

# 2019-07-31 New gTLD Subsequent Procedures PDP Work Track 5

The next meeting for the New gTLD Subsequent Procedures Sub Team – Track 5 – Geographic Names at the Top Level will take place on **Wednesday, 31 July 2019 at 14:00 UTC for 90 minutes**.

07:00 PDT, 10:00 EDT, 16:00 Paris CEST, 19:00 Karachi PKT, 23:00 Tokyo JST, (Thursday) 00:00 Melbourne AEST

For other times: <https://tinyurl.com/y4oxbcsa>



## PROPOSED AGENDA

1. Welcome/Agenda Review/SOI Updates
2. Languages/Translations (see attached)
3. Additional Categories of Terms Not Included in the 2012 AGB
4. Proposals for Changes to String Contention Resolution Rules
5. Substantive Review of Comments in Response to Initial Report Questions – Start with question e4
  - We will reference the public comments summary document beginning on page 28: [https://docs.google.com/document/d/1rsyxCEBd6ax3Rb\\_w1kms\\_E9n29XL1\\_lw3Yp9XQ4TeCY/edit?ts=5ce64d6d#](https://docs.google.com/document/d/1rsyxCEBd6ax3Rb_w1kms_E9n29XL1_lw3Yp9XQ4TeCY/edit?ts=5ce64d6d#) [docs.google.com].
  - For reference, full text of comments is available at: [https://docs.google.com/spreadsheets/d/1WKSC\\_pPBviCnbHxW171Zlp4CzuhQXRCV1NR2ruagrxs/edit#gid=543808477](https://docs.google.com/spreadsheets/d/1WKSC_pPBviCnbHxW171Zlp4CzuhQXRCV1NR2ruagrxs/edit#gid=543808477) [docs.google.com]
6. AOB

### Background Documents

[Proposals on Languages - updated 22 July 2019](#)



## RECORDINGS

[Audio Recording](#)

[Zoom Recording](#)

[Chat Transcript](#)

GNSO transcripts are located on the [GNSO Calendar](#)



## PARTICIPATION

[Attendance](#)

**Apologies:** Flip Petillion, Luca Barbero, Yrjo Lansipuro



## Notes/ Action Items

### Notes and Action Items – Work Track 5 call

1. Welcome/Agenda Review/SOI Updates
  - No SOI updates
2. Languages and Translations

- Review of implementation of provisions in the 2012 round.
- Review of compromise proposal that may be acceptable to the Working Group as a revision to the 2012 rules, which has been discussed on several previous calls.
- Review of example demonstrating how this proposal would work in practice.
- Review of justification for the proposal – a defined list would be more predictable and manageable to implement:
  - “Official languages” is a defined and finite list that protects the key languages most important to each country.
  - “De-facto official languages” provides additional protections for countries that do not have an official language.
  - “UN languages” is a defined and finite list already used for translation and interpretation in other parts of ICANN.
  - Curative measures are available for additional languages not covered by preventative measures.
- If the WT recommends curative mechanisms, it would be helpful for the WT to further develop this part of the proposal.
- One member raised that from his perspective it does not make sense to have the capital of Zambia, for example, protected in Finnish. In addition, it is not possible for any applicant to check their string for a potential violation of this rule. He raised concerns about abuse potential – a string that no one would associate with a place could be blocked by a government seeking concessions.
- An additional members supported the idea that an otherwise sensible application might not be able to move forward because of such a conflict.
- Question: Is this an improvement and a positive development compared to the AGB? One member considered it sensible to narrow the list to a more manageable number of languages.
- Question raised by another member – have any problems been identified from the 2012 round?
- Response: this question has been raised previously. It is impossible to know if there was a problem because there were so many strings covered by this provision that an application could have violated the rules and still gone forward anyway.
- Question from leadership: Are there any strong concerns about moving forward with this proposal at this stage? If Work Track members feel that it is an acceptable path forward, the WT can begin to formulate the associated recommendations.
- After this call, the co-leaders will send an email to the list as a final call for input on this topic. If the group is unable to find a compromise that is acceptable, the default is the 2012 provisions.
- GeoTLD Group reminded the group of the proposal put forward by this group.

**ACTION ITEM: Leadership team to send follow up to the Work Track requesting final comments or objections on the languages /translations proposal.**

- Question: does the proposal also cover sub national place names in any language? If so, they should be treated in the same way?
- [staff note: the 2012 AGB does not have provisions in relation to translations of sub-national place names]
- One member raised concern that some languages may not be protected under this proposal. Example provided that there are four main languages in Nigeria as well as minority languages. Member flagged that some people may object to not having strings in their language protected.
- Other members noted that some countries have many official languages.
- Leadership team reiterated that this discussion has been revisited repeatedly. If it is not possible to agree on a change, the existing provisions will remain in place.
- One member raised that the existing provisions are impractical, but that the group must arrive at a conclusion on this topic, even if the result is keeping the 2012 rules the same.
- Another member noted that from her perspective, it is not necessary to change the rules on translation/languages

### 3. Additional categories of terms not included in the 2012 Applicant Guidebook

- This topic has been discussed extensively, but the group has not come to any agreement at this stage.
- The co-leaders reminded the group that if there is not agreement to recommend at change, the status quo remains.

**ACTION ITEM: The leadership team will make a final call for compromise proposals on the mailing list. If no proposal is put forward that can be supported by the Work Track, discussion on this topic will be closed.**

### 4. Proposals for changes to string contention resolution rules

- Review of the rules contained within the 2012 Applicant Guidebook.
- Call for any proposals on this topic.
- Question: Will this be the final opportunity to discuss this topic since the full WG is still considering the overall topic of auctions?
- Answer: This is the opportunity to put forward any proposals on this topic within WT5.
- GeoTLD Group will submit a proposal that contention sets containing one or more geographic names will not go to auction.

**ACTION ITEM: The leadership team will make a final call for proposals on the mailing list. If no proposals are put forward the topic will be closed.**

### 5. Substantive Review of Comments in Response to Initial Report Questions – Start with question e4

- Review of responses to question e4 on proposed principles to guide policy development.
- Question raised about the summary of the ALAC statement provided in the summary document. Staff provided clarification and shared the full text of the ALAC comment.
- One member stated that in the past, some members have raised concern that curative rights may be costly. The member noted in the response to the US comment that new rights should not be created by ICANN policy. Some countries have laws protecting geographic names. Similar circumstances can arise in countries that have not established national law on this issue. It would create an awkward situation if the US position of followed to the letter. The member indicated that it would be creating a new right if some applicants had the right to a monopoly on a term, such as intellectual property holders.
- Review of responses to question e5 on the basis for the development of policies regarding geographic names.
- One member noted in response to comments that support using international law as the basis for policy that in 1998 during the negotiation of ICANN's draft Articles of Incorporation, the European Commission asked and was granted that ICANN's Articles of Incorporation include respect for applicable local law. They foresaw that a potential problem would arise from ICANN's global reach. In terms of ICANN's application of national and local law, this provision impacts what can be done.
- Another member saw the applicable law issue differently. From this perspective, none of the proposals are contrary to the Articles of Incorporation. The responsibility to respect applicable local law is not the responsibility to look at every local law at every time regardless of who is involved. Applicable local law is not meant to swamp every other aspect of this process. What is in the ICANN Articles of Incorporation is pretty standard language for this type of entity.
- Another member said that in her view, the majority of comments support that these names should be protected. This input should be aggregated and used as a basis for moving forward.
- Another member interpreted this differently and does not believe that the comments widely support additional provisions related to geographic names.
- From one perspective, Internet users associated with a particular location should be the groups protected. The rights of the government should not be the focus.
- Question: where would the agreed language on this topic be reflected in the language of the Applicant Guidebook? Would it be a chapeau on the other provisions in the AGB or would it be the basis of the framework for dealing with cases not otherwise covered?
- Staff clarification of context for this question: the purpose was to create a sort of test when considering additional categories of terms that might require protection. If you look at the question in a vacuum it may appear overly broad. This question might have been considered out of order, as the WT is already reaching a conclusion on the possibility of adding new categories of terms for protection.
- One member agreed that end users' interests should be protected, but noted that people identify in many different ways with different groups and interests, not just geography. Geographic interests should not trump other interests.
- Review of responses to question e7 on whether WT5 should make recommendations regarding a process to delegate 3-letter codes.
- One member noted that the first section of the summary is misleading. Some the comments indicate that the strings should be generally available to applicants, while others indicate that strings should be allocated to different parties.
- Co-Chairs noted that the question intended to ask whether a specific process should be established to delegate these strings to specific groups, but that it may have been misunderstood by some commenters.
- United States noted that the United States comment is misplaced. It should state that the US supports making these strings generally available. [staff moved this comment in the document]
- Staff noted that this question is tied to recommendation 3 that is already reaching closure that this stage, so it may not be necessary to revisit the responses to this question extensively.

**ACTION ITEM: Staff to review comments in response to question e7 and recategorize as appropriate.**

- Review of responses to question e10 with a focus on new proposals put forward in the public comments.
- One member stated that she supported the proposal from the US that if a category of geographic names is included in the AGB for future rounds, it should be amended to require a letter of support or non-objection only where it is clear from the applicant's statements in its application that the proposed use of the string would create a false or deceptive association with the government or the public authority.
- Another member supported the BC proposal that in case there is contention for a string for which one application intends to use the string as a non-capital city name, preference should be given to applicant who will use the TLD for geographic purposes because one of the applications has support from a government. If the TLD goes to a non-geographic use, it denies people associated with a place the use of that name.
- Regarding the BC proposal, one member saw some merit in this perspective if the non-geo application is not a brand. The member does not see merit where one applicant is a brand. This applicant is not applying to operate the TLD as a city space and there is no risk of confusion, and the geographic meaning should not trump other uses.
- One member supported the proposal from the US and suggested that it is a sensible tweak – it does not change when consent or non-objection is required, but it provides a clear test.
- One member stated that the US proposal does not acknowledge that the applicant has no control how individual domains will be used under a TLD.
- One member stated that if a brand has the opportunity to control a name that could also have a geographic use, this creates a new right for intellectual property holder.
- Leadership clarified that nothing discussed indicates that there is a priority for one type of string over another.

6. AOB

- None