

To: New gTLD Subsequent Procedures PDP Working Group

From: Cole Quinn, President, Brand Registry Group

Date: 21 January 2019

## **Public Comment - Work Track 5 on Geographic Names at the Top Level - Supplemental Initial Report of the New gTLD Subsequent Procedures Policy Development Process**

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The Brand Registry Group (BRG) welcomes the opportunity to comment on Work Track 5 on Geographic Names at the Top Level - Supplemental Initial Report of the New gTLD Subsequent Procedures Policy Development Process, issued 5 December 2018.

The BRG appreciates the divergent views across the ICANN community when it comes to applications for strings that coincide with geographic places. We believe the approach of the Subsequent Procedures PDP Working Group to create a separate track to cover this topic was essential, in order to bring together participants from different parts of the community.

### **Background**

It is important to recognise that applied for strings that coincide with a geographic term may typically have one of three uses:

- a location
- a generic term
- a trademark unrelated to the generic or geographic use.

For example, EARTH can be geographic (the third planet from the sun), generic (soil and dirt) or a trademark (Earth for amusement park services, US registration 3339608). These uses all co-exist because they are used in different ways and have different meanings.

The Applicant Guidebook went through a series of revisions between the first draft in 2008 through to 2012 version, which resulted in country and territory names being excluded from the first round of New gTLDs and other geographic names only being permitted if the applicant demonstrated support from the appropriate governments. The GNSO has not developed any additional policy recommendations related to geographical names since 2007. Therefore, an inconsistency remains between GNSO policy and the 2012 Applicant Guidebook.

Some of the strings applied for in the 2012 round that coincided with geographic terms were not contained on any of the lists in Section 2.2.1.4 of the Applicant Guidebook. Although some members of the GAC considered these strings to match a geographic or geopolitical terms, these strings also corresponded to either generic terms or actual brand or company names. In almost all cases, the intended purposes for use of these applications as contained in the applicable Applicant's response related to generic or brand use. Some of these TLDs were permitted to move forward, some were only permitted where an arrangement could be reached with the geographic territory in question, and others were either not allowed to proceed or are still the subject of dispute. For those cases where an arrangement with the geographic territory was reached, no further information is publicly available on the details of such arrangement.

Current and future dotBrand applicants that coincide with geographic terms but are not representing themselves as the geographic place will be unnecessarily impacted where any restrictions are applied, including those associated with 3 character names or abbreviations. These

future applicants need business certainty. They need a set of rules which they can follow, knowing that if they do so there will not be an unexpected objection, and it is not reasonable that they should be required to enter into a one-sided negotiation with one or multiple governments over the use of their own brand.

### **BRG Position**

The BRG does not support any restrictions to the use of geographic terms at the top level for applicants that hold a matching trademark, whereby the use of the TLD is to identify the brand and not to represent the geographic term, and where there is no conflict with national or international law.

The rationale supporting the BRG's position is based primarily on the following:

- A trademark-branded top level domain (dotBrand) enables a trusted space, protecting consumers from many of the problems that exist across open registries.
- Many terms have more than one meaning or use; context is key.
- Some branded terms may also have a geographically-related context. There is no justification for a geographical-related use at the top level taking priority over a brand-related use.
- There is no evidence to suggest that the use of a geographic term at the top level by a trademark owner creates any risk or confusion to users. Indeed, by creating a trusted Brand TLD space, where registrants are limited to the brand owner and closely related parties vetted by the brand owner, the context of the use makes such confusion extremely unlikely.
- There is no sovereign or other ownership right of governments in country or territory names, including ISO 3166-1 codes:
  - There is no legal basis for government veto power on allocation of these codes as gTLDs.
  - Restrictions to use geographic terms at the top level should, therefore, be minimal.
  - Restrictions must be clear, with reference to defined lists, providing predictability.
  - Two-character restrictions are already applied at the top level, due to a longstanding practice, for country codes corresponding to the ISO-3166. These are premium online real estate reserved for or used by the applicable country/government.
- Protective measures still remain - vetting and objection processes through the application process as well as post-delegation objections. Contractual obligations and applicable national/international laws also remain in force.

The attached document includes responses to the specific preliminary recommendations and questions raised in the Initial Report.

With regards,



### **Cole Quinn**

President, Brand Registry Group

### **About the BRG**

The BRG is an association of companies and organisations, created to support the collective interests of our members and to provide a voice for brand owners across the globe. We work to improve and develop domain name policies and operational practices on behalf of the BRG members' dotBrand registries and for future dotBrand applicants.

## Annex B – Preliminary Recommendations, Options/Proposals, 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.

Preliminary Recommendations, Questions for Community Input, and Options/Proposals		BRG Comment
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.	<p>The BRG does not support any restrictions to the use of geographic terms at the top level for applicants that hold a matching trademark, whereby the use of the TLD is to identify the brand and not to represent the geographic term, and where there is no conflict with national or international law. Furthermore, the BRG believes that there are cases where a string will have multiple meanings beyond that of a geographic term and applicants should have the ability to apply without restrictions being imposed outright.</p> <p>However, to allow the next round to proceed, the BRG would consider continuing the current reservations described in recommendations 2-9 but with the removal of the restrictions imposed under recommendations 10-13.</p>

Preliminary Recommendations, Questions for Community Input, and Options/Proposals	BRG Comment
<p>Preliminary Recommendation 2</p> <p>Work Track 5 recommends continuing to reserve all two-character letter-letter ASCII combinations at the top level for existing and future country codes.</p> <ul style="list-style-type: none"> <li>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.”</li> <li>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.</li> <li>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.</li> </ul> <p>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.</p>	<p>The BRG does not support any restrictions to the use of geographic terms at the top level for applicants that hold a matching trademark, whereby the use of the TLD is to identify the brand and not to represent the geographic term, and where there is no conflict with national or international law. Furthermore, the BRG believes that there are cases where a string will have multiple meanings beyond that of a geographic term and applicants should have the ability to apply without restrictions being imposed outright.</p> <p>The BRG recognises that:</p> <ul style="list-style-type: none"> <li>There is no sovereign or other ownership right of governments in country or territory names, including ISO 3166-1 codes.</li> <li>There is no legal basis for government veto power on allocation of these codes as gTLDs so restrictions to use geographic terms at the top level should, therefore, be minimal.</li> <li>Restrictions must be clear, with reference to defined lists, providing predictability.</li> </ul> <p>Two-character restrictions are already applied at the top level, due to a longstanding practice, for country codes corresponding to the ISO-3166. These are premium online real estate reserved for or used by the applicable country/ government but existing use cases illustrate the fact that these are not free from abuse of the DNS or user confusion, which are often used as arguments to prevent other parties applying and operating a TLD.</p> <p>However, to allow the next round to proceed, the BRG would consider the continuing treatment of two-character letter-letter ASCII combinations at the top level for existing and future country codes.</p>

Preliminary Recommendations, Questions for Community Input, and Options/Proposals	BRG Comment
<p data-bbox="159 229 376 284">Preliminary Recommendation 3</p> <p data-bbox="468 229 1391 316">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:</p> <ul data-bbox="468 347 999 373" style="list-style-type: none"><li data-bbox="468 347 999 373">● alpha-3 code listed in the ISO 3166-1 standard.</li></ul> <p data-bbox="468 405 1384 459">Work Track 5 is not proposing to remove from delegation any 3-letter codes that have already been delegated.</p> <p data-bbox="468 491 1384 638">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>	<p data-bbox="1413 229 2063 402">The BRG does not support any restrictions to the use of geographic terms at the top level for applicants that hold a matching trademark, whereby the use of the TLD is to identify the brand and not to represent the geographic term, and where there is no conflict with national or international law.</p> <p data-bbox="1413 440 2063 702">Three-character strings may have a variety of meanings and purposes, beyond simply a code to represent a country. The BRG believes that these strings should be available for delegation to different parties and not exclusive to country and territory codes. Accordingly, three-character strings should be delegated through the New gTLD process, under GNSO policy. Governments should not have the freedom to arbitrarily veto applications on the basis that they match an existing country code.</p> <p data-bbox="1413 734 2063 995">Notwithstanding the comments above and to allow the next round to proceed, the BRG would consider the continuing treatment of country alpha-3 code listed in the ISO 3166-1 standard, which prevents any application irrespective of the type of the type of applicant. Whilst this may stifle the opportunities for New gTLDs in the short-term, the BRG acknowledges that the number of strings that this would impact is not significant and should not be used as a barrier to opening up the next application round.</p>

Preliminary Recommendations, Questions for Community Input, and Options/Proposals	BRG Comment
<p>Preliminary Recommendation 4</p> <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>	<p>The BRG does not support any restrictions to the use of geographic terms at the top level for applicants that hold a matching trademark, whereby the use of the TLD is to identify the brand and not to represent the geographic term, and where there is no conflict with national or international law. Furthermore, the BRG believes that there are cases where a string will have multiple meanings beyond that of a geographic term and applicants should have the ability to apply without restrictions being imposed outright.</p> <p>However, to allow the next round to proceed, the BRG would consider the continuing treatment of long-form name listed in the ISO 3166-1 standard, which prevents any application irrespective of the type of the type of applicant.</p>
<p>Preliminary Recommendation 5</p> <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>	<p>The BRG does not support any restrictions to the use of geographic terms at the top level for applicants that hold a matching trademark, whereby the use of the TLD is to identify the brand and not to represent the geographic term, and where there is no conflict with national or international law. Furthermore, the BRG believes that there are cases where a string will have multiple meanings beyond that of a geographic term and applicants should have the ability to apply without restrictions being imposed outright.</p> <p>However, to allow the next round to proceed, the BRG would consider the continuing treatment of country and territory short-form names listed in the ISO 3166-1 standard, which prevents any application irrespective of the type of the type of applicant.</p>

Preliminary Recommendations, Questions for Community Input, and Options/Proposals	BRG Comment
<p>Preliminary Recommendation 6</p> <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.iv:</p> <ul style="list-style-type: none"> <li>● short- or long-form name association with a code that has been designated as “exceptionally reserved” 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>	<p>The BRG does not support any restrictions to the use of geographic terms at the top level for applicants that hold a matching trademark, whereby the use of the TLD is to identify the brand and not to represent the geographic term, and where there is no conflict with national or international law. Furthermore, the BRG believes that there are cases where a string will have multiple meanings beyond that of a geographic term and applicants should have the ability to apply without restrictions being imposed outright.</p> <p>However, to allow the next round to proceed, the BRG would consider the continuing treatment of short- or long-form name association with a code that has been designated as “exceptionally reserved” by the ISO 3166 Maintenance Agency, which prevents any application, irrespective of the type of the type of applicant.</p>
<p>Preliminary Recommendation 7</p> <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.v:</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 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>	<p>The BRG does not support any restrictions to the use of geographic terms at the top level for applicants that hold a matching trademark, whereby the use of the TLD is to identify the brand and not to represent the geographic term, and where there is no conflict with national or international law. Furthermore, the BRG believes that there are cases where a string will have multiple meanings beyond that of a geographic term and applicants should have the ability to apply without restrictions being imposed outright.</p> <p>However, to allow the next round to proceed, the BRG would consider the continuing treatment of separable component of a country name designated on the “Separable Country Names List”, which prevents any application, irrespective of the type of the type of applicant.</p>

Preliminary Recommendations, Questions for Community Input, and Options/Proposals	BRG Comment
<p>Preliminary Recommendation 8</p> <p>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:</p> <ul style="list-style-type: none"><li>● 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.”</li></ul> <p>Work Track 5 recommends clarifying that permutations and transpositions of the following strings are reserved:</p> <ul style="list-style-type: none"><li>● long-form name listed in the ISO 3166-1 standard.</li><li>● short-form name listed in the ISO 3166-1 standard.</li><li>● short- or long-form name association with a code that has been designated as “exceptionally reserved” by the ISO 3166 Maintenance Agency.</li><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>Strings resulting from permutations and transpositions of alpha-3 codes listed in the ISO 3166-1 standard should be allowed.</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 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.</p>	<p>The BRG supports this clarification.</p>



Preliminary Recommendations, Questions for Community Input, and Options/Proposals	BRG Comment
<p data-bbox="159 228 376 284">Preliminary Recommendation 9</p> <p data-bbox="465 228 1395 316">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.vii:</p> <ul data-bbox="465 347 1361 435" style="list-style-type: none"><li data-bbox="465 347 1361 435">● 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.</li></ul> <p data-bbox="465 467 1395 611">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>	<p data-bbox="1413 228 2067 491">The BRG does not support any restrictions to the use of geographic terms at the top level for applicants that hold a matching trademark, whereby the use of the TLD is to identify the brand and not to represent the geographic term, and where there is no conflict with national or international law. Furthermore, the BRG believes that there are cases where a string will have multiple meanings beyond that of a geographic term and applicants should have the ability to apply without restrictions being imposed outright.</p> <p data-bbox="1413 531 2067 703">However, to allow the next round to proceed, the BRG would consider the continuing treatment of names by which a country is commonly known, as demonstrated by evidence that the country is recognized by that name by an intergovernmental or treaty organization, which prevents any application, irrespective of the type of the type of applicant.</p>

Preliminary Recommendations, Questions for Community Input, and Options/Proposals	BRG Comment
<p>Preliminary Recommendation 10</p> <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 a representation of the capital city name of any country or territory 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 required support/non-objection in the 2012 Applicant Guidebook. Please see questions for community input regarding translations in section e.</p>	<p>The BRG does not support any restrictions to the use of geographic terms at the top level for applicants that hold a matching trademark, whereby the use of the TLD is to identify the brand and not to represent the geographic term, and where there is no conflict with national or international law. Furthermore, the BRG believes that there are cases where a string will have multiple meanings beyond that of a geographic term and applicants should have the ability to apply without restrictions being imposed outright.</p> <p>However, to allow the next round to proceed, the BRG would consider the continuing requirement for 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 to be accompanied by documentation of support or non-objection from the relevant governments or public authorities.</p> <p>In addition and to ensure an applicants not disadvantaged by a lack of responsiveness from the relevant government or public authority, there should be a suitable time limit for providing the documentation. In the event that a decision or documentation is not supplied by the deadline, this should be carried by default as a non-objection from the relevant authority.</p>

Preliminary Recommendations, Questions for Community Input, and Options/Proposals	BRG Comment
<p>Preliminary Recommendation 11</p> <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 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 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</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>	<p>The BRG does not support any restrictions to the use of geographic terms at the top level for applicants that hold a matching trademark, whereby the use of the TLD is to identify the brand and not to represent the geographic term, and where there is no conflict with national or international law. Furthermore, the BRG believes that there are cases where a string will have multiple meanings beyond that of a geographic term and applicants should have the ability to apply without restrictions being imposed outright.</p> <p>Many terms have alternative meanings and are not limited to being representative of a geographic term, so the ability to apply should not be restricted as this may deter applicants and stifle innovation.</p> <p>Whilst the BRG is willing to consider the previous level of reservations proposed within recommendation 1-10, preliminary recommendation 11 provides excessive and unwarranted rights to governments and local authorities, allowing them to veto or select a preferred applicant. In some cases this could lead to applicants having to negotiate unreasonable terms with governments or local authorities to gain the documentation approval to proceed with their application.</p> <p>In addition, there is a distinct lack of any substantive evidence that new gTLD operators confuse users or misrepresent a top-level-domain that is used for non-geographic terms, or that abuse is prevalent in these registries. Conversely, there are frequently cases of abuse recognised within existing ccTLDs which are the primary geographic-related registries. Hence, the regular argument of causing confusion for users and increasing abuse is unfounded and should be disregarded.</p>

Preliminary Recommendations, Questions for Community Input, and Options/Proposals	BRG Comment
<p>Preliminary Recommendation 12</p> <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>	<p>The BRG does not support any restrictions to the use of geographic terms at the top level for applicants that hold a matching trademark, whereby the use of the TLD is to identify the brand and not to represent the geographic term, and where there is no conflict with national or international law. Furthermore, the BRG believes that there are cases where a string will have multiple meanings beyond that of a geographic term and applicants should have the ability to apply without restrictions being imposed outright.</p> <p>Many terms have alternative meanings and are not limited to being representative of a geographic term, so the ability to apply should not be restricted as this may deter applicants and stifle innovation.</p> <p>Whilst the BRG is willing to consider the previous level of reservations proposed within recommendation 1-10, preliminary recommendation 12 provides excessive and unwarranted rights to governments and local authorities, allowing them to veto or select a preferred applicant. In some cases this could lead to applicants having to negotiate unreasonable terms with governments or local authorities to gain the documentation approval to proceed with their application.</p> <p>In addition, there is a distinct lack of any substantive evidence that new gTLD operators confuse users or misrepresent a top-level-domain that is used for non-geographic terms, or that abuse is prevalent in these registries. Conversely, there are frequently cases of abuse recognised within existing ccTLDs which are the primary geographic-related registries. Hence, the regular argument of causing confusion for users and increasing abuse is unfounded and should not be used as a basis for restricting applications.</p> <p>If a string is being used in a generic or brand context, there is no basis for a support/non-objection mechanism related to the use of that string. The geographic meaning should not prejudice the use of the string in another context.</p>

Preliminary Recommendations, Questions for Community Input, and Options/Proposals	BRG Comment
<p>Preliminary Recommendation 13</p> <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 a string listed as a UNESCO region<sup>4</sup> or appearing on the “Composition of macro geographical (continental) regions, geographical sub-regions, and selected economic and other groupings” list.</li> <li>● 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.</li> <li>● 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.”</li> </ul> <p>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.</p>	<p>The BRG does not support any restrictions to the use of geographic terms at the top level for applicants that hold a matching trademark, whereby the use of the TLD is to identify the brand and not to represent the geographic term, and where there is no conflict with national or international law. Furthermore, the BRG believes that there are cases where a string will have multiple meanings beyond that of a geographic term and applicants should have the ability to apply without restrictions being imposed outright.</p> <p>Many terms have alternative meanings and are not limited to being representative of a geographic term, so the ability to apply should not be restricted as this may deter applicants and stifle innovation.</p> <p>Whilst the BRG is willing to consider the previous level of reservations proposed within recommendation 1-10, preliminary recommendation 13 provides excessive and unwarranted rights to governments and local authorities, allowing them to veto or select a preferred applicant. In some cases this could lead to applicants having to negotiate unreasonable terms with governments or local authorities to gain the documentation approval to proceed with their application.</p> <p>In addition, there is a distinct lack of any substantive evidence that new gTLD operators confuse users or misrepresent a top-level-domain that is used for non-geographic terms, or that abuse is prevalent in these registries. Conversely, there are frequently cases of abuse recognised within existing ccTLDs which are the primary geographic-related registries. Hence, the regular argument of causing confusion for users and increasing abuse is unfounded and should not be used as a basis for restricting applications.</p> <p>If a string is being used in a generic or brand context, there is no basis for a support/non-objection mechanism related to the use of that string. The geographic meaning should not prejudice the use of the string in another context.</p>

Preliminary Recommendations, Questions for Community Input, and Options/Proposals	BRG Comment
<p>Question e1</p> <p>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:</p> <ul style="list-style-type: none"> <li>• 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.</li> <li>• 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.</li> <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 f.1.2.5 on pages 36-41 for context on this question.</p>	<p>N/A</p>
<p>Question e2</p> <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 f.1.2.4 on pages 34-36 for context on this question.</p>	<p>The BRG does not support any restrictions to the use of geographic terms at the top level for applicants that hold a matching trademark, whereby the use of the TLD is to identify the brand and not to represent the geographic term, and where there is no conflict with national or international law. Furthermore, the BRG believes that there are cases where a string will have multiple meanings beyond that of a geographic term and applicants should have the ability to apply without restrictions being imposed outright.</p> <p>Any restrictions applied for geographic terms should be minimal and rational, providing greater clarity and predictability for applicants and supporting the assessments of the Geographic Names Panel.</p>

Preliminary Recommendations, Questions for Community Input, and Options/Proposals	BRG Comment
<p>Question e3</p> <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 f.1.2.2 on pages 28-29 for context on this question.</p>	<p>The BRG believes the existing preventative measures are excessive creating an imbalance against the curative measures already available.</p> <p>As outlined in previous responses, the BRG is willing to consider continuing some of the existing practices but not all. Instead, the existing curative measures, such as the objection mechanisms, contractual provisions, enforcement and post-delegation dispute resolution mechanisms should be leveraged to ensure the registry operates correctly, including those that share the same term as a geographic place.</p> <p>In addition, the BRG would be supportive of developing a specific geographic public interest comment (GEO PIC) that could be used in these cases, ensuring the applicant commits to avoiding any confusion with geographic terms.</p>
<p>Question e4</p> <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 included in the 2012 Application Guidebook, but they may be applicable more broadly. Proposed principles include:</p> <ul style="list-style-type: none"> <li>• In alignment with Principle C from the 2007 GNSO recommendations on new gTLDs, the program should allow for the introduction of new gTLDs.</li> <li>• In alignment with Principle A from the 2007 GNSO recommendations on new gTLDs, enhance the predictability for all parties.</li> <li>• Reduce the likelihood of conflicts within the process, as well as after the process concludes and TLDs are delegated.</li> <li>• Policies and processes should be simple to the extent possible.</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 f.1.3 on pages 42-43 for context on this question and additional discussion of these principles.</p>	<p>The BRG supports these principles.</p>

Preliminary Recommendations, Questions for Community Input, and Options/Proposals	BRG Comment
<p data-bbox="161 228 293 252">Question e5</p> <p data-bbox="468 228 1368 284">To what extent should the following serve as a basis for the development of policies regarding geographic names?</p> <ul data-bbox="468 316 1048 432" style="list-style-type: none"><li data-bbox="468 316 663 339">• International law</li><li data-bbox="468 344 792 368">• National/local law and policy</li><li data-bbox="468 373 848 397">• Norms and values (please specify)</li><li data-bbox="468 402 1048 426">• Another basis not categorized above (please specify)</li></ul> <p data-bbox="468 464 1384 520">Please explain. Please see deliberations section f.1.2.1 on pages 25-28 and section f.1.2.3 on pages 29-34 for context on this question.</p>	<p data-bbox="1415 228 2063 344">The BRG believes that there is no basis in international law for governments to assert the right to provide support/non-objection for certain strings, which some members consider to be a "veto" power over applications for these strings.</p> <p data-bbox="1415 376 2069 547">The BRG believes that national and local laws providing protection for geographic names do not give governments rights beyond those of other stakeholders in the context of the New gTLD Program, including the application process. In addition, ICANN should not set policy by anticipating what international law may exist in the future.</p> <p data-bbox="1415 579 2056 695">National and local laws only apply in the jurisdiction where the applicant is located, therefore Work Track 5 should look to international law as a basis for any recommendations related to geographic names.</p>



Preliminary Recommendations, Questions for Community Input, and Options/Proposals	BRG Comment
<p>Question e6</p> <p>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:</p> <ul style="list-style-type: none"> <li>• long-form name listed in the ISO 3166-1 standard.</li> <li>• short-form name listed in the ISO 3166-1 standard.</li> <li>• separable component of a country name designated on the “Separable Country Names List.”</li> </ul> <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>• continue to reserve as unavailable translations in any language</li> <li>• reserve as unavailable translations in UN languages</li> <li>• reserve as unavailable translations in UN languages and the official languages of the country</li> <li>• reserve as unavailable translations in official languages of the country</li> <li>• reserve as unavailable translations in official and commonly used languages</li> <li>• reserve as unavailable translations in official and relevant national, regional, and community languages a combination of two or more categories above</li> <li>• 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</li> <li>• a combination of two or more categories above</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 f.2.2.1.2 on pages 46-48 for context on this question.</p>	<p>To the extent that any restrictions are continued, where geographic terms are reserved or require letters of approval/non-objection, the BRG believes the existing language restrictions are too broad and impractical.</p> <p>The BRG would favour significantly reducing the language restrictions applied to the geographic terms listed in Question e6 to the extent that this only covered the official language of that country.</p>

Preliminary Recommendations, Questions for Community Input, and Options/Proposals	BRG Comment
<p>Question e7</p> <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 f.2.2.1.1 on pages 45-46 for context on this question.</p>	<p>Three-character strings may have a variety of meanings and purposes, beyond simply a code to represent a country. The BRG believes that these strings should be available for delegation to different parties and not exclusive to country and territory codes. Accordingly, three-character strings should be delegated through the New gTLD process, under GNSO policy. Governments should not have the freedom to arbitrarily veto applications on the basis that they match an existing country code.</p> <p>Notwithstanding the comments above and to allow the next round to proceed, the BRG would consider the continuing treatment of country alpha-3 code listed in the ISO 3166-1 standard, which prevents any application irrespective of the type of the type of applicant. Whilst this may stifle the opportunities for New gTLDs in the short-term, the BRG acknowledges that the number of strings that this would impact is not significant and should not be used as a barrier to opening up the next application round.</p>
<p>Question e8</p> <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>• translations in UN languages</li> <li>• translations in UN languages and the official languages of the country</li> <li>• translations in official languages of the country</li> <li>• translations in official and commonly used languages</li> <li>• translations in official and relevant national, regional, and community languages</li> <li>• 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</li> <li>• a combination of two or more categories above</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 f.2.3.1 on pages 56-59 for context on this question.</p>	<p>To the extent that any restrictions are continued, where geographic terms are reserved or require letters of approval/non-objection, the BRG does not support the reservation of any translations for these categories.</p>

Preliminary Recommendations, Questions for Community Input, and Options/Proposals		BRG Comment
Question e9	In the 2012 round, applicants were required to obtain letters of support or non-objection from the relevant governments or public authorities for “An application for a city name, where the applicant declares that it intends to use the gTLD for purposes associated with the city name.” The requirement applied if: “(a) It is clear from applicant statements within the application that the applicant will use the TLD primarily for purposes associated with the city name; and (b) The applied-for string is a city name as listed on official city documents.” Do you think that this requirement should be kept, eliminated, or modified in subsequent procedures? Please explain. Please see deliberations section f.2.3.2 on pages 59-69 for context on this question.	The BRG believes this requirement should not be obligatory but optional to the applicant. Absent of the support/non-objection from a relevant government or local authority, the applicant takes the risk that other objection mechanisms could be triggered if the application raises significant concerns.
Question e10	Section f.2.3.2 of this report outlines a series of proposals that Work Track members have put forward for the future treatment of non-capital city names. What is your view of these proposals? Are there any that you support Work Track 5 considering further? Do you have alternate proposals you would like Work Track 5 to consider? Please explain. Please see deliberations section f.2.3.2 for context on this question.	

Preliminary Recommendations, Questions for Community Input, and Options/Proposals	BRG Comment
<p>Question e11</p> <p>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).</p> <ul style="list-style-type: none"> <li>• Some Work Track members have expressed support for protecting/restricting additional categories of geographic names in future versions of Applicant Guidebook.</li> <li>• Some Work Track members have expressed that no additional types of terms should be protected/restricted beyond those included in the 2012 Applicant Guidebook.</li> <li>• Some Work Track members have expressed that compared to the 2012 round, fewer types of terms should be protected/restricted in subsequent procedures.</li> </ul> <p>Work Track members who support including additional terms in the Applicant Guidebook have proposed protecting/restricting the following categories:</p> <ul style="list-style-type: none"> <li>• Geographic features (rivers, mountains, etc)</li> <li>• Names of additional sub-national and regional places not included in the 2012 Applicant Guidebook</li> <li>• Non-ASCII geographic terms not included in the 2012 Applicant Guidebook</li> <li>• Any term that can be considered geographic in nature</li> <li>• Geographical Indications</li> </ul> <p>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.</p> <p>Should additional types of strings have special treatment or rules in the Applicant Guidebook? If so, which ones and on what basis? Can the scope of the category be effectively established and limited? What are the boundaries of the category? If not, why not? As opposed to preventative restrictions, would any changes to objections, post-delegation mechanisms, or contractual provisions mitigate concerns related to these strings? Please see deliberations section f.2.4 on pages 72-78 for context on this question.</p>	<p>The BRG opposes any additional restrictions and believes the existing preventative measures are already unreasonably excessive.</p> <p>As outlined in previous responses, the BRG is willing to consider continuing some of the existing practices but not all. Instead, the existing curative measures, such as the objection mechanisms, contractual provisions, enforcement and post-delegation dispute resolution mechanisms should be leveraged to ensure the registry operates correctly, including those that share the same term as a geographic place.</p> <p>In addition, the BRG would be supportive of developing a specific geographic public interest comment (GEO PIC) that could be used in these cases, ensuring the applicant commits to avoiding any confusion with geographic terms.</p>

Preliminary Recommendations, Questions for Community Input, and Options/Proposals		BRG Comment
Proposal 1 – general measures proposed to improve the New gTLD Program (see deliberations section f. 1.2.5 for context)	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.	This is dependent upon the scope and complexity of the restrictions imposed on applicants. Specific lists of reserved names or those that require certain obligations can be maintained and made available without the need for implementing additional online tools.
Proposal 2 – general measures proposed to improve the New gTLD Program (see deliberations section f. 1.2.5 for context)	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.	If and where there is a requirement to continue the need for letters of support/non-objection, the assistance from GAC members to identify the relevant government or public authority contacts would be help improve the application process.
Proposal 3 – general measures proposed to improve the New gTLD Program (see deliberations section f. 1.2.5 for context)	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.	The BRG recommends that in the event of continuing any requirements for letters of support or non-objection, that any rejections by the government/local authority must provide their clearly articulated rationale, including the (i) national or international law; and (ii) merits-based public policy reasons, upon which it is based. This should avoid the need for setting up a mediation service solely for this purpose.
Proposal 4 – general measures proposed to improve the New gTLD Program (see deliberations section f. 1.2.5 for context)	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.	This should be incorporated into the overall New gTLD communications and awareness program, rather than a separate program. This will ensure the communications are consistent across the community and avoid duplicating effort, resources and costs.
Proposal 5 – general measures proposed to improve the New gTLD Program (see deliberations section f. 1.2.5 for context)	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.	Whilst assuming that this practice will continue in some cases, the BRG believes this is a reasonable enhancement to improve the process. However, the BRG also recognises that raising awareness of such requirements to each government and public authority across the globe will be challenging.

Preliminary Recommendations, Questions for Community Input, and Options/Proposals	BRG Comment
<p>Proposal 6 – general measures proposed to improve the New gTLD Program (see deliberations section f. 1.2.5 for context)</p>	<p>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.</p> <p>The BRG considers this proposal to be reasonable, given that there can be multiple meanings of strings that may be a variation or translation of a geographic terms. Once the geographic term has been delegated, there is no longer a need to reserve or create requirements for other variations or translations, especially where the context of use is not geographic.</p>
<p>Proposal 7 – general measures proposed to improve the New gTLD Program (see deliberations section f. 1.2.5 for context)</p>	<p>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 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.</p> <p>This proposal is unclear. A string may have multiple meanings, including geographic meaning. If the proposal refers to only those applicants that apply to use the string in a geographic sense, then this could operate similarly to the trademark clearing house, where notices are generated to registered holders.</p> <p>The BRG does not support this proposal for any applications where the intended use is not geographic.</p>
<p>Proposal 8 – general measures proposed to improve the New gTLD Program (see deliberations section f. 1.2.5 for context)</p>	<p>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.</p> <p>The BRG does not support.</p>
<p>Proposal 9 – general measures proposed to improve the New gTLD Program (see deliberations section f. 1.2.5 for context)</p>	<p>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.</p> <p>The BRG does not support.</p>

Preliminary Recommendations, Questions for Community Input, and Options/Proposals		BRG Comment
Proposal 10 – general measures proposed to improve the New gTLD Program (see deliberations section f. 1.2.5 for context)	A TLD associated with geography should be incorporated within the jurisdiction of the relevant government and subject to local law.	The BRG does not support.
Proposal 11 – country and territory names (see deliberations section f. 2.2.2 for context)	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.	<p>Three-character strings may have a variety of meanings and purposes, beyond simply a code to represent a country. The BRG believes that these strings should be available for delegation to different parties and not exclusive to country and territory codes. Accordingly, three-character strings should be delegated through the New gTLD process, under GNSO policy. Governments should not have the freedom to arbitrarily veto applications on the basis that they match an existing country code.</p> <p>Until a future process is designed, the BRG does not support the idea that these strings are made available only if government support or non-objection is provided.</p>
Proposal 12 – country and territory names (see deliberations section f. 2.2.2 for context)	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.	<p>Three-character strings may have a variety of meanings and purposes, beyond simply a code to represent a country. The BRG believes that these strings should be available for delegation to different parties and not exclusive to country and territory codes. Accordingly, three-character strings should be delegated through the New gTLD process, under GNSO policy. Governments should not have the freedom to arbitrarily veto applications on the basis that they match an existing country code.</p> <p>Until a future process is designed, the BRG does not support the idea that these strings are made available only if government support or non-objection is provided.</p>

Preliminary Recommendations, Questions for Community Input, and Options/Proposals		BRG Comment
Proposal 13 – country and territory names (see deliberations section f. 2.2.2 for context)	The ISO should not be the source of 3-character strings used by ICANN to identify geographic names.	<p>Three-character strings may have a variety of meanings and purposes, beyond simply a code to represent a country. The BRG believes that these strings should be available for delegation to different parties and not exclusive to country and territory codes. Accordingly, three-character strings should be delegated through the New gTLD process, under GNSO policy. Governments should not have the freedom to arbitrarily veto applications on the basis that they match an existing country code.</p> <p>Until a future process is designed, the BRG does not support the idea that these strings are made available only if government support or non-objection is provided, irrespective of which list may be used to identify 3-character codes.</p>
Proposal 14 – country and territory names (see deliberations section f. 2.2.6 for context)	Individual governments should be asked which permutations should be reserved in connection with a corresponding country or territory name.	The BRG does not support. Governments should not have the freedom to arbitrarily veto applications on this basis.
Proposal 15 – country and territory names (see deliberations section f. 2.2.7 for context)	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.”	The term “substantial evidence” should be defined more clearly to illustrate how this proposal could be used effectively and fairly.
Proposal 16 – country and territory names (see deliberations section f. 2.2.7 for context)	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.”	The BRG does not support.



Preliminary Recommendations, Questions for Community Input, and Options/Proposals		BRG Comment
Proposal 17 – names requiring government support/non- objections from the 2012 AGB (see deliberations section f. 2.3.1 for context)	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.	<p>The BRG does not support any restrictions to the use of geographic terms at the top level for applicants that hold a matching trademark, whereby the use of the TLD is to identify the brand and not to represent the geographic term, and where there is no conflict with national or international law. Furthermore, the BRG believes that there are cases where a string will have multiple meanings beyond that of a geographic term and applicants should have the ability to apply without restrictions being imposed outright.</p> <p>However, to allow the next round to proceed, the BRG would consider the continuing requirement for 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 to be accompanied by documentation of support or non-objection from the relevant governments or public authorities. The BRG would also support restricting this obligation to those applicants that intend to use the gTLD for purposes associated with the capital city name.</p>
Proposal 18 – names requiring government support/non- objections from the 2012 AGB (see deliberations section f. 2.3.1 for context)	Eliminate support/non-objection requirements for capital city names.	<p>The BRG does not support any restrictions to the use of geographic terms at the top level for applicants that hold a matching trademark, whereby the use of the TLD is to identify the brand and not to represent the geographic term, and where there is no conflict with national or international law. Furthermore, the BRG believes that there are cases where a string will have multiple meanings beyond that of a geographic term and applicants should have the ability to apply without restrictions being imposed outright.</p>
Proposal 19 – names requiring government support/non- objections from the 2012 AGB (see deliberations section f. 2.3.2 for context)	Maintain provisions included in the 2012 Applicant Guidebook that require applicants to obtain letters of support or non-objection from the relevant governments or public authorities for “An application for a city name, where the applicant declares that it intends to use the gTLD for purposes associated with the city name.” The requirement applies if: “(a) It is clear from applicant statements within the application that the applicant will use the TLD primarily for purposes associated with the city name; and (b) The applied-for string is a city name as listed on official city documents.” As with other applications, curative measures available include objections processes, use of Public Interest Commitments, contractual provisions and enforcement, and post-delegation dispute resolution.	See response to Preliminary Recommendation 11.

Preliminary Recommendations, Questions for Community Input, and Options/Proposals		BRG Comment
Proposal 19, Variant 1 – names requiring government support/non-objections from the 2012 AGB (see deliberations section f.2.3.2 for context)	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.	See response to Preliminary Recommendation 11.
Proposal 19, Variant 2 – names requiring government support/non-objections from the 2012 AGB (see deliberations section f.2.3.2 for context)	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.”	The BRG does not support.
Proposal 19, Variant 3 – names requiring government support/non-objections from the 2012 AGB (see deliberations section f.2.3.2 for context)	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.”	The BRG does not support.

Preliminary Recommendations, Questions for Community Input, and Options/Proposals		BRG Comment
<p>Proposal 20 – names requiring government support/non- objections from the 2012 AGB (see deliberations section f. 2.3.2 for context)</p>	<p>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.</p> <p>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.</p>	<p>The BRG supports this proposal.</p>
<p>Proposal 21 – names requiring government support/non- objections from the 2012 AGB (see deliberations section f. 2.3.2 for context)</p>	<p>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.</p>	<p>The BRG does not support this proposal.</p>
<p>Proposal 22 – names requiring government support/non- objections from the 2012 AGB (see deliberations section f. 2.3.2 for context)</p>	<p>Give small cities, towns, and geographic communities the first right to apply for a TLD associated with the place.</p>	<p>The BRG does not support this proposal.</p>

Preliminary Recommendations, Questions for Community Input, and Options/Proposals		BRG Comment
<p>Proposal 23 – names requiring government support/non- objections from the 2012 AGB (see deliberations section f. 2.3.2 for context)</p>	<p>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:</p> <ul style="list-style-type: none"> <li>• Absolute population of the city: the city has a certain minimum population, for example 500,000 residents or 1,000,000 residents.</li> <li>• 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.</li> <li>• Percentage of a country’s population: The city holds a certain minimum percentage of the country’s population.</li> </ul>	<p>The BRG does not support. Developing a list as this proposal suggests would be completely arbitrary and unnecessarily burdensome, both administratively and financially.</p> <p>The BRG does not support any restrictions to the use of geographic terms at the top level for applicants that hold a matching trademark, whereby the use of the TLD is to identify the brand and not to represent the geographic term, and where there is no conflict with national or international law. Furthermore, the BRG believes that there are cases where a string will have multiple meanings beyond that of a geographic term and applicants should have the ability to apply without restrictions being imposed outright.</p> <p>Many terms have alternative meanings and are not limited to being representative of a geographic term, so the ability to apply should not be restricted as this may deter applicants and stifle innovation.</p> <p>In addition, there is a distinct lack of any substantive evidence that new gTLD operators confuse users or misrepresent a top-level-domain that is used for non-geographic terms, or that abuse is prevalent in these registries. Conversely, there is frequently cases of abuse recognised within existing ccTLDs which are the primary geographic-related registries. Hence, the regular argument of causing confusion for users and increasing abuse is unfounded and should be disregarded.</p>
<p>Proposal 24 – names requiring government support/non-objections from the 2012 AGB (see deliberations section f. 2.3.2 for context)</p>	<p>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. City names on the resulting list are subject to support/non-objection by the relevant governments or public authorities.</p>	<p>See response to Proposal 23.</p>

Preliminary Recommendations, Questions for Community Input, and Options/Proposals		BRG Comment
Proposal 25 – 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.	See response to Proposal 23.
Proposal 26 – 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.	Agree but this proposal should be part of a broader communications and awareness program, not limited in anyway to geographic-related applications.
Proposal 27 – 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.	The BRG is supportive of this proposal. Please refer to comments under Preliminary Recommendation 12.
Proposal 28 – 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.	The BRG prefers proposal 27 but could consider this approach. Please refer to comments under Preliminary Recommendation 12.
Proposal 29 – 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.	The BRG prefers proposal 27 but could consider this approach. Please refer to comments under Preliminary Recommendation 12.
Proposal 30 – names requiring government support/non- objections from the 2012 AGB (see deliberations section f. 2.3.4 for context)	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.	The BRG is supportive of this proposal. Please refer to comments under Preliminary Recommendation 13.

Preliminary Recommendations, Questions for Community Input, and Options/Proposals		BRG Comment
Proposal 31 – names requiring government support/non- objections from the 2012 AGB (see deliberations section f. 2.3.4 for context)	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.	The BRG prefers proposal 30 but could also consider this approach. Please refer to comments under Preliminary Recommendation 13.
Proposal 32 – names requiring government support/non- objections from the 2012 AGB (see deliberations section f. 2.3.4 for context)	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.	The BRG prefers proposal 30 but could also consider this approach. Please refer to comments under Preliminary Recommendation 13.
Proposal 33 – terms not included in the 2012 Applicant Guidebook (see deliberations section f.2.4 for context)	Apply a clear and unambiguous rule that any geographic term that is not explicitly and expressly protected is unprotected. A lack of letter of support/non-objection alone will not be a cause to hinder or suspend an application for such unprotected term.	The BRG is supportive of this proposal.
Proposal 34 – terms not included in the 2012 Applicant Guidebook (see deliberations section f.2.4 for context)	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.	This proposal may be dependent upon the scope, scale and complexity of the rules applied to geographic terms. At this stage the BRG would not be supportive of this proposal. Some practical improvements can be made without creating a formal advisory panel, which would introduce other challenges (such as composition, knowledge and skills).
Proposal 35 – terms not included in the 2012 Applicant Guidebook (see deliberations section f.2.4 for context)	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.	It is not clear what the purpose of a list of geographic terms would be for, beyond those specified as reserved or requiring letters of support/non-objection. Absent of a suitable purpose and to avoid costs to create and maintain a repository, the BRG is not supportive of this proposal.
Proposal 36 – terms not included in the 2012 Applicant Guidebook (see deliberations section f.2.4 for context)	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.	The BRG welcomes the proposal for GAC members to be available to help applicants, where the applicant deems it appropriate but not obligatory to discuss their intentions with third parties prior to submitting to ICANN.

<b>Preliminary Recommendations, Questions for Community Input, and Options/Proposals</b>		<b>BRG Comment</b>
Proposal 37 – terms not included in the 2012 Applicant Guidebook (see deliberations section f.2.4 for context)	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.	The BRG does not support this proposal as this ignores the fact that many terms have alternative meanings and are not limited to being representative of a geographic term, so the ability to apply should not be restricted as this may deter applicants and stifle innovation.
Proposal 38 – terms not included in the 2012 Applicant Guidebook (see deliberations section f.2.4 for context)	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.	The BRG does not support this proposal as this ignores the fact that many terms have alternative meanings and are not limited to being representative of a geographic term, so the ability to apply should not be restricted as this may deter applicants and stifle innovation.