in the 2012 Applicant  
12 Guidebook. Therefore, Work Track 5 is putting forward a preliminary recommendation  
13 for community feedback to maintain reservation of short- and long-form names  
14 association with a code that has been designated as "exceptionally reserved" by the ISO  
15 3166 Maintenance Agency, consistent with provisions in the 2012 Applicant Guidebook.

#### 16 **f.2.2.5 Separable component of a country name designated on the "Separable Country** 17 **Name List," or is a translation of a name appearing on the list, in any language**

18 Work Track 5 discussed points in support of and against continuing to reserve names in  
19 this category. Work Track members noted that these are similar to benefits and  
20 drawbacks identified for short-form and long-form names listed in the ISO 3166-1  
21 standard.

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

24 There was no clear agreement to change the terms included in the 2012 Applicant  
25 Guidebook. Therefore, Work Track 5 is putting forward a preliminary recommendation  
26 for community feedback to maintain reservation of separable components of a country  
27 name designated on the "Separable Country Name List," consistent with provisions in  
28 the 2012 Applicant Guidebook. It is not making a preliminary recommendation at this  
29 time regarding translations of these names and is instead seeking community input.

#### 30 **f.2.2.6 Permutation or transposition**

31 Work Track members raised several concerns about provisions related to permutations  
32 and transpositions of country and territory names in the Applicant Guidebook.  
33 According to the Applicant Guidebook, a string is reserved if "it is a permutation or

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Commented [A102]: Staff note: Added to reflect recent conversation on the mailing list and on the 14 Nov call.

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1 transposition of any of the names included in items (i) through (v).<sup>32</sup> Permutations  
2 include removal of spaces, insertion of punctuation, and addition or removal of  
3 grammatical articles like “the.” A transposition is considered a change in the sequence  
4 of the long or short-form name, for example, “RepublicCzech” or “IslandsCayman.”

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5 Work Track members expressed that it is unclear from this text whether reservation of  
6 transpositions applied to categories of country and territory names beyond short-form  
7 and long-form names. There was general agreement that intent of the text was that  
8 only transpositions of short-form and long-form names were reserved but  
9 transpositions of other forms of country and territory names were permitted. However,  
10 Work Track members pointed out that the text could also be interpreted to mean that  
11 transpositions of three-letter codes and other forms of country and territory names  
12 were also reserved. Work Track members further noted that because this provision does  
13 not reference a specific list, it may not be clear to applicants and other stakeholders  
14 which strings are covered by this provision.

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

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

22  
23 Work Track members raised points against continuing to reserve names in this category.  
24 Some believe that:

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

29

---

<sup>32</sup> 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.

1 The following additional proposal has been put forward by Work Track members with  
2 respect to this category:

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- 3 ● Proposal 13: Individual governments should be asked which permutations should  
4 be reserved in connection with a corresponding country or territory name.

6 Work Track 5 is putting forward a preliminary recommendation for community feedback  
7 to maintain reservation of permutations and transpositions but clarify that only  
8 permutations and transpositions of the following strings are reserved:

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

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

Commented [A103]: Justine Chew: See: Page 18

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

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

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

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

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



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

- 3 ● [Proposal 14](#): As long as a country can provide substantial evidence that the  
4 country is recognized by a name, the term should be included under this  
5 category.
- 6 ● [Proposal 15](#): Add translations “in any language” to this provision.

7  
8 There was no clear agreement to change the terms included in the 2012 Applicant  
9 Guidebook. Therefore, Work Track 5 is putting forward a preliminary recommendation  
10 for community feedback to maintain reservation of names by which a country is  
11 commonly known, as demonstrated by evidence that the country is recognized by that  
12 name by an intergovernmental or treaty organization, consistent with provisions in the  
13 2012 Applicant Guidebook.

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#### 14 **f.2.3 GEOGRAPHIC NAMES REQUIRING GOVERNMENT SUPPORT FROM THE 2012** 15 **APPLICANT GUIDEBOOK**

16 Work Track 5 discussed points in support of and against provisions requiring a letter of  
17 support or non-objection from government authorities for certain types of strings.

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

- 20
- 21 ● The mechanism worked well for different groups in the 2012 round.
- 22 ● The 2012 Applicant Guidebook provisions represent a compromise position in  
23 which different parties found a middle ground.
- 24 ● It is the role of governments to protect the public interest, and this mechanism  
25 allows government to protect the public interest and the interest of  
26 residents/communities.
- 27 ● Public authorities act under applicable laws and are accountable according to  
28 their legal systems and these rules allows them to act on these responsibilities.
- 29 ● These rules are consistent with a government’s rights and responsibilities under  
30 national and local law and public policy.
- 31 ● A TLD is a unique resource. Even if a string is being used for a non-geographic  
32 purpose, there may be political, historical, economic, religious, and/or social  
33 connotations for the populations and communities affected. This process allows  
34 governments to act on those concerns. Even if the applicant intends to use the  
35 string in a way that is not directly associated with the place, they may still  
36 benefit from positive connotations associated with the name of the place.

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

23  
24 Some Work Track members raised points supporting elimination of the support/non-  
25 objection standard or reduction of its scope. Some believe [that](#):

- 26  
27 ● The 2012 Applicant Guidebook only represents a compromise between the GAC  
28 and ICANN staff and therefore does not represent the needs and interests of all  
29 parts of the ICANN community.
- 30 ● These requirements create financial and logistical burdens for applicants and a  
31 lack of predictability. It may be difficult for applicants to determine where to  
32 seek consent from governments.
- 33 ● Support/non-objection mechanism may cause rent-seeking and distort markets.
- 34 ● This process does not sufficiently take into account the rights of intellectual  
35 property rights holders.
- 36 ● It is beneficial for there to be more TLDs, and ICANN should eliminate  
37 unnecessary barriers to establishing new TLDs absent evidence of harm.
- 38 ● Governments do not have a legal basis for claiming the right to provide  
39 support/non-objection. National law and local law on the protection of

1 geographic names is only applicable within the country in which the law exists. If  
2 there is a relevant local or national law, it should be enforced by the applicable  
3 government, not by ICANN.

- 4 ● Governments should not have special rights or privileges absent explicit  
5 justification under international law.
- 6 ● This process violates the freedom of expression rights of applicants.
- 7 ● There may be legitimate applications that a government opposes and that not all  
8 government represent the public interest.
- 9 ● Engaging with governments early in the application process may reduce the  
10 competitive advantage for an applicant and encourage competing applications  
11 for the same string that might not otherwise have been pursued.

12  
13 Additional points in support of and against the support/non-objection mechanism are  
14 included in the following subsections to the extent that these points are specific to  
15 particular category.

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

17 For capital city names, there is divergence between the 2007 Policy and Implementation  
18 in the 2012 Applicant Guidebook. The 2007 Policy anticipated that these strings would  
19 be available without any special requirements and did not mention a provision requiring  
20 support/non-objection.<sup>33</sup> The 2012 Applicant Guidebook required support/non-  
21 objection from relevant governments or public authorities for an application for any  
22 string that is a representation, **in any language**, of the capital city name of any country  
23 or territory listed in the ISO 3166-1 standard.

24 In considering positions in support of and against maintaining the current treatment,  
25 Work Track members raised arguments that relate more broadly to discussions of  
26 geographic names. These include the applicability of and relevance of law and public

---

<sup>33</sup> Work Track members recalled in discussions about the 2007 Policy that Recommendation 20 in the 2007 Policy stated: "An application will be rejected if an expert panel determines that there is substantial opposition to it from a significant portion of the community to which the string may be explicitly or implicitly targeted." In comments, Work Track members also flagged text accompanying Recommendation 5 of the Final Report - Introduction of New Generic Top-Level Domains. Recommendation 5 states "Strings must not be a reserved word." The report's discussion of this recommendation includes text quoted from the Reserved Names Working Group Final Report:

*However, new TLD applicants interested in applying for a TLD that incorporates a country, territory, or place name should be advised of the GAC Principles, and the advisory role vested to it under the ICANN Bylaws . . . Potential applicants should also be advised that the failure of the GAC, or an individual GAC member, to file a challenge during the TLD application process, does not constitute a waiver of the authority vested to the GAC under the ICANN Bylaws.*

1 policy, the issue of whether the intended use of the TLD matters. These issues are  
2 covered in greater depth in section f.1 of the deliberations section.

3 Work Track 5 considered that rules for capital city names applied to representations “in  
4 any language.” Some Work Track members raised points in support of maintaining the  
5 “in any language” standard. Some believe that:

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

12  
13 Some Work Track members raised points against maintaining the “in any language”  
14 standard. Some believe:

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

23  
24  
25 In developing recommendations for future treatment of capital city names, Work Track  
26 5 has considered several alternatives related to translation:

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

1 [Expanded Graded Intergenerational Disruption Scale and categorization](#)  
2 [based on Official Recognition](#) could be used as a starting point for this list

- 3 ○ Points against: difficult to identify the official languages of each country,  
4 some countries may not have official languages, administrations in many  
5 countries use languages that are not official, people of the country also  
6 use languages that may not be official but are important to specific  
7 communities
- 8 ● translations in UN languages and the official languages of the country
  - 9 ○ See above for relevant points in support and against
- 10 ● translations in official and commonly used languages
  - 11 ○ Points in support: this category would cover languages used by people in  
12 the country that are important to specific communities
  - 13 ○ Points against: This is not a category with clear boundaries or definition
- 14 ● translations in official and relevant national, regional, and community languages
  - 15 ○ Points in support: this category would cover languages used by people in  
16 the country that are important to specific communities
  - 17 ○ Points against: This is not a category with clear boundaries or definition
- 18 ● translations in “principal languages” where the principal languages are the  
19 official or de facto national languages and the statutory or de facto provincial  
20 languages of that country
  - 21 ○ Points in support: this category address some of the concerns raised  
22 about the limitations of “official languages,”\_draws on existing  
23 categorization from [ethnologue.com](#)
  - 24 ○ Points against: Additional work would be needed to ensure this category  
25 has clear boundaries
- 26 ● a combination of two or more categories above

27  
28 Work Track 5 welcomes community feedback on these alternatives. Please see section e  
29 for a specific question for community feedback on this topic.

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30  
31 Work Track 5 reviewed the general points in support of and against the use of the  
32 support/non-objection requirement in the New gTLD Program. See section f.2.3 for  
33 details.

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34  
35 In addition, Work Track members raised specific points in support of continuing to  
36 require support or non-objection for names in this category. Some believe that:

- 37 ● 60+ city TLD applications went forward with support/non-objection and there  
38 were few cases of objections for such strings in the 2012 round, demonstrating  
39 that many applications were able to proceed to delegation using this process,

1 including a number of capital city names. Some applicants expressed that they  
2 had a positive experience with the process.

- 3 ● Some Work Track members have expressed that there are a number of success  
4 stories coming out of the 2012 round using the support/non-objection  
5 mechanism for capital cities. Examples include .tokyo, .london, .paris, .berlin,  
6 .amsterdam, .moscow, and .wien. The delegation of these strings had positive  
7 effects on geographical, cultural and linguistic diversity.
- 8 ● This requirement offers some degree of predictability because the list of capital  
9 city names is based on an objective standard (ISO 3166-1).

10  
11 Work Track members raised specific points against continuing to require support or  
12 non-objection for names in this category in some or all cases. Some believe that:

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

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

- 22 ● [Proposal 16](#): Require support/non-objection only if the applicant intends to use  
23 the gTLD for purposes associated with the capital city name.
- 24 ● [Proposal 17](#): Eliminate support/non-objection requirements.

25  
26 There was no clear agreement to change the terms included in the 2012 Applicant  
27 Guidebook. Therefore, Work Track 5 is putting forward a preliminary recommendation  
28 for community feedback to continue to consider this category a geographic name  
29 requiring government support at the top level. Applications for these strings must be  
30 accompanied by documentation of support or non-objection from the relevant  
31 governments or public authorities, consistent with provisions in the 2012 Applicant  
32 Guidebook.

### 33 **f.2.3.2 Non-Capital City Names**

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

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1 a provision requiring support/non-objection.<sup>34</sup> The 2012 Applicant Guidebook required  
2 support/non-objection from relevant governments or public authorities for city names  
3 where the applicant declares that it intends to use the gTLD for purposes associated  
4 with the city name. Please see section b for a full summary of applicable provisions.

5 Work Track 5 discussed the implementation of the support/non-objection mechanism in  
6 the 2012 round with respect to non-capital city names. Some Work Track members  
7 identified potential issues with the 2012 implementation of rules for non-capital city  
8 names. Some believe that:

- 9 ● The term “city” was not defined, which could be a source of uncertainty. At the  
10 same time, because support/non-objection was only required if the applicant  
11 intended to operate the TLD for purposes associated with the city name, the  
12 impact of this lack of precision may have been limited. Work Track members  
13 pointed out that there are different definitions of the term “city.”<sup>35</sup>
- 14 ● Some applicants experienced a de-facto requirement to obtain support or non-  
15 objection from a government or public authority for a string they did not intend  
16 to use for purposes associated with a city name.

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<sup>34</sup> Work Track members recalled in discussions about the 2007 Policy that Recommendation 20 in the 2007 Policy stated: “An application will be rejected if an expert panel determines that there is substantial opposition to it from a significant portion of the community to which the string may be explicitly or implicitly targeted.” In comments, Work Track members also flagged text accompanying Recommendation 5 of the Final Report - Introduction of New Generic Top-Level Domains. Recommendation 5 states “Strings must not be a reserved word.” The report’s discussion of this recommendation includes text quoted from the Reserved Names Working Group Final Report:

*However, new TLD applicants interested in applying for a TLD that incorporates a country, territory, or place name should be advised of the GAC Principles, and the advisory role vested to it under the ICANN Bylaws . . . Potential applicants should also be advised that the failure of the GAC, or an individual GAC member, to file a challenge during the TLD application process, does not constitute a waiver of the authority vested to the GAC under the ICANN Bylaws.*

<sup>35</sup> The following examples were provided to demonstrate that there are different definitions for the term “city”:

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

- 1       • In the Applicant Guidebook, there was no requirement for applicants to obtain  
2       support/non-objection if the applicant intended to use the string in a generic or  
3       brand context. The cases of .spa and .bar are examples that were cited by Work  
4       Track members. In relation to these examples, some Work Track members  
5       expressed the view that relevant government authorities should be consulted to  
6       get a full and balanced picture of the facts of these cases.
- 7       • From one perspective, there were challenges in the 2012 round associated with  
8       resolving competing bids for a string associated with a city name, in particular if  
9       multiple applications had support or non-objection from relevant  
10      governments/public authorities. Some Work Track members felt that this may be  
11      any area for future refinement if the support/non-objection mechanism exists in  
12      subsequent procedures.
- 13      • Work Track members identified that some stakeholders experienced uncertainty  
14      about monitoring and enforcement related to the intended use commitment.
- 15      • A single name may be associated with multiple cities. A number of examples  
16      were cited by Work Track members. Some Work Track members felt that all  
17      cities associated with a name should have the opportunity to provide  
18      support/non-objection because they all have a connection with the string,  
19      stating that all have the same right to provide input on use of the string. Others  
20      favored a requirement for support/non-objection from a city government only if  
21      the intended use is in association with that specific city, noting logistical  
22      challenges associated with identifying all cities and all relevant governments or  
23      public authorities associated with a name.

24  
25    In considering positions in support of and against maintaining the current treatment,  
26    Work Track members raised arguments that relate more broadly to discussions of  
27    geographic names. These include the applicability of and relevance of law and public  
28    policy, the issue of whether the intended use of the TLD matters. These issues are  
29    covered in greater depth in f.1 of the deliberations section.

30    Work Track 5 reviewed the general points in support of and against the use of the  
31    support/non-objection requirement in the New gTLD Program. See section f.2.3 for  
32    details.

33  
34    In addition, Work Track members raised specific points in support of continuing the  
35    2012 Applicant Guidebook treatment for this category. Some believe that:

- 36      • 60+ city TLD applications went forward with support/non-objection and there  
37      were few cases of objections for such strings in the 2012 round, demonstrating  
38      that many applications were able to proceed to delegation using this process,

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1 including a number of capital city names. Some applicants expressed that they  
2 had a positive experience with the process.

- 3 ● Some Work Track members have expressed that there are a number of success  
4 stories coming out of the 2012 round using the support/non-objection  
5 mechanism for non-capital cities. Examples include .nyc, .hamburg, .koeln,  
6 .boston, .vegas, .miami, .istanbul, .sydney, and .quebec.

7  
8 In addition, specifically on the issue of city names, some believe that:

- 9  
10 ● It may be difficult to identify the relevant governments/public authorities  
11 associated with a city.
- 12 ● The application/delegation process can take time and city administrations may  
13 change, which could create unstable conditions for the applicant who is required  
14 to have government support/non-objection.

15  
16 Some members support changing the 2012 requirement so that government  
17 support/non-objection is always required, regardless of intended use. Some members  
18 support maintaining existing provisions. Some members support removing support/non-  
19 objection requirements for this category. Please see sections f.1.2.3 on law and policy  
20 f.1.2.4 on intended use and f.2.3 for general arguments in support of and against  
21 support/non-objection requirements.

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

- 24  
25 ● **Proposal 18: Maintain provisions included in the 2012 Applicant Guidebook**  
26 **that require applicants to obtain letters of support or non-objection from the**  
27 **relevant governments or public authorities for “An application for a city name,**  
28 **where the applicant declares that it intends to use the gTLD for purposes**  
29 **associated with the city name.”** The requirement applies if: “(a) It is clear from  
30 applicant statements within the application that the applicant will use the TLD  
31 primarily for purposes associated with the city name; and (b) The applied-for  
32 string is a city name as listed on official city documents.” See the deliberations  
33 section of this paper for pros and cons associated with maintaining the  
34 treatment included in the 2012 Applicant Guidebook. As with other applications,  
35 curative measures available include objections processes, use of Public Interest  
36 Commitments, contractual provisions and enforcement, and post-delegation  
37 dispute resolution.

- 38 ○ **Variant 1: Implement provisions to prevent misrepresentation.**  
39 Applicants who intend to represent a connection to the authority of a

1 non-capital city will need to provide a letter of support/non-objection.  
 2 However, if the applicant does not intend to represent a connection to  
 3 the authority of non-capital city names, protections will be enhanced by  
 4 inserting contractual requirements into the Registry Agreement that  
 5 prevent the applicant from misrepresenting their connection or  
 6 association to the geographic term. This proposal changes the standard  
 7 for when a letter is needed for non-capital city names from usage  
 8 associated with the city name to usage intended to represent a  
 9 connection to the authority of the non-capital city name. This proposal  
 10 increases contractual requirements and therefore enhances protections  
 11 for geographic places.  
 12

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.

13  
 14 ○ Variant 2: **Change the text of part (a) describing when support/non-**  
 15 **objection applies.** Change the text “(a) It is clear from applicant  
 16 statements within the application that the applicant will use the TLD  
 17 primarily for purposes associated with the city name” to “(a) The  
 18 Geographic Names Panel determines that the foreseeable use of 2nd  
 19 level domains by registrants will be to a significant degree for purposes  
 20 associated with the city name.”  
 21

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.

22  
 23 ○ Variant 3: **Change the text of part (a) describing when support/non-**  
 24 **objection applies.** Change the text “(a) It is clear from applicant  
 25 statements within the application that the applicant will use the TLD  
 26 primarily for purposes associated with the city name” to “(a) The  
 27 applicant is able and will confirm that neither he nor his sales channel will  
 28 use the TLD as a geographic identifier.”  
 29

- Proposal 19: 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. ~~Work Track 5 has not yet discussed whether this proposal could rely exclusively on existing objections mechanisms, or if it would require change to existing objections mechanisms or addition of new objections mechanisms.~~

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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.

- **Proposal 20: Always require a letter of support or non-objection from the relevant governments or public authorities regardless of intended use.**
  - For general arguments in favor and against intended use provisions, please see section f.2.3. The following are points that specifically address this proposal.

Benefits	Drawbacks
Some believe that this would be consistent with some cities' national laws, a requirement in ICANN's Bylaws. Please see sections f.1.2.3 on law and policy.	Some believe that there is no legal basis for 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.

- **Proposal 21: Give small cities, towns, and geographic communities the first right to apply for a TLD associated with the place.**
- **Proposal 22: Develop a list of large cities around the world and require that applicants obtain letters of support or non-objection from the relevant**

1 **governments or public authorities for strings on this list, regardless of the way**  
 2 **the applicant intends to use the string.** The list of large cities could be  
 3 developed based one of the following standards or a combination of these  
 4 standards:

- 5 ○ Absolute population of the city: the city has a certain minimum  
 6 population, for example 500,000 residents or 1,000,000 residents.
- 7 ○ Relative population of the city: the city is relatively large by population  
 8 compared to other cities in the country or sub-national region, for  
 9 example it is one of the 10 largest cities in a country or 3 largest cities in a  
 10 sub-national region.
- 11 ○ Percentage of a country’s population: The city holds a certain minimum  
 12 percentage of the country’s population.

13  
 14 Work Track 5 members suggested a number of possible sources of data for the  
 15 development of this list, including:

- 16 ● [World’s largest urban areas](#)
- 17 ● [United Nations - The world’s cities in 2016](#)
- 18 ● [Council of European Municipalities and Regions comments on ICANN’s](#)  
 19 [draft version 3 of the New gTLD Applicant Guidebook](#) (ccre.org)
- 20 ● [World Population Review](#)
- 21 ● [United Nations DESA/Population Division World Population Prospects](#)  
 22 [2017](#)
- 23 ● [UN Statistics Division - Demographic Yearbook 2015](#)
- 24 ● [United Nations Data Booklet - The World’s Cities in 2016](#)
- 25 ● [Homeland Infrastructure Foundation Level Data \(HIFLD\)](#)
- 26 ● List of cities with airports (International Airport Transportation)
- 27 ● [GeoNames](#)
- 28 ● [United Nations Committee of Experts on Global Geospatial Information](#)  
 29 [Management - Working Group A Core Data](#)
- 30 ● [United Nations Committee of Experts on Global Geospatial Information](#)  
 31 [Management - Core Spatial Data Theme ‘Geographical Names’](#)  
 32 [Recommendation for Content](#)

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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.

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- **Proposal 23:** 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 the above proposal 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.

Commented [A104]: Justine Chew: Which is proposal 6? None are numbered.  
 Commented [A105R104]: Staff note: Corrected.  
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<b>Benefits</b>	<b>Drawbacks</b>
-----------------	------------------

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.
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- **Proposal 24: 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.

- **Proposal 25: 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.	

**Summary of Proposals - Relative to the 2012 [Applicant Guidebook \(AGB\)](#)**

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Proposal	Level of Protection/Restriction	Focus
<a href="#">18</a> : Maintain 2012 AGB	Status Quo	Preventative and Curative

<a href="#">18</a> : Variant 1; Prevent Misrepresentation	Increased in some respects and decreased in other respects	Preventative and Curative
<a href="#">18</a> : Variant 2; Edited AGB Text	Increased	Preventative
<a href="#">18</a> : Variant 3; Edited AGB Text	Increased	Preventative
<a href="#">19</a> : Focus on Objections Mechanisms	Decreased	Curative
<a href="#">20</a> : Always Require Support/Non-Objection	Increased	Preventative
<a href="#">21</a> : Small Cities - First Right to Apply	Increased	Other means/tools
<a href="#">22</a> : Support/Non-Objection for Large Cities	Increased	Preventative
<a href="#">23</a> : Each Country Selects Cities Requiring Support/Non-Objection	Increased	Preventative
<a href="#">24</a> : Reserve Names of "Global Cities"	Increased	Preventative
<a href="#">25</a> : Raise Awareness	Does not impact level of protection	Other means/tools

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

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

12 For strings in this category, there is divergence between the 2007 Policy and  
 13 Implementation in the 2012 Applicant Guidebook. The 2007 Policy anticipated that



1 these strings would be available without any special requirements and did not mention  
2 a provision requiring support/non-objection. The 2012 Applicant Guidebook required  
3 support/non-objection from relevant governments or public authorities if a string was  
4 an exact match of a sub-national place name, such as a county, province, or state listed  
5 in ISO 3166 Part 2.

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

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

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

14  
15 Specifically in relation to sub-national place names, Work Track members raised points  
16 against continuing the 2012 Applicant Guidebook treatment for this category. Some  
17 believe that:

- 18 ● There may be tensions between communities associated with regions and the  
19 corresponding governments. In this view, a legitimate applicant could be  
20 punished or evaluated negatively because a government entity does not agree  
21 with the applicant's position or entitlement.
- 22 ● The case of .tata was provided as an example of a string in this category that had  
23 challenges in the 2012 round. From one perspective, a large multinational brand  
24 needed to obtain support/non-objection from a small province in Morocco that  
25 had not expressed interest in establishing a TLD related to that string. For some  
26 Work Track members, this is an indication that there is a problem with this  
27 provision.
- 28 ● If a string is being used in a generic or brand context, there is no harm or risk of  
29 confusion and therefore support/non-objection process is not necessary in these  
30 cases.

31  
32 The following proposals have been put forward by Work Track members with respect to  
33 this category:

- 34 ● [Proposal 26](#): Eliminate support/non-objection requirements.
- 35 ● [Proposal 27](#): Applicants who intend to represent a connection the authority of a  
36 sub-national place will need to provide a letter of support/non-objection.  
37 However, if the applicant does not intend to represent a connection to the

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

- 5 • **Proposal 28:** If the string corresponds to a geographic name but the applicant  
6 intends to use the string in a generic or brand context, there is no requirement  
7 for a letter of support or non-objection from any governments or public  
8 authorities.

9  
10 There was no clear agreement to change the terms included in the 2012 Applicant  
11 Guidebook. Therefore, Work Track 5 is putting forward a preliminary recommendation  
12 for community feedback to continue to consider this category a geographic name  
13 requiring government support at the top level, consistent with the 2012 Applicant  
14 Guidebook.

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15 **f.2.3.4 Strings listed as UNESCO Regions<sup>36</sup> or Appearing on the “Composition of macro**  
16 **geographical (continental) regions, geographical sub-regions, and selected economic**  
17 **and other groupings” list<sup>37</sup>**

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

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

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

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

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<sup>36</sup> See <http://www.unesco.org/new/en/unesco/worldwide/>.

<sup>37</sup> See <http://unstats.un.org/unsd/methods/m49/m49regin.htm>.

1  
2 Specifically in relation to this category, Work Track members raised points against  
3 continuing the 2012 Applicant Guidebook treatment. Some believe that:

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

13  
14 The following proposals have been put forward by Work Track members with respect to  
15 this category:

- 16 ● [Proposal 29](#): Eliminate support/non-objection requirements.
- 17 ● [Proposal 30](#): Applicants who intend to represent a connection the authority of a  
18 UNESCO region, or region appearing on the "Composition of macro geographical  
19 (continental) regions, geographical sub-regions, and selected economic and  
20 other groupings" list will need to provide a letter of support/non-objection.  
21 However, if the applicant does not intend to represent a connection to the  
22 authority of the geographic terms listed above, protections will instead be  
23 achieved by inserting contractual requirements into the Registry Agreement that  
24 prevent the applicant from misrepresenting their connection or association to  
25 the geographic term.
- 26 ● [Proposal 31](#): If the string corresponds to a geographic name but the applicant  
27 intends to use the string in a generic or brand context, there is no requirement  
28 for a letter of support or non-objection from any governments or public  
29 authorities.

30  
31 There was no clear agreement to change the terms included in the 2012 Applicant  
32 Guidebook. Therefore, [Work Track 5](#) is putting forward a preliminary recommendation  
33 for community feedback to continue to consider this category a geographic name  
34 requiring government support at the top level, consistent with the 2012 Applicant  
35 Guidebook.

36 [Note that shortly before publication of the Initial Report, one Work Track member](#)  
37 [stated that the "Composition of macro geographical \(continental\) regions, geographical](#)  
38 [sub-regions, and selected economic and other groupings" list is no longer known by this](#)

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1 name, although the old name is sometimes still used. The member further stated that  
2 using this title creates an ambiguity, since the list now includes "intermediary regions."  
3 The Work Track 5 member suggested updating the category in the Applicant Guidebook  
4 to: "An application for a string listed as a UNESCO region or appearing as a "geographic  
5 region," "sub-region," "intermediary region" or "other grouping" on the "Standard  
6 country or area codes for statistical use" list maintained by the United Nations Statistical  
7 Commission and commonly referred to as the M49 standard" and updating the  
8 associated link to <https://unstats.un.org/unsd/methodology/m49/>. Work Track 5 did  
9 not have an opportunity to research and discuss this issue extensively prior to  
10 publication of the Initial Report, but will do so after publication of the Initial Report. Any  
11 necessary updates, if appropriate, will be included in the Final Report.

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Commented [A106]: Staff note: Added based on feedback from Greg Shatan.

#### 12 **f.2.4 ADDITIONAL TYPES OF TERMS NOT INCLUDED IN THE 2012 APPLICANT** 13 **GUIDEBOOK**

14 Work Track 5 discussed additional categories of strings that were not listed as  
15 geographic names in the 2012 Applicant Guidebook. Perspectives on this issue surfaced  
16 through conversations on specific applications from the 2012 round. Work Track  
17 members referenced examples from the 2012 round where different parties had  
18 different perspectives on whether a term was geographic in nature and the resulting  
19 process caused uncertainty and costs for parties involved. These include .Thai, .GCC,  
20 .PersianGulf, and .Amazon, and .Patagonia. In further discussions, Work Track 5 tried to  
21 identify the issues, if any, that arose in these and other cases in the 2012 round, and  
22 attempted to determine if there is a problem that needs to be solved through policy.  
23 Work Track 5 discovered that the definition of the issue can be highly subjective, and  
24 therefore it may be difficult to reach agreement on any possible next steps in the  
25 discussion.

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26  
27 Some believe that:

- 28
- 29 ● There were names with geographic meaning that were not covered by the 2012  
30 Applicant Guidebook definitions and rules and that should be included in the  
31 Applicant Guidebook as geographic terms in the future.
- 32 ● The issue is that the [Applicant Guidebook](#) was not sufficiently clear.
- 33 ● It is desirable to create rules for a greater number of strings, because it will  
34 create more predictability in the process and reduce conflicts between different  
35 parties.

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36  
37 Some believe that:

- 38
- 39 ● No additional restrictions or preferences should exist that were not included in  
40 the 2012 Applicant Guidebook.

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

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

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- Geographical features, such as mountains and rivers
- Sub-national and regional terms 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

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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.

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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.

- 1       ● It is inappropriate for brands or other groups to use names that belong to a  
2           particular group of people.

3  
4 Work Track members raised points against establishing rules for additional categories of  
5 strings. Some believe that:

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

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

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

36  
37 Some believe that:

- 38  
39       ● This category does not have clear boundaries. Protections of geographical  
40           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 32: Apply a clear and unambiguous 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 delegation.

Benefits	Drawbacks
Some believe that this proposal would <u>increase predictability for applicants by ensuring that the Applicant Guidebook defines the entire universe of geographic privileges and protections, and that there are no other processes by which a claimed privilege or protection could be asserted.</u>	Some believe that this proposal would not be <u>acceptable to governments and public authorities.</u>
Some believe that this proposal would reduce <u>conflicts and disputes by creating a</u>	Some believe that ICANN and the community <u>have no grounds for determining which geo-</u>

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Commented [A107]: Staff note: Proposal, pros, and cons updated based on recent email list traffic and discussion on the 14 Nov call.

Commented [A108R107]: Justine Chew: I'm not comfortable with this sentence – are we not talking only about letters of support/non-objection and application? There are still string confusion etc to be considered. Suggest replacing it with "A lack of letter of support/non-objection alone will not be a cause to suspend hinder or suspend an application for such unprotected term."

Commented [A109R107]: Staff note: This may require further feedback from the author of the proposal.

Commented [A110R107]: Alexander Schubert: Suggested altering the proposal to state "A brand or generic term based application that is NOT a city, subnational division, unesco region would simply pass the geographic names review WITHOUT any further investigation. So it would not be "impacted" by it. However a non-capital city name would be always impacted, as the panel had to start evaluating the application – trying to find out whether the applicant intends to use it "primarily for purposes associated with the city name".

Commented [A111R107]: Staff note: Further discussion may be needed before altering the proposal.

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

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

- Proposal 33: **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.

<b>Benefits</b>	<b>Drawbacks</b>
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	Some believe that the geographic names panel should have a focused mandate and rules should be sufficiently clear that there are no “hard cases.”



applicable, therefore reducing potential future conflicts.	
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 <a href="#">Applicant Guidebook</a> .	Has a financial impact, potentially on ICANN, if this is intended to be cost-free to potential applicants.

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- Proposal [34](#): **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.

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- Proposal [35](#): **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.

1  
2 Additional proposals from this perspective suggest creating new requirements for  
3 applicants:

- 4
- 5 ● Proposal [36](#): **Require that an applicant demonstrates that it has researched**
  - 6 **whether the applied-for string has a geographic meaning and performed any**
  - 7 **outreach deemed necessary by the applicant prior to submitting the**
  - 8 **application.** The proposal would be in addition to the existing measures related
  - 9 to the Geographic Names Panel.
  - 10 ● Proposal [37](#): **If the applicant is applying for a geographic name, including terms**
  - 11 **not listed in the 2012 Applicant Guidebook, the applicant is required to**
  - 12 **contact/consult with the relevant government authority and provide evidence**
  - 13 **that it has done so.**

14

15

16 ***g. Are there other activities in the community that may serve as a***

17 ***dependency or future input to this topic?***

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

## 3 Conclusions and Next Steps

### 3.1 Preliminary Conclusions

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

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### 3.2 Next Steps

After a comprehensive review of public comments received on this report, Work Track 5 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

### 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 ~~Work Track 5~~ held its first meeting on 15 November 2017.
- On 3 July 2018, the WG published its Initial Report for public comment<sup>38</sup>.

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### 4.2 Issue Background

The New gTLD Subsequent Procedures PDP Working Group was tasked with determining what, if any changes may be needed in regards to the existing GNSO's *Final Report on*

<sup>38</sup> See public comment proceeding here: <https://www.icann.org/public-comments/gtld-subsequent-procedures-initial-2018-07-03-en>

1 *Introduction of New Generic Top-Level Domains*<sup>39</sup>. As the original policy  
2 recommendations as adopted by the GNSO Council and the ICANN Board have “been  
3 designed to produce a systemized and ongoing mechanisms for applicants to propose  
4 new top-level domains,” those policy recommendations remain in place for subsequent  
5 rounds of the New gTLD Program unless the GNSO Council would decide to modify  
6 those policy recommendations via a policy development process. The work of the PDP  
7 follows the efforts of the New gTLD Subsequent Procedures Discussion Group (DG),  
8 which identified a set of subjects for this PDP to consider in their deliberations. The DG  
9 anticipated that the WG might complete its work by:

- 10
- 11 ■ Clarifying, amending or overriding existing policy principles, recommendations, and  
12 implementation guidelines;
- 13 ■ Developing new policy principles, recommendations, and implementation  
14 guidelines
- 15

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

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

- 18 ■ New gTLD Subsequent Procedures PDP Working Group overarching issues and  
19 Work Tracks 1-4
- 20 ■ Competition, Consumer Trust & Consumer Choice Review Team (CCT-RT)
- 21 ■ GAC Geographic Names Working Group
- 22
- 23

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<sup>39</sup> See the Final Report – Introduction of New Generic Top-Level Domains here:  
<https://gns0.icann.org/en/issues/new-gtlds/pdp-dec05-fr-parta-08aug07.htm>

## 5 Approach Taken by the Working Group

### 5.1 Working Methodology

The New gTLD Subsequent Procedures PDP WG's Work Track 5 began its deliberations on 15 November 2017. It conducted its work primarily through regular conference calls, in addition to email exchanges on its mailing list, with further discussions taking place during scheduled sessions at ICANN Public Meetings. All of Work Track 5'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.

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#### 5.1.1 WG Membership

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

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

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12	Ali Hussein Kassim	At-Large
13	Andrei Kolesnikov	At-Large
14	Ann-Cathrin Marcussen	ccNSO
15	<b>Annebeth Lange Co-Leader</b>	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_(Badiiei)	NCUC
50	Francis Olivier Cubahiro	GAC



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

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74	Jeff Neuman (Co-chair new gTLD Subpro WG)	Individual
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

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98	Marita Moll	At-Large
99	Maritza Aguero Minano	At-Large
100	<b>Martin Sutton Co-Leader</b>	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	<b>Olga Cavalli - Co-Leader</b>	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

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

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

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The Statements of Interest for Work Track 5 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 Work Track 5. Observers were allowed to receive messages from Work Track 5, but were not able to post to the mailing list nor attend Work Track 5 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

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

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8 \*\* This list was accurate as of the publication of this report. Note that some members  
9 joined the WG only after it began meeting, and WG members that have since left are  
10 indicated with ++ against their names.  
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## 6 Community Input

### 6.1 Summary of Input

The full Working Group formally sought community input through public comment on three occasions: (1) conducted outreach to all ICANN Supporting Organizations (SOs) and Advisory Committees (ACs) as well as GNSO Stakeholder Groups (SGs) and Constituencies (Cs) with a request for input at the start of its deliberations, which included a specific request for historical statements or Advice relating to new gTLDs<sup>40</sup> (2) Community Comment 1 (CC1)<sup>41</sup> (2) Community Comment 2 (CC2)<sup>42</sup>. For additional information about outreach activities conducted by the full Working Group, please see the Initial Report.

Work Track 5 has conducted outreach by connecting to the relevant communities through Work Track Co-Leaders and participants engaged in those communities. There is one Work Track Co-Leader representing each the ALAC, the ccNSO, the GAC, and the GNSO. The Co-Leaders have served as liaisons to their respective communities, ensuring that members of their communities are aware of the status of activities and know about opportunities to engage. The Work Track 5 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 Work Track 5.<sup>43</sup>

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### 6.2 Review of Input Received

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

<sup>40</sup> See outreach and inputs received on the Wiki here: <https://community.icann.org/x/2R6OAw>

<sup>41</sup> See Community Comment 1 outreach and inputs received, on the Wiki here:

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

<sup>42</sup> See Community Comment 2 outreach and inputs received, on the Wiki here:

<https://community.icann.org/x/Gq7DAw>

<sup>43</sup> See

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

## Annex A – Charter

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

The Terms of Reference document developed by Work Track 5 is available here: <https://community.icann.org/x/RgS8B>



## Annex B – Preliminary Recommendations, Options/Proposal, and Questions

Annex B provides a summary of items on which the Working Group is seeking feedback from the community. Please see the Preamble of this report for context about the items included in this table. It is not necessary to respond to every item in this table. Please respond to the items that you find important. In addition, you are welcome to provide feedback about items included in this paper that are not included in the table below.

The following provides context about the items included in Annex B:

- Preliminary recommendation: a preliminary recommendation or implementation guideline. Note that no consensus calls were held on preliminary recommendations prior to publication of the Initial Report. Please see the Preamble for additional information.
- Option/Proposal: A proposal that has been put forward by a Work Track 5 member or group of Work Track 5 members for consideration by Work Track 5. At this time, the proposals are being shared for further discussion. The level of support for these proposals varies. Many would require further development before they could become preliminary recommendations. You are welcome to provide input about whether you think these proposals should be developed or considered further. You are also welcome to submit potential benefits or drawbacks associated with these proposals.
- Question: An item on which Work Track 5 is seeking community input.

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### Preliminary Recommendations, Questions for Community Input, and Options/Proposals

Preliminary Recommendation 1	As described in recommendations 2-9, Work Track 5 recommends, unless or until decided otherwise, maintaining the reservation of certain strings at the top level in upcoming processes to delegate new gTLDs. As described in recommendations 10-13, Work Track 5 recommends, unless or until decided otherwise, requiring applications for certain strings at the top level to be accompanied by documentation of support or non-objection from the relevant governments or public authorities, as applicable.
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<u>Preliminary Recommendations, Questions for Community Input, and Options/Proposals</u>	
<u>Preliminary Recommendation 2</u>	<p>Work Track 5 recommends continuing to reserve all two-character<sup>44</sup> letter-letter ASCII combinations at the top level for existing and future country codes.</p> <ul style="list-style-type: none"> <li>• <u>The starting point of this recommendation is Section 2.2.1.3.2 String Requirements, Part III, 3.1 of the 2012 Applicant Guidebook, which states, “Applied-for gTLD strings in ASCII must be composed of three or more visually distinct characters. Two-character ASCII strings are not permitted, to avoid conflicting with current and future country codes based on the ISO 3166-1 standard.”</u></li> <li>• <u>Work Track 5’s recommendation specifically addresses letter-letter combinations because the focus of Work Track 5 is on geographic names. Work Track 5 considers letter-letter combinations to be within the scope of this subject area.</u></li> <li>• <u>Work Track 5 notes that Work Track 2 of the New gTLD Subsequent Procedures PDP Working Group is considering two-character letter-number combinations and two-character number-number combinations.</u></li> </ul> <p><u>This recommendation is consistent with the GNSO policy contained in the Introduction of New Generic Top-Level Domains policy recommendations from 8 August 2007. It is also consistent with provisions in the 2012 Applicant Guidebook.</u></p>
<u>Preliminary Recommendation 3</u>	<p><u>Work Track 5 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.i:</u></p> <ul style="list-style-type: none"> <li>• <u>alpha-3 code listed in the ISO 3166-1 standard.</u></li> </ul> <p><u>Work Track 5 is not proposing to remove from delegation any 3-letter codes that have already been delegated.</u></p>

<sup>44</sup> The term “character” refers to either a single letter (for example “a”) or a single digit (for example “1”).

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	<p>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.</p>
Preliminary Recommendation 4	<p>Work Track 5 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.ii:</p> <ul style="list-style-type: none"> <li>● long-form name listed in the ISO 3166-1 standard.</li> </ul> <p>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.</p>
Preliminary Recommendation 5	<p>Work Track 5 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.iii:</p> <ul style="list-style-type: none"> <li>● short-form name listed in the ISO 3166-1 standard.</li> </ul> <p>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.</p>

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<u>Preliminary Recommendation 6</u>	<p>Work Track 5 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 <u>2.2.1.4.1.iv</u>:</p> <ul style="list-style-type: none"> <li>• short- or long-form name association with a code that has been designated as “exceptionally reserved”<sup>45</sup> by the ISO 3166 Maintenance Agency.</li> </ul> <p>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.</p>
<u>Preliminary Recommendation 7</u>	<p>Work Track 5 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 <u>2.2.1.4.1.v</u>:</p> <ul style="list-style-type: none"> <li>• 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.</li> </ul> <p>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</p>

<sup>45</sup> The definition of “exceptional reservations” in Section 7.5, Reservation of Code Elements in the current standard, (ISO 3166-1:2013(E/F)): “**7.5.4 Exceptional reserved code elements:** Code elements may be reserved, in exceptional cases, for country names which the ISO 3166/MA has decided not to include in this part of ISO 3166, but for which an interchange requirement exists. Before such code elements are reserved, advice from the relevant authority must be sought.”

<u>Preliminary Recommendations, Questions for Community Input, and Options/Proposals</u>	
	<p>the issue of translations of these strings, which were reserved in the 2012 Applicant Guidebook. Please see <a href="#">questions for community input in section e.</a></p>
<u>Preliminary Recommendation 8</u>	<p><u>Work Track 5 recommends clarifying 2012 Applicant Guidebook section 2.2.1.4.1.vi, which designates the following category as a country and territory name which is reserved at the top level and unavailable for delegation:</u></p> <ul style="list-style-type: none"> <li>● <u>permutation or transposition of any of the names included in items (i) through (v). Permutations include removal of spaces, insertion of punctuation, and addition or removal of grammatical articles like “the.” A transposition is considered a change in the sequence of the long or short-form name, for example, “RepublicCzech” or “IslandsCayman.”</u></li> </ul> <p><u>Work Track 5 recommends clarifying that permutations and transpositions of the following strings are reserved:</u></p> <ul style="list-style-type: none"> <li>● <u>long-form name listed in the ISO 3166-1 standard.</u></li> <li>● <u>short-form name listed in the ISO 3166-1 standard.</u></li> <li>● <u>short- or long-form name association with a code that has been designated as “exceptionally reserved” by the ISO 3166 Maintenance Agency.</u></li> <li>● <u>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.</u></li> </ul> <p><u>Permutations and transpositions of alpha-3 codes listed in the ISO 3166-1 standard should be allowed.</u></p> <p><u>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 clarifies the text from the 2012 Applicant Guidebook and updates the policy to be consistent with Work Track 5’s interpretation of 2012 Applicant Guidebook section 2.2.1.4.1.vi.</u></p>

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<u>Preliminary Recommendation 9</u>	<p>Work Track 5 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 <u>2.2.1.4.1.vii</u>:</p> <ul style="list-style-type: none"> <li>• <u>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.</u></li> </ul> <p>The 2012 Applicant Guidebook provisions related to this category are inconsistent with the GNSO policy recommendations contained in the <u>Introduction of New Generic Top-Level Domains from 8 August 2007</u>. This recommendation makes the policy consistent with the 2012 Applicant Guidebook, and therefore represents a change to the existing policy recommendation.</p>
<u>Preliminary Recommendation 10</u>	<p>Work Track 5 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:</p> <ul style="list-style-type: none"> <li>• <u>An application for any string that is a representation of the capital city name of any country or territory listed in the ISO 3166-1 standard.</u></li> </ul> <p>The 2012 Applicant Guidebook provisions related to this category are inconsistent with the GNSO policy recommendations contained in the <u>Introduction of New Generic Top-Level Domains from 8 August 2007</u>. 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 required support/non-objection in the 2012 Applicant Guidebook. Please see <u>questions for community input regarding translations in section e</u>.</p>
<u>Preliminary Recommendation 11</u>	<p>Work Track 5 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:</p> <ul style="list-style-type: none"> <li>• <u>An application for a city name, where the applicant declares that it intends to use the gTLD for purposes associated with the city name. An application for a city name will be subject to the</u></li> </ul>

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	<p><u>geographic names requirements (i.e., will require documentation of support or non-objection from the relevant governments or public authorities) 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</u></p> <p>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.</p>
<u>Preliminary Recommendation 12</u>	<p>Work Track 5 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:</p> <ul style="list-style-type: none"> <li>• 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.</li> </ul> <p>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.</p>
<u>Preliminary Recommendation 13</u>	<p>Work Track 5 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:</p>

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	<ul style="list-style-type: none"> <li>• <u>An application for a string listed as a UNESCO region<sup>46</sup> or appearing on the “Composition of macro geographical (continental) regions, geographical sub-regions, and selected economic and other groupings” list.</u></li> </ul> <p><u>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.</u></p> <p><u>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.”</u></p> <p><u>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.</u></p>
<u>Question e1</u>	<p><u>Work Track 5 encourages feedback from applicants or other stakeholders who were involved in the 2012 round. Work Track 5 is particularly interested in hearing about the experiences of the following groups and individuals:</u></p> <ul style="list-style-type: none"> <li>• <u>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.</u></li> <li>• <u>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.</u></li> </ul>

<sup>46</sup> See <http://www.unesco.org/new/en/unesco/worldwide/>



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	<ul style="list-style-type: none"> <li>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.</li> </ul> <p>Please share any positive or negative experiences, including lessons learned and areas for improvement in subsequent procedures. Please see deliberations section <a href="#">f.1.2.5 on pages 37-42</a> for context on this question.</p>
<a href="#">Question e2</a>	<p>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”? Is “geographic name” the appropriate term to use in this context, as opposed to, for example, “term with geographic meaning”? Why or why not? Please see deliberations section <a href="#">f.1.2.4 on pages 34 - 36</a> for context on this question.</p>
<a href="#">Question e3</a>	<p>Work Track 5 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:</p> <ul style="list-style-type: none"> <li>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.</li> <li>Curative: Measures in this category include objection mechanisms, contractual provisions incorporated into the registry agreement, enforcement of those provisions, and post-delegation dispute resolution mechanisms.</li> </ul> <p>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 <a href="#">f.1.2.2 on pages 28-29</a> for context on this question.</p>
<a href="#">Question e4</a>	<p>Work Track members have considered a series of principles that may be used to guide the development of future policy on geographic names. The principles were discussed in the context of city names and terms not</p>

<u>Preliminary Recommendations, Questions for Community Input, and Options/Proposals</u>	
	<p>included in the 2012 Application Guidebook, but they may be applicable more broadly. Proposed principles include:</p> <ul style="list-style-type: none"> <li>• <u>In alignment with Principle C from the 2007 GNSO recommendations on new gTLDs, the program should allow for the introduction of new gTLDs.</u></li> <li>• <u>In alignment with Principle A from the 2007 GNSO recommendations on new gTLDs, enhance the predictability for all parties.</u></li> <li>• <u>Reduce the likelihood of conflicts within the process, as well as after the process concludes and TLDs are delegated.</u></li> <li>• <u>Policies and processes should be simple to the extent possible.</u></li> </ul> <p>Do you support these principles? Why or why not? Are there additional principles that Work Track 5 should consider? Please explain. Please see deliberations section <a href="#">f.1.3 on pages 42-43</a> for context on this question and additional discussion of these principles.</p>
<u>Question e5</u>	<p><u>To what extent should the following serve as a basis for the development of policies regarding geographic names?</u></p> <ul style="list-style-type: none"> <li>• <u>International law</u></li> <li>• <u>National/local law and policy</u></li> <li>• <u>Norms and values (please specify)</u></li> <li>• <u>Another basis not categorized above (please specify)</u></li> </ul> <p>Please explain. Please see deliberations <a href="#">section f.1.2.1 on pages 25-28</a> and <a href="#">section f.1.2.3 on pages 30-34</a> for context on this question.</p>
<u>Question e6</u>	<p><u>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:</u></p> <ul style="list-style-type: none"> <li>• <u>long-form name listed in the ISO 3166-1 standard.</u></li> <li>• <u>short-form name listed in the ISO 3166-1 standard.</u></li> <li>• <u>separable component of a country name designated on the “Separable Country Names List.”</u></li> </ul>

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	<p>In developing recommendations for future treatment of country and territory names, Work Track 5 has considered several alternatives related to translation:</p> <ul style="list-style-type: none"> <li>• <u>continue to reserve as unavailable translations in any language</u></li> <li>• <u>reserve as unavailable translations in UN languages</u></li> <li>• <u>reserve as unavailable translations in UN languages and the official languages of the country</u></li> <li>• <u>reserve as unavailable translations in official languages of the country</u></li> <li>• <u>reserve as unavailable translations in official and commonly used languages</u></li> <li>• <u>reserve as unavailable translations in official and relevant national, regional, and community languages</u></li> <li>• <u>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</u></li> <li>• <u>a combination of two or more categories above</u></li> </ul> <p>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 <a href="#">f.2.2.1.2 on pages 46-48</a> for context on this question.</p>
<u>Question e7</u>	<p>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 <a href="#">f.2.2.1.1 on page 46</a> for context on this question.</p>
<u>Question e8</u>	<p>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, Work Track 5 has considered several alternatives related to the “in any language” standard:</p> <ul style="list-style-type: none"> <li>• <u>translations in UN languages</u></li> </ul>

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	<ul style="list-style-type: none"> <li>• <a href="#">translations in UN languages and the official languages of the country</a></li> <li>• <a href="#">translations in official languages of the country</a></li> <li>• <a href="#">translations in official and commonly used languages</a></li> <li>• <a href="#">translations in official and relevant national, regional, and community languages</a></li> <li>• <a href="#">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></li> <li>• <a href="#">a combination of two or more categories above</a></li> </ul> <p><a href="#">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 <a href="#">f.2.3.1 on pages 57-58</a> for context on this question.</a></p>
<a href="#">Question e9</a>	<p><a href="#">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 <a href="#">section f.2.3.2 on pages 59-69</a> for context on this question.</a></p>
<a href="#">Question e10</a>	<p><a href="#">Section <a href="#">f.2.3.2</a> 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 Work Track 5 considering further? Do you have alternate proposals you would like Work Track 5 to consider? Please explain. Please see deliberations <a href="#">section f.2.3.2, and specifically pages 62-69</a>, for context on this question.</a></p>
<a href="#">Question e11</a>	<p><a href="#">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).</a></p>

<u>Preliminary Recommendations, Questions for Community Input, and Options/Proposals</u>	
	<ul style="list-style-type: none"> <li>• <u>Some Work Track members have expressed support for protecting/restricting additional categories of geographic names in future versions of Applicant Guidebook.</u></li> <li>• <u>Some Work Track members have expressed that no additional types of terms should be protected/restricted beyond those included in the 2012 Applicant Guidebook.</u></li> <li>• <u>Some Work Track members have expressed that compared to the 2012 round, fewer types of terms should be protected/restricted in subsequent procedures.</u></li> </ul> <p><u>Work Track members who support including additional terms in the Applicant Guidebook have proposed protecting/restricting the following categories:</u></p> <ul style="list-style-type: none"> <li>• <u>Geographic features (rivers, mountains, etc)</u></li> <li>• <u>Names of additional sub-national and regional places not included in the 2012 Applicant Guidebook</u></li> <li>• <u>Non-ASCII geographic terms not included in the 2012 Applicant Guidebook</u></li> <li>• <u>Any term that can be considered geographic in nature</u></li> <li>• <u>Geographical Indications</u></li> </ul> <p><u>Two Work Track members stated that currency codes listed 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.</u></p> <p><u>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 <a href="#">section f.2.4 on pages 72-78</a> for context on this question.</u></p>
<u>Proposal 1 – general measures proposed to improve the New gTLD Program (see deliberations section f.1.2.5 for context)</u>	<u>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.</u>

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<u>Proposal 2 – general measures proposed to improve the New gTLD Program (see deliberations section f.1.2.5 for context)</u>	<u>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.</u>
<u>Proposal 3 – general measures proposed to improve the New gTLD Program (see deliberations section f.1.2.5 for context)</u>	<u>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.</u>
<u>Proposal 4 – general measures proposed to improve the New gTLD Program (see deliberations section f.1.2.5 for context)</u>	<u>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.</u>
<u>Proposal 5 – general measures proposed to improve the New gTLD Program (see deliberations section f.1.2.5 for context)</u>	<u>In any circumstance where a letter of support or non-objection is required from a relevant government authority, establish a deadline by which the government must respond to the request. If no response is received, this is taken as non-objection.</u>
<u>Proposal 6 – general measures proposed to improve the New gTLD Program (see deliberations section f.1.2.5 for context)</u>	<u>Once a gTLD is delegated with an intended use that is geographic in nature, all other variations and translations of this term are unconditionally available for application by any entity or person. Objection procedures could potentially still apply.</u>
<u>Proposal 7 – general measures proposed to improve the New gTLD Program (see deliberations section f.1.2.5 for context)</u>	<u>An applicant for a string with geographic meaning must provide notice to each relevant government or public authority that the applicant is applying for the string. The applicant is not required to obtain a letter of support or non-objection. This proposal relies on curative mechanisms to protect geographic names in contrast with support/non-objection requirements that are preventative in nature. Each government or public authority has a defined opportunity to object based on standards to be established. The right to object</u>

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	<u>expires after a set period of time. Objections are filed through one of the existing objection processes or a variation on an existing process. A set of standards would need to be established to determine what constitutes a relevant government or public authority. This proposal could apply to all or some of the categories of geographic names included in the 2012 Applicant Guidebook.</u>
<u>Proposal 8 – general measures proposed to improve the New gTLD Program (see deliberations section f.1.2.5 for context)</u>	<u>If an applicant applies for a string that is confusingly similar to a geographic term that requires a letter of government support or non-objection, the applicant should be required to obtain a letter of government support/non-objection. As an example, a common misspelling of a geographic name would be considered confusingly similar.</u>
<u>Proposal 9 – general measures proposed to improve the New gTLD Program (see deliberations section f.1.2.5 for context)</u>	<u>At the end of the registry contract period, a government entity has the option of becoming engaged and can add provisions to the contract that specifies conditions rather than there being an assumption that the contract will be renewed.</u>
<u>Proposal 9 – general measures proposed to improve the New gTLD Program (see deliberations section f.1.2.5 for context)</u>	<u>A TLD associated with geography should be incorporated within the jurisdiction of the relevant government and subject to local law.</u>
<u>Proposal 10 – country and territory names (see deliberations section f.2.2.2 for context)</u>	<u>Delegate alpha-3 codes on the ISO 3166 Part 1 standard as gTLDs with the requirement of government support/non-objection until a future process is designed specifically for the delegation of three-character codes.</u>
<u>Proposal 11 – country and territory names (see deliberations section f.2.2.2 for context)</u>	<u>Delegate alpha-3 codes on the ISO 3166 Part 1 standard as gTLDs with the requirement of government support/non-objection only in cases where the applicant intends to use the TLD as it relates to the geographic meaning of the term. For all other cases, the TLD should be available with no letter of support/non-objection.</u>
<u>Proposal 12 – country and territory names (see</u>	<u>The ISO should not be the source of 3-character strings used by ICANN to identify geographic names.</u>

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<a href="#">deliberations section f.2.2.2 for context</a> )	
<a href="#">Proposal 13 – country and territory names (see deliberations section f.2.2.6 for context)</a>	<a href="#">Individual governments should be asked which permutations should be reserved in connection with a corresponding country or territory name.</a>
<a href="#">Proposal 14 – country and territory names (see deliberations section f.2.2.7 for context)</a>	<a href="#">As long as a country can provide substantial evidence that the country is recognized by a name, the term should be included under the reserved names category “A name by which a country is commonly known.”</a>
<a href="#">Proposal 15 – country and territory names (see deliberations section f.2.2.7 for context)</a>	<a href="#">Add translations “in any language” to the category of reserved names “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.”</a>
<a href="#">Proposal 16 – names requiring government support/non-objections from the 2012 AGB (see deliberations section f.2.3.1 for context)</a>	<a href="#">Require support/non-objection for capital city names only if the applicant intends to use the gTLD for purposes associated with the capital city name.</a>
<a href="#">Proposal 17 – names requiring government support/non-objections from the 2012 AGB (see deliberations section f.2.3.1 for context)</a>	<a href="#">Eliminate support/non-objection requirements for capital city names.</a>
<a href="#">Proposal 18 – names requiring government support/non-objections from the 2012 AGB (see deliberations section f.2.3.2 for context)</a>	<a href="#">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</a>



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	is a city name as listed on official city documents.” As with other applications, curative measures available include objections processes, use of Public Interest Commitments, contractual provisions and enforcement, and post-delegation dispute resolution.
<a href="#">Proposal 18, Variant 1 – names requiring government support/non-objections from the 2012 AGB (see deliberations section f.2.3.2 for context)</a>	<a href="#">Variant 1: Implement provisions to prevent misrepresentation. Applicants who intend to represent a connection to 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.</a>
<a href="#">Proposal 18, Variant 2 – names requiring government support/non-objections from the 2012 AGB (see deliberations section f.2.3.2 for context)</a>	<a href="#">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.”</a>
<a href="#">Proposal 18, Variant 3 – names requiring government support/non-objections from the 2012 AGB (see deliberations section f.2.3.2 for context)</a>	<a href="#">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.”</a>
<a href="#">Proposal 19 – names requiring government support/non-objections from the 2012 AGB (see deliberations section f.2.3.2 for context)</a>	<a href="#">Eliminate preventative protections for non-capital city names 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</a>

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	in the evaluation and may discard objections. Work Track 5 has not yet discussed whether this proposal could rely exclusively on existing objections mechanisms, or if it would require change to existing objections mechanisms or addition of new objections mechanisms.
<u>Proposal 20 – names requiring government support/non-objections from the 2012 AGB (see deliberations section f.2.3.2 for context)</u>	<u>Always require a letter of support or non-objection from the relevant governments or public authorities for non-capital city names regardless of intended use.</u>
<u>Proposal 21 – names requiring government support/non-objections from the 2012 AGB (see deliberations section f.2.3.2 for context)</u>	<u>Give small cities, towns, and geographic communities the first right to apply for a TLD associated with the place.</u>
<u>Proposal 22 – names requiring government support/non-objections from the 2012 AGB (see deliberations section f.2.3.2 for context)</u>	<p><u>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:</u></p> <ul style="list-style-type: none"> <li>• <u>Absolute population of the city: the city has a certain minimum population, for example 500,000 residents or 1,000,000 residents.</u></li> <li>• <u>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.</u></li> <li>• <u>Percentage of a country’s population: The city holds a certain minimum percentage of the country’s population.</u></li> </ul>
<u>Proposal 23 – names requiring government support/non-objections from the 2012 AGB</u>	<u>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 the above proposal proposes that each country designates a set</u>

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(see deliberations section f.2.3.2 for context)	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.
Proposal 24 – names requiring government support/non-objections from the 2012 AGB (see deliberations section f.2.3.2 for context)	Reserve non-capital 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.
Proposal 25 – names requiring government support/non-objections from the 2012 AGB (see deliberations section f.2.3.2 for context)	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.
Proposal 26 – names requiring government support/non-objections from the 2012 AGB (see deliberations section f.2.3.3 for context)	Eliminate support/non-objection requirements for sub-national place names, such as counties, provinces, or states listed in ISO 3166 Part 2 standard.
Proposal 27 – names requiring government support/non-objections from the 2012 AGB (see deliberations section f.2.3.3 for context)	Applicants who intend to represent a connection the authority of a sub-national place 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.
Proposal 28 – names requiring government support/non-objections from the 2012 AGB (see deliberations section f.2.3.3 for context)	If the string corresponds to a sub-national place name, such as a county, province, or state listed in ISO 3166 Part 2 standard, 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.

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<u>Proposal 29 – names requiring government support/non-objections from the 2012 AGB (see deliberations section f.2.3.4 for context)</u>	<u>Eliminate support/non-objection requirements for strings listed as UNESCO Regions or appearing on the “Composition of macro geographical (continental) regions, geographical sub-regions, and selected economic and other groupings” list.</u>
<u>Proposal 30 – terms not included in the 2012 Applicant Guidebook (see deliberations section f.2.3.4 for context)</u>	<u>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.</u>
<u>Proposal 31 – terms not included in the 2012 Applicant Guidebook (see deliberations section f.2.3.4 for context)</u>	<u>If the string corresponds to a name 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 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.</u>
<u>Proposal 32 – terms not included in the 2012 Applicant Guidebook (see deliberations section f.2.4 for context)</u>	<u>Apply a clear and unambiguous 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 delegation.</u>
<u>Proposal 33 – terms not included in the 2012 Applicant Guidebook (see deliberations section f.2.4 for context)</u>	<u>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.</u>
<u>Proposal 34 – terms not included in the 2012 Applicant Guidebook (see deliberations section f.2.4 for context)</u>	<u>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.</u>

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<u>Proposal 35 – terms not included in the 2012 Applicant Guidebook (see deliberations section f.2.4 for context)</u>	<u>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.</u>
<u>Proposal 36 – terms not included in the 2012 Applicant Guidebook (see deliberations section f.2.4 for context)</u>	<u>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 application. The proposal would be in addition to the existing measures related to the Geographic Names Panel.</u>
<u>Proposal 37 – terms not included in the 2012 Applicant Guidebook (see deliberations section f.2.4 for context)</u>	<u>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.</u>

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