

New gTLD Subsequent Procedures Work Track 5 (WT5) Initial Report (89 pp.)

Summary and Initial conclusions ¹

Comments from Christopher Wilkinson

This document presents the deliberations and preliminary recommendations of WT5 regarding Geographical names. This note discusses some of the options presented in the light of the public interest and recent experience in the DNS with respect to geographical names.

The structure of the WT5 Initial Report is rather confusing; it is necessary to bear in mind that the structure has been cloned from the structure of a pre-existing report from Work Tracks 1-4, and that the authors still consider that previous policy documents are still relevant, as a default, notably those prepared by the GNSO in 2007 and the albeit extensively revised Applicant Guide Book (AGB) issued for the previous new gTLD round in 2012.

Thus, the many references to that, by now largely discredited, history of the previous round contribute substantially to the length of the WT5 report and the complexity of its options and its few recommendations.

1. General principles

The discussion in WT5, and previously among the ICANN community, has opposed the public interests of the populations and institutions associated with a geographical name as against the interests of the 'applicants'. That is usually those private company who wish to become the Registry for any future gTLD using a geographical name.

This note proposes that the general public interest should predominate in nearly all cases for several reasons. ICANN should respect the public interest:

- most people identify with the place where they live or their place of origin.

This is over and above any formal legal or administrative 'rights' that may pertain to the names of those places.

- in some cases, national laws provide additional protections for some or all of their geographical names.

ICANN should respect applicable local laws.

- To date, the Internet in general and the DNS in particular, have been predominantly expressed in the English language. It is self-evident from global demography, the numbers of widely used languages and the data regarding recent growth in the numbers of Internet users, that the predominance of English is likely to be temporary. ICANN is already committed to a multilingual Internet and to an IDN-facilitated DNS. In this particular context, ICANN must take into account the additional consideration that most geographical

1. This summary and commentary on the Initial WT5 report inevitably condenses and abbreviates the discussion of the source document, which has been widely circulated but not yet posted for general readership. When available the Link to the source document will be added to this note. Meanwhile, the changes to the priorities and emphasis of the WT5 in this note are my own. CW

names are usually expressed not in English, and written in non-latin scripts. ICANN should ensure that policy for geographical names is future-proofed for the global IDN Internet.

Specifically, it would not be appropriate for WT5 to adumbrate policies that have been applied in the past to English language generic names, and to expect that the same policies and procedures could be applied in the future to other languages and scripts.

2. The WT5 recommendations

Insofar as the most critical issues in the WT5 report have been left until last, we shall summarise the recommendations in reverse order, with comments and guidance as necessary. In fact there are rather few concrete recommendations because the dichotomy of approach outlined above has tended to pervade the whole debate of policy options. WT5 has regrettably concluded that there are so many diverging options that the whole caboodle has to be submitted to Public Comment at this stage, albeit at exorbitant cost to date in terms of conference call time for scores of participants, time, travel and expense to participate in several ICANN meetings, together with the significant cost of delays in getting anything agreed about the next rounds of new Internet TLDs.

The demands of some for 'more of the same' notwithstanding, there *are* good reasons for future rounds, although the beneficiaries should y be quite different from the beneficiaries from the previous round.

A policy for new entrants cannot be dictated by the *de facto* incumbents.

2.1 Additional Types of Terms NOT included in the 2012 Applicant Guide Book (AGB) – f.2.4

There are five pages of discussion, and NO recommendations. Those participants who joined WT5 primarily for their interest in this aspect of the subject would be forgiven for their understandable disappointment.

For a commentary on the options presented, see below.

2.2 Geographic names requiring government support from the 2012 AGB (f.2.3)

Note that this category includes:

- Capital City Names (f.2.3.1)
- Non Capital City Names (f.2.3.2)
- Sub-National Place Names, such as Counties, Provinces or States, Listed in ISO 3166 Part 2 (f.2.3.3)
- Strings² listed as UNESCO Regions or Appearing on the “Composition of macro

2. 'String' is a portmanteau word for any sequence of characters or digits that could comprise a TLD. Thus for example: .au, .cat, .iot, .i0t, .name ... etc,

geographical (continental) regions, geographical sub-regions, and selected economic and other groupings” list. (f.2.3.4)

The Interim WT5 Report contains NO recommendations regarding ANY of these categories of geographical names. For a brief discussion of the options under discussion, see below.

3. CATEGORIES OF SRINGS INCLUDED IN THE 2012 AGB

3.1 TWO LETTER ASCII STRINGS (f.2.1)

In spite of divergent opinions in WT5 the recommendation is to maintain the status quo, i.e. to maintain the reservation of two character ASCII strings.

Note that this does not refer to two character non-ASCII strings (i.e. IDNs) nor to two character+digit strings which are being considered in another Work Track, WT2, of the PDP.

3.2 COUNTRY AND TERRITORY NAMES (f.2.2)

Note that this category includes several sub-categories based on the long-standing respect by ICANN for the ISO 3166 standard:

- Delegation of Country and Territory Names (f.2.2.1.1)
- Reservation of Translations “In Any Language” (f.2.2.1.2)
- Alpha-3 code listed in the ISO 3166-1 standard (f.2.2.2)
- Short-form or Long-form name listed in the ISO 3166 Standard, or a translation of the short form or long form name in any language (f.2.2.3)
- Short-or long-form name association with a code that has been designated as “exceptionally reserved” by the ISO 3166 Maintenance Agency.(f.2.2.4)
- Separable component of a country name designated on the Separable Country Name List”,or is a translation of a name appearing on the list in any language. (f.2.2.5)
- Permutation or transposition (f.2.2.6)
- 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. (f.2.2.7)

In general the WT5 Report recommends, for nearly all these categories, maintaining the status quo of AGB guidance. There are a few nuances which might prove to be important for specific applications,

4. The Options, the Discussion and the Preliminary Recommendations

Recommendation #1: Applications for certain strings would continue to require the 'support or non-objection of the relevant governments or public authorities. “unless or until decided otherwise”.

WT5 is divided on this issue because it is argued that potential applicants should not need prior authorisation if they intend to use the geographical name for non-geographical purposes such as a trade-marked brand or other commercial purpose. The option that it would normally be the relevant public authority itself that would make the application, and allocate the Registry on the basis of a call for proposals (RFP), has not yet been seriously discussed.

Recommendation #2: Continued reservation of all two-character letter-letter ASCII combinations. Position strongly supported by ccNSO.

As noted above, this recommendation does not cover letter-digit combinations, nor IDNs.

Recommendation #3: Three letter ASCII country codes in ISO 3166 would continue to be protected i.e. 'unavailable for delegation'³. Past mistakes, pre-ICANN, would be grandfathered. Note that this does not address three character IDNs. (Which in some languages might amount to a sentence!)

Recommendation #4: Long-form names listed in the ISO 3166-1 standard will continue to be protected. (i.e. 'unavailable for delegation'). Translations of those names are not addressed, which might raise questions in countries with several official languages.

Recommendation #5: Short form names listed in ISO 3166-1 will also be protected

Recommendation #6: Short or long-form names associated with exceptionally reserved ISO 3166 codes will be reserved as unavailable for delegation.

Recommendation #7: Separable components of designated country names will also be protected in the same way.

Recommendation #8: Permutations or transpositions of any of the above categories of strings shall be protected in the same way. Except that permutations and transpositions of the ISO 3166 three letter codes should be allowed.

Recommendation #9: Names by which countries are commonly known should be protected in the same way.

Recommendation #10: Capital City names of countries or territories listed in ISO3166-1 should also be protected.

3. 'Unavailable for delegation' may turn out to mean that the 'string' cannot be used, ever, by anyone. Whereas one could argue that the government (or its ccTLD or other approved agency) could use these 'strings' for agreed purposes in the public interest. This comment applies to Recommendations 4, 5 and 6.

Recommendation #11: An application for any city name where the applicant intends to use the name in association with that city, will require documented support of non-objection from that city.

This recommendation is hotly contested in WT5 because it means that any application for a city name that states that it is NOT going to use the name in association with the geographical meaning of that city will NOT require prior authorisation. That is absolutely not agreed by WT5. The counter argument would be that ALL applications for geographical names, including cities, should require prior approval or non-objection irrespective of the proposed initial use of the TLD.

Recommendation #12: Applications for sub-national place names listed in [ISO 3166-2](#), should be subject to prior authorisation or non-objection. This is potentially quite far-reaching, particularly in large countries or those with multiple island territories.

Interested participants with good geographical and administrative knowledge of their countries should review the ISO 3166-2 standard.

Recommendation #13: Applications for the names of UNESCO regions should be subject to approval by at least 60% of the countries concerned with any particular cross-border region.

Note that the general concept of cross-border regions is probably broader than UNESCO's. Other concepts such as mountain chains, river basins, archipelagos, desert, forests etc. may well come into play in different parts of the world.

Most of these recommendations are welcome as far as they go, subject to strong opposition to Recommendation 11 for the above reasons. There are however no other preliminary recommendation in the Interim Report at this stage. What is most remarkable about the above list is that in all cases, one is tweaking the ISO 3166 standard and the provisions of the 21012 AGB, but that none of the recommendations address any categories of names that are not included in ISO3166 or were not included in the 2012 AGB.

This is an extremely sensitive situation because whilst one might have thought that names not released under the above conditions would simply be not available for delegation, whereas, apparently ICANN staff, and certainly many participants, think that names that have not been included in the above categories should be openly available for application and delegation, subject only to eventual opposition procedures and – if necessary – subject to voluntary Public Interest Commitments (PICs).

Unless this situation is formally clarified, there is considerable scope for disagreement as and when the next rounds eventually reach the cognizance of the general political and public spheres around the world. That realization would indeed be a cathartic moment for many local authorities world-wide, currently unaware of this new gTLD procedure!