Comments:

The Terms of Reference (ToR) is intended to guide how WT5 operates and broadly speaking, what will be discussed. It is not intended to pre-determine the outcomes of forthcoming discussions.

All of the comments submitted to the WT5 are appreciated, though for the co-leads' draft, some suggestions were integrated and some were not. The basis for determining what to integrate and what not to integrate includes:

- Whether or not the suggested comment is directly related to the ToR or is more about substantive debate of the issues.
- Suggestions to change the nature of this underlying structure of this WT (e.g., to formally position it as a cross-community working group) were determined to be out of scope.
- The overall goal was to simplify the document and be less prescriptive in nature (e.g., avoiding pre-determining what is and is not a geographic name in the ToR).

New gTLD Subsequent Procedures PDP WG
DRAFT: Work Track 5 Terms of Reference (TOR)

Section I: Work Track Identification

WG Chartering Organization: New gTLD Subsequent Procedures PDP Working Group
WG Charter Approval Date: 21 January 2016
   Work Track 5 Terms of Reference Approval Date: TBD
Names of WT Co-Leads: Olga Cavalli (GAC), Annebeth Lange (ccNSO), Martin Sutton (GNSO), Christopher Wilkinson (ALAC)
Names of Overall PDP Working Group Chairs: Jeff Neuman & Cheryl Langdon-Orr
WT Workspace URL: https://community.icann.org/x/YASbAw
WT Mailing List: gnso-newgtld-wg-wt5@icann.org
Important Document Links: TBD

Section II: Problem Statement, Goals & Objectives, and Scope

Problem Statement:

1. The topic of geographic names at the top level is one of the issue areas included within the charter of the New gTLD Subsequent Procedures PDP Working Group (PDP). In order to fulfill the terms of the charter, the PDP will need to address this issue. The GAC, ccNSO, ALAC, and GNSO all have a strong interest in this topic. The PDP is seeking to "determine what, if any changes may need to be made to the existing … policy recommendations from 8 August 2007. [T]hose policy recommendations remain in place… unless the GNSO Council would decide to modify those policy recommendations via a [PDP]. The … New gTLD Subsequent Procedures

Discussion Group (DG) … saw the issues to address in this Working Group as … Clarifying, amending or overriding existing policy principles, recommendations, and implementation guidance; Developing new policy recommendations; Supplementing or developing new implementation guidance."[1] The PDP is also seeking to ensure that the community's work related to geographic names takes place in a single forum, to avoid the conflicting or contradictory efforts and outcomes that have taken place in the past.

Context and Objectives:

1. The PDP WG Co-Chairs have established a fifth Work Track that focuses exclusively on the topic of geographic names at the top level. It is structured to encourage broad and balanced participation from different parts of the community and includes joint community Work Track leadership. WT5 leadership is coordinated by the PDP WG Co-Chairs.

2. While this PDP is already open for anyone to participate, like all GNSO PDPs, the PDP WG Co-Chairs are seeking to structure conversations about geographic names in a way that (i) leads to predictable, reliable and sustainable subsequent procedures for the submission of new gTLD applications, (ii) is sensitive to the needs and concerns of all community members, and (iii) ensures that participants feel comfortable that the process is sufficiently inclusive.

Scope:

1. Work Track 5 will focus on developing recommendations regarding geographic names at the top level, including both ASCII and IDN form, and an analysis of the rules contained in the 2012 Guidebook, such as Review Procedure, Evaluation Criteria, Potential Grounds for Objection, as well as addressing whether such geographical names require support or non-objection from applicable governmental authorities. WT5 will also consider what constitutes a geographic name specifically as it pertains to the New gTLD Program. In its deliberations, WT5 will take into account previous work related to geographic names that the community may have already conducted.

2. Broader discussions about jurisdiction of SOs and ACs, as well as the allocation of second and third level geographic domains are specifically out of scope for this Work Track.

Section III: Deliverables and Reporting

Deliverables:

1. As one of its very first tasks, Work Track 5 must develop a work plan, including a timeline for activities and deliverables.

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[1] The full statement in the "Mission & Scope" section of the PDP WG Charter can be found here: https://community.icann.org/display/NGSPP/2.+WG+Charter

2. The objective for Work Track 5 is to reach consensus on potential policy recommendations and/or implementation guidance regarding geographic names at the top level. Following the process set up for the existing Work Tracks, it will deliver proposed recommendations and related rationale (i.e., Initial Report) to the full Working Group for consideration and possible adoption as PDP WG recommendations. Consensus levels for all recommendations will be determined per the decision-making section below.

3. The full Working Group will publish the Initial Report for public comment. All comments received will be passed on to Work Track 5 for due consideration and any changes as appropriate. Work Track 5's Final Report and recommendation will be delivered to the full Working Group.

Reporting:

1. The leads of the Work Track and/or full WG co-chairs will brief the WG plenary group, GNSO, ccNSO, GAC, and ALAC on a regular basis. Reporting frequency and methodology is up to the respective organizations to determine.

2. Updates from Work Track 5 will be included in a monthly newsletter, which includes updates from the other work tracks and the plenary group.

Section IV: Membership, Staffing and Organization

Membership Criteria:

1. Membership in the Work Track is open to anyone in the Internet community, provided that he or she has submitted a Statement of Interest, including the disclosure of any actual or perceived conflicts of interest. Unless otherwise stated, all Work Track members serve in their individual capacity and not on behalf of their employer or trade organization.

2. More specifically, we recommend that the following types of persons participate in this Work Track:

- Have sufficient expertise to participate in the Work Track on the applicable subject matter;
- Commit to actively participate in the activities of the Work Track on an ongoing basis;
- Where appropriate, solicit and communicate the views and concerns of individuals in the organization that appoints them; and
- Commit to abide to the Terms of Reference when participating in the Work Track.

3. The Work Track co-leads will take reasonable efforts to ensure that the final membership of the Work Track is sufficiently diverse to the extent feasible (including but not limited to geographical region, stakeholder representation and needed skill sets).

4. Participants in the Working Group may be from the GNSO, ccNSO, GAC or ALAC, from a stakeholder group not represented in the Work Track, or as an interested individual. Participants will be able to actively participate in and attend all Work Track meetings, work groups and sub-work groups. However, should there be a need for a consensus call or decision, such consensus call or decision will be limited to Work Track members through the processes set forth below. A Participant commits to abide by the Terms of Reference of the Work Track. Observers may sign up to be subscribed to the Work Track mailing list but will not be able to participate in or attend Work Track meetings and discussions or contribute on the mailing list.

5. All Participants, Observers, and ICANN staff involved in WT5 will be listed on the [Work Track's Wiki](#) . The mailing list of the Work Track will be publicly [archived](#).

6. A buddy/mentor system shall be established to connect newcomers with experienced members, to help allow newcomers become familiar with the PDP and feel more comfortable contributing as they see fit.

7. Leads have been appointed by the GNSO, ccNSO, GAC or ALAC with one lead per each SO/AC. Leads may be replaced at any time by the applicable Supporting Organization and/or Advisory Committee for which they serve.

Group Formation, Dependencies, & Dissolution:

1. The GNSO Secretariat has circulated a 'Call for Volunteers' as widely as possible in order to ensure broad representation and participation in the Work Track including:

- Publication of announcement on relevant ICANN web sites including but not limited to the GNSO and other Supporting Organizations and Advisory Committee web pages; and
- Distribution of the announcement to GNSO Stakeholder Groups, Constituencies and other ICANN Supporting Organizations and Advisory Committees

Staffing and Resources:

1. The ICANN Staff assigned to the full Working Group will fully support the work of the Work Track as requested by the Work Track leads including meeting support, document drafting, editing and distribution and other substantive contributions when deemed appropriate. Staff assignments to the Working Group:

- GNSO Secretariat
- ICANN Policy Staff

Statements of Interest (SOI) Guidelines:

1. Each member of the Work Track is required to submit a Statement of Interest in accordance with Section 5 of the GNSO Operating Procedures.

Section IV: Rules of Engagement

Decision-making Methodologies:

Decision-making

{Note: The following material was extracted from the Working Group Guidelines, Section 3.6.}.

1. The Work Track leads will collectively be responsible for designating each position as having one of the following designations:

- Full consensus - when no one in the group speaks against the recommendation in its last readings. This is also sometimes referred to as Unanimous Consensus.
- Consensus - a position where only a small minority disagrees, but most agree. [Note: For those that are unfamiliar with ICANN usage, you may associate the definition of 'Consensus' with other definitions and terms of art such as rough consensus or near consensus. It should be noted, however, that in the case of a GNSO PDP originated Working Group, all reports, especially Final Reports, must restrict themselves to the term 'Consensus' as this may have legal implications.]
- Strong support but significant opposition - a position where, while most of the group supports a recommendation, there are a significant number of those who do not support it.
- Divergence (also referred to as No Consensus) - a position where there isn't strong support for any particular position, but many different points of view. Sometimes this is due to irreconcilable differences of opinion and sometimes it is due to the fact that no one has a particularly strong or convincing viewpoint, but the members of the group agree that it is worth listing the issue in the report nonetheless.
- Minority View - refers to a proposal where a small number of people support the recommendation. This can happen in response to a Consensus, Strong support but significant opposition, and No Consensus; or, it can happen in cases where there is neither support nor opposition to a suggestion made by a small number of individuals.

2. In cases of Consensus, Strong support but significant opposition, and No Consensus, an effort should be made to document that variance in viewpoint and to present any Minority View recommendations that may have been made. Documentation of Minority View recommendations normally depends on text offered by the proponent(s). In all cases of Divergence, the WT Leads should encourage the submission of minority viewpoint(s).

3. The recommended method for discovering the consensus level designation on recommendations should work as follows:

i. After the group has discussed an issue long enough for all issues to have been raised, understood and discussed, the WT Leads make an evaluation of the designation and publish it for the group to review.

ii.   After the group has discussed the WT Leads' estimation of designation, the Leads should reevaluate and publish an updated evaluation.

iii.   Steps (i) and (ii) should continue until the WT Leads make an evaluation that is accepted by the group.

iv.   iv. In rare case, the WT Leads may decide that the use of polls is reasonable. Some of the reasons for this might be:
- A decision needs to be made within a time frame that does not allow for the natural process of iteration and settling on a designation to occur.
- It becomes obvious after several iterations that it is impossible to arrive at a designation. This will happen most often when trying to discriminate between Consensus and Strong support but Significant Opposition or between Strong support but Significant Opposition and Divergence.

4. Care should be taken in using polls that they do not become votes. A liability with the use of polls is that, in situations where there is Divergence or Strong Opposition, there are often disagreements about the meanings of the poll questions or of the poll results.

5. Based upon the WT's needs, the WT Leads may direct that WT participants do not have to have their name explicitly associated with any Full Consensus or Consensus view/position. However, in all other cases and in those cases where a group member represents the minority viewpoint, their name must be explicitly linked, especially in those cases where polls where taken.

6. Consensus calls should always involve the entire Work Track and, for this reason, should take place on the designated mailing list to ensure that all Work Track members have the opportunity to fully participate in the consensus process. It is the role of the WT Leads to designate which level of consensus is reached and announce this designation to the Work Track. Member(s) of the Work Track should be able to challenge the designation of the WT Leads as part of the Work Track discussion. However, if disagreement persists, members of the WT may use the process set forth below to challenge the designation.

7. If several participants (see Note 1 below) in a WT disagree with the designation given to a position by the WT Leads or any other consensus call, they may follow these steps sequentially:

1. Send email to the WT Leads, copying the WT explaining why the decision is believed to be in error.
2. If the WT Leads still disagree with the complainants, the WT Leads will forward the appeal to the WG Co-Chairs. The WT Leads must explain their reasoning in the response to the complainants and in the submission to the WG Co-Chairs. If the WG Co-Chairs support the WT Leads' position, the WG Co-Chairs will provide their response to the complainants. The WG Co-Chairs must explain their reasoning in the response. If the WG Co-Chairs disagree with the WT Leads, the WG Co-Chairs will forward the appeal to the Chair of the Generic Names Supporting Organization ("GNSO Chair"). Should the complainants disagree with the WG Co-Chairs' support of the WT Leads' determination, the complainants may appeal to the GNSO Council Chair. If the GNSO Council Chair agrees with the complainants' position, the GNSO Council Chair should recommend remedial action to the WG Co-Chairs and the WT Leads.
3. . In the event of any appeal, the GNSO Council Chair will attach a statement of the appeal to the WG and/or Board report. This statement should include all of the

documentation from all steps in the appeals process and should include a statement from the GNSO Council Chair (see Note 2 below).

Note 1: Any Work Track member may raise an issue for reconsideration; however, a formal appeal will require that that a single member demonstrates a sufficient amount of support before a formal appeal process can be invoked. In those cases where a single Work Track member is seeking reconsideration, the member will advise the WT Leads and/or Working Group Chairs of their issue and the Leads and/or Chairs will work with the dissenting member to investigate the issue and to determine if there is sufficient support for the reconsideration to initial a formal appeal process.

Note 2: It should be noted that ICANN also has other conflict resolution mechanisms available that could be considered in case any of the parties are dissatisfied with the outcome of this process