

Progress Report: Cross Community Working Group on the Use of Country and Territory Names as Top-Level Domains

This Paper was requested by the CWG co-Chairs and prepared by Staff. The Paper lays out the Group's discussion to-date and provides the WG's conclusions and recommendations in relation to the Group's main objective.

Version 3.0, 12 September 2016

A. Objective and scope of the WG

The purpose of this working group is to draw upon the collective expertise of the participating SOs and ACs and others, and building on the analysis of the ccNSO Study Group on the use of names for countries and territories as TLDs¹, to further review the current status of representations of country and territory names, as they exist under current ICANN policies, guidelines and procedures. The main objective of the WG, pursuant to its Charter, is:

- Further review the current status of representations of country and territory names, as they exist under current ICANN policies, guidelines and procedures;
- Provide advice regarding the feasibility of developing a consistent and uniform definitional framework that could be applicable across the respective SO's and AC's; and
- Should such a framework be deemed feasible, provide detailed advice as to the content of the framework.

Should such a framework be deemed feasible, the WG is expected to provide detailed advice as to the content of the framework.

The scope of the CWG is limited to:

- Representations of names of countries, territories and their subdivisions listed on or eligible to be listed on the alpha-2 code International Standard for country codes and codes for their subdivisions (ISO 3166-1), (Names of Country and Territory). Other geographical indicators, such as regions, are excluded. The CWG has interpreted this as comprising:
 - Two-letter representations of country or territory names in the International Organization for Standardization's (ISO) 3166-1 alpha-2 standard;
 - Three-letter representations of country or territory names in the International Organization for Standardization's (ISO) 3166-1 alpha-3 standard; and
 - Short-form and long-form name of countries, territories and their subdivisions listed on or eligible to be listed on the ISO 3166-1 standard.
- The use of country and territory names as top-level domains. The use of country and territory names as second or other level is excluded.

The CWG's work to date has followed the outline of its scope as identified above. This is discussed in more detail in the next section of this Progress Report.

Consult the CWG's Charter² for further information.

¹ ccNSO study Group on the use of country and territory names: final report
<http://cnso.icann.org/workinggroups/unct-final-08sep12-en.pdf>

² Cross-community WG Framework for use of Country and Territory names as TLDs (UCTN WG) Charter
<http://cnso.icann.org/workinggroups/unct-framework-charter-27mar14-en.pdf>

Formatted: After: 0.25"

B. Group's discussions to date

Two-letter representations of country or territory names in the International Organization for Standardization's (ISO) 3166-1 alpha-2 standard

In October 2015³, following having conducted an informal survey of the ICANN community on the current use and expectations in relation to 2-letter codes, the CWG reached a preliminary conclusion that the existing ICANN policy of reserving 2-letter codes for ccTLDs should be maintained. This preliminary conclusion was primarily on the basis of the reliance of this policy, consistent with RFC 1591, on a standard established and maintained independently of and external to ICANN and widely adopted in contexts outside of the DNS. RFC 1591 in relevant part provides: "The IANA is not in the business of deciding what is and what is not a country. The selection of the [ISO 3166-1] list as a basis for country code top-level domain names was made with the knowledge that ISO has a procedure for determining which entities should be and should not be on that list." The CWG expressly did not base its preliminary conclusion on any claims to legal or other rights or interests in 2-letter country codes or to confusion-related concerns. A detailed discussion is set out in the CWG's (Strawman) Options Paper.⁴

Three-letter representations of country or territory names in the International Organization for Standardization's (ISO) 3166-1 alpha-3 standard

Having reached a preliminary conclusion on alpha-2 letter country codes, the CWG turned its attention in late 2015 to 3-letter codes. It was immediately noted by the group that, while two-letter codes have a long-standing role in DNS policy and procedure originating with RFC 1591, ICANN had not consistently extended the same protections and definitions to three-letter codes. It was further noted that TLDs and the ISO 3166-1 alpha-3 standard have coexisted, with occasional intersections, for many years with no significant policy-based conflicts. Notably, the final version of the New gTLD Applicant Guidebook removed ISO 3166-1 three-letter codes from eligibility without reserving these codes for potential use as ccTLDs or for any other use.⁵

The following examples illustrate the outcome of inconsistencies in the framework:

- ISO-related strings that could be of interest to potential new gTLD applicants (such as .BRB, .CAN or .GEO) are currently protected and are ineligible to become new gTLDs.
- ISO-3166-1 alpha-3 country codes that could be of interest to countries to use for the local community or for purposes related to the country or territory identified are currently protected and are not available for delegation.
- Some three-letter codes, such as ".com," already exist as TLDs. .com is the largest gTLD and also the ISO3166-1 alpha-3 code for Comoros. This duality has existed since January 1985, when the TLD was first implemented. At the time, there were simply no policy protections in place for country names. However, ".com" has thrived as the most populous gTLD to date. Any attempt at retrospective application of protectionist policies for three-letter codes would provide an undesirable policy conflict and a destabilizing, unenforceable influence.
- Existing Reserved Names restrictions operate to prevent the use as TLDs of certain three-letter codes on the ISO list (such as .NIC).⁶
- And yet other three-letter codes – most notably those IDNs involved in the fast track process – are required to meet an entirely different set of eligibility criteria.

³ Cross-Community Working Group - Framework for use of Country and Territory Names as TLDs (CWG - UCTN). straw man options paper. version 21 September 2015
<https://community.icann.org/display/CWGUCNT/Output+and+Draft+Documents?preview=/49354211/56143211/Options%20Paper%2015%20October%202015%20.doc>

⁴ Cross-Community Working Group - Framework for use of Country and Territory Names as TLDs (CWG - UCTN). straw man options paper. version 21 September 2015
<https://community.icann.org/display/CWGUCNT/Output+and+Draft+Documents?preview=/49354211/56143211/Options%20Paper%2015%20October%202015%20.doc>

⁵ [New gTLD Applicant Guidebook clause 2.2.1.4.1\(i\), at https://newgtlds.icann.org/en/applicants/agb.](https://newgtlds.icann.org/en/applicants/agb)

⁶ The code "NIC" is explicitly included on the "Top-Level Domains Reserved List" in the Applicant Guidebook as a representation of "Network Information Center" and is yet also an ISO 3166-1 alpha-3 code representation for Nicaragua

Commented [JB1]: Covered under bullet number 4, so this can be deleted?

Commented [BB2]: Note that the Reserved Names restriction is different. I think the way this is described mixes two categories: reserved names and 3-letter codes (see second bullet).

A future issue may be the collision between the rules around the reserved names list and ISO 3166 3-letter codes. Assuming that all 3-letter codes would be available as TLDs and NIC is acceptable by the Nicaragua, would NIC still be excluded because it is on the reserved list? Would it matter if it was requested as ccTLD or gTLD?

Formatted: After: 0.25"

- Current ICANN policies, particularly with regard to the current new gTLD process, provide an inconsistent framework for treatment of three-letter country representations. Rigid application of the current range of ICANN policies and procedures, plus ongoing overlapping efforts across the ICANN community relating to future policy on geographic names more broadly, could potentially lead to an inconsistent treatment of country and territory names. That is, certain representations could be prohibited from use as new gTLDs by the Applicant Guidebook, while others could be considered IDNs, and yet others could be prohibited from use as an IDN ccTLD given current “one per official/designated language” provisions of the fast track process⁷ and future IDN ccTLD policy.

With the input of and guidance from experts familiar with ISO processes, it was noted that the 3166-1 alpha-3 codes standard itself is not static and that that geo-political changes, the creation of new countries and the dissolution of others meant that not even this most fundamental guideline document was without its own complexities and challenges.

SO/AC survey

Replicating its approach to considering the issue of alpha-2 letter codes, to facilitate the group’s discussion and to gather different viewpoints from the wider community, the CWG developed and distributed an informal survey to ICANN’s Supporting Organisations and Advisory Committees. This survey presented a range of options for a potential future policy framework on ISO 3166-1 alpha-3 codes. The views expressed by respondents were highly divergent, and there was no clear consensus among the contributors to the CWG’s request for input. On analyzing the survey results, the CWG found it difficult to reconcile competing views and interests and the varying level of detail and rationale in responses; a ‘strawwoman’ document was circulated but not agreed upon by the CWG.⁸ The survey results can be found on the WG wiki space.⁹

Cross-community session ICANN56

The CCWG is also aware of other discussions relating to geographic names in the ICANN community. These include discussions amongst members of the GAC regarding the treatment of geographic names at the top level and regarding country names and 2-letter country/territory codes at the second level¹⁰; and the New gTLD Subsequent Procedures PDP.

With this and other ongoing activities in mind, the CWG seized the opportunity presented by ICANN’s first “policy forum” public meeting, ICANN56 in Helsinki, to have a broader, cross-community discussion on topics relating to the use of country and other geographic names to better gauge whether a harmonized framework would be feasible. . The purpose of this cross-community session, referred to as the “country and other geographic names forum”, was to solicit views from the community on the different issues related to the use of country and other geographic names and the feasibility of a harmonized framework that could inform and enhance policy efforts around the use of these names as TLDs. Once again, the WG noted diverging interests and opinions across all communities.

⁷ IDN FastTrack Process <https://www.icann.org/en/system/files/files/idn-ccTLD-implementation-plan-05nov13-en.pdf>

⁸ [CCWG on the use of country and territory names as TLDs - Straw Man Paper on 3 character codes as TLDs](https://community.icann.org/display/CWGUCNT/Output+and+Draft+Documents?preview=/49354211/59640250/StrawWoman_3charactercodes_v0.5-ColinsComments.pdf).https://community.icann.org/display/CWGUCNT/Output+and+Draft+Documents?preview=/49354211/59640250/StrawWoman_3charactercodes_v0.5-ColinsComments.pdf

⁹ CWG wiki space <https://community.icann.org/display/CWGUCNT/Output+and+Draft+Documents>

¹⁰ The recent GAC-Helsinki communiqué, https://gacweb.icann.org/display/gacweb/Governmental+Advisory+Committee?preview=/27132037/43712811/20160630_GAC%20ICANN%2056%20Communique_FINAL%20%5B1%5D.pdf, refers to discussed plans within the GAC on the subject of 2-letter country/territory codes *at the second level*: The GAC discussed plans proposed by Registry Operators to mitigate the risk of confusion between country codes and 2-letter second level domains under new gTLDs. Some countries and territories stated they require no notification for the release of their 2-letter codes for use at the second level. The GAC considers that, in the event that no preference has been stated, a lack of response should not be considered consent.

Formatted: After: 0.25"

Since that time, the CWG has additionally noted the recent GAC-Helsinki communiqué,¹¹ which advises the ICANN Board, on the topic of 3-letter codes in the ISO 3166 list as gTLDs in future rounds, “i. to encourage the community to continue in depth analyses and discussions on all aspects related to a potential use of 3-letter codes in the ISO-3166 list as gTLDs in future rounds. [...] ii. To keep current protections in place [...]”.

C. Conclusion around feasibility to develop a consistent and uniform definitional framework

Comments and observations

- Despite several efforts to engage the wider community, the CWG was mainly driven by ccNSO and GNSO. Lower or inconsistent levels of involvement by other segments of the ICANN community have made it difficult to pursue community-wide solutions, yet the cross-community session in Helsinki clearly evidenced a broader, community-wide interest in this topic.
- The treatment of country and territory names as top-level domains is a topic that has been discussed by the ccNSO, GAC, GNSO, ALAC and the ICANN Board for a number of years. Issues regarding the treatment of representations of country and territory names have arisen in a wide range of ICANN policy processes, including the IDN Fast Track, the GAC Working Group to Examine the Protection of Geographic Names in any Future Expansion of gTLDs,¹² the IDN ccPDP. References to country and territory names and their use are also present in guidelines such as the GAC’s “Principles and Guidelines for the Delegation and Administration of Country Code Top Level Domains” and “Principles regarding new gTLDs”, foundation documents such as RFC1591 and administrative procedures such as those followed by IANA, in accordance with ISO3166-1, in the delegation and redelegation of ccTLDs. More details can be found in the final report¹³ of the ccNSO Study Group which pre-dated the formation of this CWG.¹⁴
- In addition to these existing work streams, new discussions are commencing in two GNSO PDPs launched earlier this year, the New gTLD Subsequent Procedures PDP,¹⁵ and the Review of All Rights Protection Mechanisms in all gTLDs PDP.¹⁶ In Helsinki, the CWG co-chairs liaised with the co-chairs of the New gTLD Subsequent Procedures PDP to discuss the PDP’s scope, which notably includes policy on reserved names and recognition of legal rights in names.
- Current ICANN policies, particularly with regard to the current new gTLD process, provide an inconsistent framework for treatment of three-letter country representations. Rigid application of the current range of ICANN policies and procedures could potentially lead to an inconsistent treatment of country and territory names. Further, assuming a harmonized framework for just the use of country and territory names would be developed, the community would most likely face issues between rules flowing from such a framework and rules and procedures around other geographic names.

Conclusion

Since the adoption of its Charter in March, 2014, the CWG has met regularly through telephone conferences and at ICANN public meetings. It has provided regular updates to the communities, including the ccNSO, GAC and GNSO Council. Throughout its deliberations, the CWG has observed a high level of complexity associated with any attempt to come up with a consistent and uniform definitional framework that could be applicable

¹¹ GAC Communiqué ICANN56, Helsinki, Finland
https://gacweb.icann.org/display/gacweb/Governmental+Advisory+Committee?preview=/27132037/43712811/20160630_GAC%20ICANN%2056%20Communique_FINAL%20%5B1%5D.pdf

¹² Wiki GAC Geographic Names Working Group
<https://gacweb.icann.org/display/gacweb/GAC+Working+Group+to+Examine+the+Protection+of+Geographic+Names+in+any+Future+Expansion+of+gTLDs>

¹³ ccNSO study Group on the use of country and territory names: final report
<http://ccnso.icann.org/workinggroups/unct-final-02jul13-en.pdf>

¹⁵ WG charter New GTLD subsequent procedures <https://gns0.icann.org/en/issues/new-gtlds/subsequent-procedures-charter-21jan16-en.pdf>

¹⁶ Annex C –Draft Charter for a PDP WG on a Next-Generation gTLD Registration Directory Service (RDS) to Replace WHOIS <http://gns0.icann.org/en/drafts/whois-ng-gtld-rds-charter-07oct15-en.pdf>

Formatted: After: 0.25"

across the respective SO's and AC's defining rules guiding the use of country and territory names as top level domains that, ideally, can be applied objectively to alpha-2 and alpha-3 ISO 3166-1 codes as well as full country and territory names.

Despite the importance of country and territory names to a wide range of stakeholders, and despite the fact that all involved made strong efforts to find a solution, the WG concludes that, as its work overlaps with other community efforts, continuing its work is not conducive to achieving the harmonized framework its Charter seeks. After careful deliberations, the Cross Community Working Group on the Use of Country and Territory Names as Top-Level Domains, deems that it is not feasible within its limited mandate to develop a consistent and uniform definitional framework that could be applicable across the respective SOs and ACs defining rules guiding the use of country and territory names as top level domains.

D. Recommendations

In light of the need for further work, the complexity of the issue at hand, the aforementioned inconsistencies between various ICANN policies, and the limited mandate of the CWG on the use of Country and Territory Names as TLDs, the CWG unanimously recommends that:

1. The ICANN community consolidate all policy efforts relating to geographic names (as that term has traditionally very broadly been defined in the ICANN environment to this point) to enable in-depth analyses and discussions on all aspects related to all geographic-related names at all levels of the DNS. This is the only way, in our view, to determine whether a harmonized framework is truly achievable.
2. Future policy development work must facilitate all-inclusive dialogue to ensure that all members of the community have the opportunity to participate. Again, we believe that this is the only way to determine whether a harmonized framework is truly achievable.

The CWG could not agree unanimously on the following: Future work should take place with the authority of a policy development process under ICANN's Bylaws, with a clearly drafted Charter or scope of works that sets out how conclusions and recommendations will inform that policy development process. This addresses a key deficiency of this CWG, as it has not been made clear how the group's work can or will be incorporated in policy-making pursuant to ICANN's Bylaws.

Some members raised issue that issues that are in scope of both the ccNSO and GNSO policy development processes should be addressed through a coordinated effort under both processes.

Alternative for Recommendation 3

2- [To ensure the conclusions and recommendations of this or comparable CWG will at one point have the authority of a policy developed through the processes under ICANN's Bylaws, future work should take place with a clear view on how the output of that work relates and input is provided will inform formal policy development processes, the authority of a policy development process under ICANN's Bylaws. This may be achieved through a, with a clearly drafted Charter or scope of works that sets out how conclusions and recommendations will inform that policy development processes will be informed. This addresses a key deficiency of this CWG, as it has not been made clear how the group's work can or will be incorporated in policy-making pursuant to ICANN's Bylaws.

3- Future policy development work must facilitate all-inclusive dialogue to ensure that all members of the community have the opportunity to participate. Again, we believe that this is the only way to determine whether a harmonized framework is truly achievable.

Formatted: Indent: Before: 0.5", No bullets or numbering

Formatted: Normal, No bullets or numbering

Formatted: Font: 10 pt, Complex Script Font: Calibri, 10 pt

Commented [AL3]: A comment to Timos wish to include 2 options in our recommendations: Since some have this view, it is fair to discuss this at the next teleconference where I hope Timo will be present and raise his voice.

Commented [??4]: I strongly support Timo's suggestion to include different options for the future. I recommend including among the suggestions creating another CWG that continues to discuss the issues that have not been resolved and learns from the experience of this working group.

Commented [AL5]: Perhaps a compromise could be to make it clearer that CWG only got a mandate to discuss c & t names at first level, not all geographical names. Therefore the GNSO PDP has left that work to us and waited to see if we could work out a framework that could be acceptable for all. So far we have a preliminary conclusion on use of 2-letter strings, but have run into difficulties for 3-letter strings on the ISO list, as the views are very different from different stakeholders. Therefore one possibility is to transfer this discussion to the PDP, in addition to the other geographical names they already are discussing.

Formatted: Font: 10 pt, Complex Script Font: Calibri, 10 pt

Formatted: Font: 10 pt, Complex Script Font: Calibri, 10 pt

Formatted: Font: 10 pt, Complex Script Font: Calibri, 10 pt

Formatted: Font: 10 pt, Complex Script Font: Calibri, 10 pt

Formatted: Font: 10 pt, Complex Script Font: Calibri, 10 pt

Formatted: Font: 10 pt, Complex Script Font: Calibri, 10 pt

Formatted: Font: 10 pt, Complex Script Font: Calibri, 10 pt

Formatted: Font: 10 pt, Complex Script Font: Calibri, 10 pt

Formatted: Normal, No bullets or numbering

Formatted: After: 0.25"