

Work Track 5	2
Background documentation	2
Policy Goals / What the WG is Seeking to Accomplish	2
Public comment summary	2
High-level Summary	2
Outstanding Items - New Ideas/Concerns/Divergence	3
Follow-up / Referrals to other sections / parking lot / suggested next steps	14
Follow-up (with stakeholder groups)	14
Referrals to other sections	14
Parking lot	14
Suggested next steps	14

Work Track 5

Background documentation

- Working drafts and document drafting - <https://community.icann.org/x/YASbAw>
- WT5 Supplemental Initial Report - <https://gnso.icann.org/en/issues/new-gtlds/subsequent-procedures-geo-names-supp-initial-05dec18-en.pdf> (public comment proceeding <https://www.icann.org/public-comments/geo-names-wt5-initial-2018-12-05-en>)
- Public comment review document - https://docs.google.com/spreadsheets/d/1WKSC_pPBviCnbHxW171Zlp4CzuhQXRCV1NR2ruagrxs/edit?usp=sharing

Policy Goals / What the WG is Seeking to Accomplish

- *In alignment with Principle C from the 2007 GNSO recommendations on new gTLDs, the program should allow for the introduction of new gTLDs.*
- *In alignment with Principle A from the 2007 GNSO recommendations on new gTLDs, enhance the predictability for all parties.*
- *Reduce the likelihood of conflicts within the process, as well as after the process concludes and TLDs are delegated.*
- *Policies and processes should be simple to the extent possible.*

Public comment summary

High-level Summary

** These high-level summaries can be revisited as the input received is reviewed in detail.*

Existing 2012 implementation / Preliminary Recommendations

- Support from most commenters to maintain the existing geographic names protections deployed in the 2012 round (which are largely identical to the preliminary recommendations, with the exception of translations of certain terms). Some of that support is reluctant, in the sense that many commenters do not believe governments have an exclusive legal basis in geographic names, but nevertheless, are willing to support what they believe is a compromise solution. However, there is outright opposition from some commenters, which is discussed in the Outstanding Items - New Ideas/Concerns/Divergence section.

Country and Territory Names (Recommendations 2-9)

- Support from most commenters to maintain the existing geographic names protections deployed in the 2012 round (which are largely identical to the preliminary recommendations, with the exception of translations of certain terms). Some of that

support is reluctant, in the sense that many commenters do not believe governments have an exclusive legal basis in geographic names, but nevertheless, are willing to support what they believe is a compromise solution. Exceptions to this general support do exist in this category (e.g., alpha-3 code) and in addition, there is outright opposition from some commenters; both of these elements will be discussed in the Outstanding Items - New Ideas/Concerns/Divergence section

Geographic Terms Requiring Letters of Support/Non-Objection (Recommendations 10, 12, 13)

- Support from many commenters to maintain the existing geographic names protections deployed in the 2012 round. While there is still some reluctant support (e.g., commenters do not believe governments have an exclusive legal basis in geographic names), there is more outright opposition from some commenters here, in particular against capital city names and less so against sub-national names and UNESCO and M49 regions; this will be discussed in the Outstanding Items - New Ideas/Concerns/Divergence section

Geographic Terms That Require Letters of Support/Non-Objection Dependent Upon Intended Usage (Recommendation 11)

- Support from some commenters to maintain the existing geographic names protections deployed in the 2012 round. There is still some reluctant support but again, there is more outright opposition from some commenters here. However, the opposition here comes from two very different angles 1) that cities do not have a legal basis and 2) that applicants should always be required to provide a letter of support/non-objection. Again, this will be discussed in the Outstanding Items - New Ideas/Concerns/Divergence section

Outstanding Items - New Ideas/Concerns/Divergence

Existing 2012 implementation / Preliminary Recommendations

- TBD

Country and Territory Names (Recommendations 2-9)

For reference - Relevant Preliminary Recommendations, in summary:

Reserve the following categories against application at the top-level:

- *Two-character ASCII strings*
- *Alpha-3 code listed in the ISO 3166-1 standard*
- *Long-form name listed in the ISO 3166-1 standard*
- *Short-form name listed in the ISO 3166-1 standard*
- *Short or long-form name association with a code that has been designated as “exceptionally reserved” by the ISO 3166 Maintenance Agency.*

- *Separable component of a country name designated on the “Separable Country Names List.”*
- *Permutation or transposition of any of the names included in the four (4) bullets above. 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.”*
- *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.*

Consult the public comment summary document for full text of the preliminary recommendations, as well as full detail of comments received here:

https://docs.google.com/spreadsheets/d/1WKSC_pPBviCnbHxW171Zlp4CzuhQXRCV1NR2ruagrxs/edit?usp=sharing

Two-character letter-letter ASCII combinations at the top level

- ccNSO, CENTR/AFNIC, Uninett Norid AS, Communications and Information Technology Commission (CITC): Concern - Opposes proposal to remove letter-digit combinations from the reserved names list, raises concern about string confusion and possible abuse.
- *Make generally available:*
 - BRG: Concerns - Does not support any restrictions on 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 (see comment for full explanation). Would consider accepting status quo to allow the next round to proceed.
 - NCSG: Divergence - Status quo should be assessed in terms of freedom of expression and the availability of string identifiers for delegation. At a minimum, the working group should consider making deleted or unassigned ISO 3166-1 alpha-2 codes available for delegation.

Alpha-3 code listed in the ISO 3166-1 standard:

- ccNSO: Concerns - Policy must take into account that the list of ISO 3166-1 alpha-3 codes may change and should avoid creating a distinction between countries pre and post effective date of the policy. At a minimum, the actual list of Alpha 3-codes should be consulted whenever a three letter string for a TLD is under evaluation.
- *Make available:*
 - ALAC: Divergence - Make these strings available for delegation to governments or entities with government support/non-objection.
 - RrSG: Divergence - Allow applicants to approach a country for a letter of non-objection if they have an interest in using the 3-letter generically etc.

- BRG: Concerns - Does not support any restrictions on 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 (see comment for full explanation). These strings should be available for different types of uses and delegated through the New gTLD Program. May be willing to accept status quo, noting limited number of strings impacted.
- Group of Registries/NCSG/INTA/IPC/United States Government: 3-character codes ASCII should be eligible for use as gTLDs. Believes that there is a lack of legal basis for reservation and that many of these strings have other meanings. Does not support developing a process to delegate these strings to specific parties exclusively.
- *Make available to governments:*
 - ccNSO/dotBERLIN GmbH & Co. KG, Hamburg Top-Level-Domain GmbH, geoTLD.group/Dotzon GmbH/Government of Spain, Swiss Federal Institute of Intellectual Property, SWITCH, Icelandic Ministry for Foreign Affairs, German GAC, oriGIn, European Broadcasting Union, government of France, association of European regions for origin products (AREPO), Republic of Peru; Portuguese Government; RySG; Governments of Argentina, Chile, and Colombia, Fundación Incluirme/: Divergence - WT5 should not be developing the rules to delegate these strings. Set up of a separate process to study options, potentially once the new gTLD policy for next round is consolidated.
 - CENTR, AFNIC; Uninett Norid AS/Georgia: Divergence/New Idea - Should not be addressed by WT5 or the New gTLD Process, except possibly to recommend a change in the bylaws to establish a new category for these strings. Any delegation should be under the policy authority of the respective national communities, similarly to ccTLDs. Set up a separate process following the next round to consider options.
- ALAC: New Idea - ICANN should have in place a procedure to pre-qualify applicants for any ISO 3166-1 alpha-3 code prior to launch of the next application window/round. [also suggested in ALAC response to proposal 11]
- *Delegate with Support/Non-Objection (Proposal 11):*
 - Support: Dotzon GmbH, ALAC (qualified)
 - Oppose: BRG, BC, IPC, INTA, RySG, United States, NCSG, Group of Registries, RrSG, Governments of Argentina, Chile, and Colombia, Fundación Incluirme, Honduras, Portugal, dotBERLIN GmbH & Co. KG, Hamburg Top-Level-Domain GmbH, geoTLD.group, CENTR, AFNIC, Government of Spain, Swiss Federal Institute of Intellectual Property, SWITCH, Icelandic Ministry for Foreign Affairs, German GAC, oriGIn, European Broadcasting Union, Government of France, association of European regions for origin products (AREPO), Republic of Peru, Georgia, ccNSO, Communications and Information Technology Commission (CITC)
- *Delegate with Support/Non-Objection, only required if intended use is geo (Proposal 12):*

- Support: RrSG
- Don't support restriction in general, but could accept: IPC, INTA, RySG, Group of Registries (see comments for details)
- Oppose: (note that responses oppose for different reasons, see comments for details) ccNSO, ALAC, BRG, BC, United States, NCSG, Governments of Argentina, Chile, and Colombia, Fundación Incluirme, Honduras, Portugal, dotBERLIN GmbH & Co. KG, Hamburg Top-Level-Domain GmbH, geoTLD.group, CENTR, AFNIC, Government of Spain, Swiss Federal Institute of Intellectual Property, SWITCH, Icelandic Ministry for Foreign Affairs, German GAC, oriGIn, European Broadcasting Union, Government of France, association of European regions for origin products (AREPO), Republic of Peru, Georgia, ccNSO, Communications and Information Technology Commission (CITC)
- *ISO should not be the source of 3-character codes in ICANN's work (Proposal 13):*
 - Oppose: BRG, Communications and Information Technology Commission (CITC), RySG, BC, IPC, INTA, United States, NCSG, Government of Spain, Swiss Federal Institute of Intellectual Property, SWITCH, Icelandic Ministry for Foreign Affairs, German GAC, oriGIn, European Broadcasting Union, Government of France, association of European regions for origin products (AREPO), Republic of Peru, Georgia, ccNSO, Governments of Argentina, Chile, and Colombia, Fundación Incluirme, Honduras, Portugal, dotBERLIN GmbH & Co. KG, Hamburg Top-Level-Domain GmbH, geoTLD.group, CENTR, AFNIC, RrSG, ALAC
 - RySG raised concern that the proposal is unclear.

Long-form name listed in the ISO 3166-1 standard, Short-form name listed in the ISO 3166-1 standard, Short- or long-form name association with a code that has been designated as "exceptionally reserved" by the ISO 3166 Maintenance Agency:

- BRG: Concerns - Does not support any restrictions on 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. May be willing to accept status quo.
- NCSG: Divergence - Considers category overly broad to be used for reservations. Some regions represent a very small geographical area, and the unavailability of such strings does not serve the public interest. Discusses cases where sovereignty is either disputed or that a given region is part of a superset.

Separable component of a country name designated on the "Separable Country Names List":

- *Make available:*
 - BRG: Concerns - Does not support any restrictions on 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. May be willing to accept status quo.

- NCSG: Divergence - The expansion of the number and type of reserved names in the 2012 AGB was not sufficiently justified to outweigh the risks incurred and contravene the corresponding 2007 Policy recommendations.
- INTA: Concerns - Names listed in Class C refer to synonyms of the country name, or sub-national entities, and so are not separable components of country names, and therefore should not be reserved.

Permutation or transposition of any of the names included in items (i) through (v):

- Communications and Information Technology Commission (CITC): Divergence - Supports reserving permutations and transpositions of alpha-3 codes.
- *Make available:*
 - INTA: Divergence - Does not support. Considers recommended provision unnecessary and overbroad. Permutations may be a reasonable additional safeguard, but transpositions are unnecessary and capable of adequate protection through curative measures already in place. If the recommendation is retained in full, INTA supports the clarification that permutations and transpositions of alpha-3 codes are not covered.
 - BC: Divergence - Permutations and transpositions create other terms that are not necessarily geographic and therefore may prevent brands with trademarks from applying for these terms.
- *Suggestions/concerns about improving clarity:*
 - APTLD: Divergence - States that allowing permutations and transpositions of alpha-3 codes contradicts that recommendation that alpha-3 codes should be reserved. Suggests removing the portion of the recommendation allowing permutations and transpositions of alpha-3 codes.
 - NCSG: Concerns - Requests clarification as to whether the recommendations intend to allow any applicant to apply for permutations and transpositions of alpha-3 codes. Suggests clarification in Executive Summary of the Supplemental Initial Report.
- *Each national government determines which permutations are reserved (Proposal 14):*
 - Support: Governments of Argentina, Chile, and Colombia, Fundación Incluirme, Honduras, Singapore, Georgia, Communications and Information Technology Commission (CITC)
 - Oppose: dotBERLIN GmbH & Co. KG, Hamburg Top-Level-Domain GmbH, geoTLD.group, CENTR, AFNIC, Portuguese Government, BRG, BC, Dotzon GmbH, Registrar Stakeholder Group (RrSG), Intellectual Property Constituency (IPC), INTA, RySG, ALAC, United States, NCSG, Group of Registries, ccNSO
 - No position due to lack of clarity: Government of Spain, Swiss Federal Institute of Intellectual Property, SWITCH, Icelandic Ministry for Foreign Affairs, German GAC, oriGIn, European Broadcasting Union, government of France, association of European regions for origin products (AREPO), Republic of Peru

Name by which a country is commonly known:

- *Make available:*
 - BRG: Concerns - Does not support any restrictions on 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. May be willing to accept status quo.
 - NCSG: Divergence - Opposes, stating that it does not have a legal basis and can't be restricted to a limited number of names based upon a set of defined standards.
 - BC: Divergence - Does not support.
- APTLD: New Idea - Establish a dedicated procedure to detect and demonstrate respective evidence that a country is commonly known by a name.
- *Reserve commonly known names where government provides "substantial evidence" (Proposal 15):*
 - Support: Government of Spain, Swiss Federal Institute of Intellectual Property, SWITCH, Icelandic Ministry for Foreign Affairs, German GAC, oriGIn, European Broadcasting Union, Government of France, association of European regions for origin products (AREPO), Republic of Peru, ccNSO, Georgia, Communications and Information Technology Commission (CITC), dotBERLIN GmbH & Co. KG, Hamburg Top-Level-Domain GmbH, geoTLD.group, CENTR, AFNIC, ALAC, United States, Governments of Argentina, Chile, and Colombia, Fundación Incluirme, BC, IPC, Honduras
 - Oppose: Dotzon GmbH, INTA, RySG, NCSG, Group of Registries, Portuguese Government
 - Concerns about lack of clarity about the standard of "substantial evidence": BRG, RrSG
 - Burden should not only be on governments, panel can make determination: Government of Spain, Swiss Federal Institute of Intellectual Property, SWITCH, Icelandic Ministry for Foreign Affairs, German GAC, oriGIn, European Broadcasting Union, Government of France, association of European regions for origin products (AREPO), Republic of Peru
- *Reserve translations of commonly known names in any language (Proposal 16):*
 - Support: Government of Spain, Swiss Federal Institute of Intellectual Property, SWITCH, Icelandic Ministry for Foreign Affairs, German GAC, oriGIn, European Broadcasting Union, government of France, association of European regions for origin products (AREPO), Republic of Peru, ccNSO, Georgia, Communications and Information Technology Commission (CITC), dotBERLIN GmbH & Co. KG, Hamburg Top-Level-Domain GmbH, geoTLD.group, CENTR, AFNIC, Portuguese Government, Honduras, Governments of Argentina, Chile, and Colombia, Fundación Incluirme, ALAC, Some members of RySG
 - Oppose: BRG, BC, Dotzon GmbH, RrSG, IPC, INTA, NCSG, Group of Registries, some members of RySG (noting that they seem to support the status

quo and this proposal extends protections beyond the status quo, therefore it may be a misunderstanding of the proposal)

- Additional response, seems to support adding translations, but only official languages of the UN and country: United States

Languages:

- *Summary of perspectives:*
 - APTLD; dotBERLIN GmbH & Co. KG, Hamburg Top-Level-Domain GmbH, geoTLD.group;RDS-HN (Honduras); Dotzon GmbH; ALAC; Government of Spain, Swiss Federal Institute of Intellectual Property, SWITCH, Icelandic Ministry for Foreign Affairs, German GAC, oriGIn, European Broadcasting Union, Government of France, association of European regions for origin products (AREPO), Republic of Peru; Uninett Norid AS; ccNSO; CENTR, AFNIC; Portuguese Government: Support reserving translations in any language. Preferences if fewer languages are ultimately reserved:
 - Government of Spain, Swiss Federal Institute of Intellectual Property, SWITCH, Icelandic Ministry for Foreign Affairs, German GAC, oriGIn, European Broadcasting Union, government of France, association of European regions for origin products (AREPO), Republic of Peru, Portuguese Government: If translations in all languages are not reserved, reserve translations in official, relevant national, regional and community languages.
 - Uninett Norid AS; CENTR, AFNIC: If translations in all languages are not reserved, reserve translations in UN and official languages
 - ccNSO: If translations in all languages are not reserved, reserve translations in official languages
 - RySG: Some support for all languages; Some support for official languages only; Some support for UN and official languages
 - Governments of Argentina, Chile, and Colombia, Fundación Incluirme: Official, relevant national, regional and community languages
 - BC: Official language and commonly used languages
 - United States: UN and official languages
 - Brand Registry Group; Registrar Stakeholder Group (RrSG); Intellectual Property Constituency (IPC); International Trademark Association (INTA); Group of Registries: Official languages.
 - NCSG: No translations.
- *Concerns/New Ideas/Divergence:*
 - *Maintain status quo:*
 - Government of Spain, Swiss Federal Institute of Intellectual Property, SWITCH, Icelandic Ministry for Foreign Affairs, German GAC, oriGIn, European Broadcasting Union, government of France, association of European regions for origin products (AREPO), Republic of Peru; Portuguese Government: Concerns - No factual explanation is contained

- in the report that would support the need to reduce the number of languages.
- Uninett Norid AS; ccNSO; CENTR, AFNIC: Concerns - There have been no reports on possible issues from the 2012 round related to translations.
 - *Reduce number of languages or eliminate reservation of translations:*
 - RySG: Concerns - Some members point out that current restrictions are not based in international law and so further extending the reach to translations in any language is overly broad. Some members believe that the scope of restricting languages for these terms is too broad and impractical.
 - BRG: Concerns - Existing restrictions on languages are too broad and impractical.
 - IPC: Concerns - Reserving translations in all languages does not accord with the intention of protecting the names that countries use to describe themselves, reduces the predictability of the New gTLD Program, increases the likelihood of conflicts between supposed country names and the other potential co-existing uses of the same term in some language which bears no connection with the country in question. Reserving translations in all languages is contrary to Principle C from the 2007 GNSO Recommendations.
 - Group of Registries: Concerns - The current restrictions are not based in international law and so further extending the reach to translations in any languages is overly broad.
 - NCSG: Divergence - Does not support reservation of translations. Including the translation of the listed names can lead to the unnecessary expansion of the list of reserved names, making those names unfairly and arbitrarily unavailable. It restricts consumers' freedom of choice.
 - *Reserve translations of more types of strings:*
 - Communications and Information Technology Commission (CITC): Concerns - Translations of the following strings should be addressed and reserved: long-form country/territory names, separable components, permutations and transpositions including for alpha-3 codes, name by which a country is commonly known.
 - Uninett Norid AS; ccNSO; CENTR, AFNIC: New Idea - Suggests a curative process, such as an objection procedure, for commonly used languages in the country in question.

Geographic Terms Requiring Letters of Support/Non-Objection (Recommendations 10, 12, 13)

For reference - Relevant Preliminary Recommendations, in summary:

The following categories will require a letter of support or non-objection from the relevant governments or public authorities for application at the top-level:

- *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*
- *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*
- *An application for a string 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. 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*

Consult the public comment summary document for full text of the preliminary recommendations, as well as full detail of comments received here:

https://docs.google.com/spreadsheets/d/1WKSC_pPBviCnbHxW171Zlp4CzuhQXRCV1NR2ruagrxs/edit?usp=sharing

Capital city names

- Does not support restrictions
 - BRG: Concerns - 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. 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.
 - Group of Registries: Uniregistry, Minds + Machines Group, Top Level Design, Amazon Registry Services, Employ Media LLC: Divergence/BC - Does not support restrictions on the use of terms that match capital and other city or territory names. We object to the requirement for letters of support or objection for Recommendations 10-13.
 - NCSG: Concerns/Divergence - Receiving non-objection letters from public authorities and governments is burdensome and sometimes impossible, especially if it is not clear which public authority is in charge of decision making in this matter. It is also not clear what would happen if the public authority does not react at all to the efforts of obtaining a non-objection letter. Moreover, it is unclear what would happen in the common situation where multiple cities, states, provinces, or other sub-national places share common names. Putting ICANN in the position of evaluating the validity of such claims would be an illegitimate expansion of mandate.

- RrSG: Divergence - The RrSG does not support this recommendation. Given the repeat use of city names, it is not realistic to give one city more weight than another re use of a TLD. It should also be noted that some countries have multiple capitals (political, religious, historic, royal, etc.).
- Intended-use provision
 - Group of Registries: Uniregistry, Minds + Machines Group, Top Level Design, Amazon Registry Services, Employ Media LLC: Divergence - ...but if the community prefers to keep the requirements, we propose that the following requirement (Applicant Guidebook 2.2.1.4.2(2)) apply to all names which match city (including capital city) names “[a]n application where the applicant declares that it intends to use the gTLD for purposes associated with the city name.”
 - INTA: Divergence - INTA recognizes that this is current practice with ICANN but objects to this recommendation as it conflicts with established law. A more balanced approach would be to apply an intended use standard in respect of names which match capital cities – see our comments on recommendation 11.
- dotBERLIN GmbH & Co. KG, Hamburg Top-Level-Domain GmbH, geoTLD.group: New Idea - Add the following text in bold, "Applications for these strings must be accompanied by documentation of support or non-objection from the relevant governments or public authorities, **independent from the intended use:**"
- Communications and Information Technology Commission (CITC): New Idea - Add translations for Sub-national place names (county, province, or state, listed in the ISO 3166-2 standard), and UNESCO or M49 Area.

*Sub-national place names (county, province, or state, listed in the ISO 3166-2 standard) - **Note, themes are similar to capital city names. This section seeks to identify comments that are differing in nature to that section.***

- Does not support restrictions
 - INTA: Divergence - INTA does not support this recommendation and views it as an example of preventative creep whereby groups seek solutions to speculative problems that have not arisen. It is unnecessary, burdensome and in violation of established international law to grant governments property rights in a sub-national place name thereby giving said governments the power to prevent others throughout the world from applying for a new gTLD which happens to share that name but intended for a purpose unconnected with the geography.
 - Group of Registries: Uniregistry, Minds + Machines Group, Top Level Design, Amazon Registry Services, Employ Media LLC/RrSG: Divergence - ...as we note that there is no legal basis to withhold the strings in recommendations 1-9 and to require letters of support or non-objection in recommendations 10-13
 - BRG: Divergence - 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. □

UNESCO or M49 Area. Note, themes are similar to capital city names. This section seeks to identify comments that are differing in nature to that section.

- NCSG: Divergence/Concerns - While we do not oppose using ISO 3166-1 and ISO 3166-2 for deciding in which cases a letter of non-objection should be obtained, we oppose the following recommendation: Applications for a string listed as a UNESCO region or appearing on the “Composition of macro geographical (continental) regions, geographical subregions, and selected economic and other groupings” list (preliminary recommendation #13). The cases should be limited to ISO 3166-1 and and ISO 3166-2 and no other United Nations or other international organizations groupings should be used. It is paramount to consider that at different UN agencies, regional groupings and geographical regions differ. Including such organizations, opens the door to broad interpretations and expansion to the list of names that cannot be delegated.
- Christopher Wilkinson: New Idea - Note that the general concept of cross-border regions is probably broader than UNESCO's. Other concepts such as mountain chains, river basins, archipelagos, desert, forests etc. may well come into play in different parts of the world.

Capital city names, Sub-national place names (county, province, or state, listed in the ISO 3166-2 standard), UNESCO or M49 Area

- *Each of these areas has a similar set of proposals that received a combination of support and opposition.*
 - Introduce an intended-use provision (Proposals 17, 29, 32)
 - Introduce an intended-use provision AND insert contractual provisions (Proposals 28 and 31 - in this case, there was no identical proposal for capital city names)
 - Eliminate the requirement for support/non-objection entirely (Proposals 18, 27, 30)

Geographic Terms That Require Letters of Support/Non-Objection Dependent Upon Intended Usage (Recommendation 11)

For reference - Relevant Preliminary Recommendations, in summary:

Applications for these strings must be accompanied by documentation of support or non-objection from the relevant governments or public authorities:

- *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

Consult the public comment summary document for full text of the preliminary recommendations, as well as full detail of comments received here:

https://docs.google.com/spreadsheets/d/1WKSC_pPBviCnbHxW171Zlp4CzuhQXRCV1NR2ruagrxs/edit?usp=sharing

*Note, themes from questions e9 and e10 integrated where appropriate. Note as well that e10 asks respondents to identify which proposal they support, which therefore creates some redundancy.

Modifications to preliminary recommendation

- dotBERLIN GmbH & Co. KG, Hamburg Top-Level-Domain GmbH, geoTLD.group/Dotzon GmbH: Divergence/New Idea - We do not support the recommendation. We request to amend the recommendation as follows: **"An application for a string which is a representation of a city name of any country or territory according to the list at <http://unstats.un.org/unsd/demographic/products/dyb/dyb2015/Table08.xls>. An application for such a string 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; or (b) The applied-for string is a city name as listed on official city documents."** (also noted in response to question e9)
- United States (In response to question e9): New Idea - If this category is retained for future rounds, it should be amended to require a letter of support or non-objection only where it is clear from the applicant's statements in its application that the proposed use of the string would create a false or deceptive association with the government or the public authority. What may be considered "purposes associated with the city name," without more, is unclear and overly broad and could sweep in uses of a name that have no association or connection with the government or public authorities of a city.
- BRG: New Idea (In response to question e9) - 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.
- Proposal 19, variant 1: 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. (*primarily opposition*)

- Proposal 19, variant 2: 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.” (*near universal opposition*)
- Proposal 19, variant 3: 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.” (*near universal opposition*)

Lack of legal basis, lack of rationale for protections

- RySG/Group of Registries (Uniregistry, Minds + Machines Group, Top Level Design, Amazon Registry Services, Employ Media LLC): Divergence - **Some** RySG members would support changes that reduce the existing level of restrictions or requirements and argue that there is no legal basis to withhold the strings.
- INTA: Divergence - INTA recognizes that this is current practice with ICANN but objects to this recommendation as it conflicts with established law. To the extent that there are preventative measures relating to non-capital city names, then INTA agrees that it is important to continue to bear in mind the intended use. Many city names have multiple legitimate uses and meanings.
- BRG: Divergence/Concerns - 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. 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 nongeographic 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.
- NSCG: Divergence - Moreover, it is unclear what would happen in the common situation where multiple cities, states, provinces, or other sub-national places share common names. Putting ICANN in the position of evaluating the validity of such claims would be an illegitimate expansion of mandate. (In response to question e9 and e10) Reference to a city, and the usage of a city name, falls under the scope of the right to freedom of expression. International law does not contain any specific requirements with regard to usage of city names, nor does it mention the need to obtain prior permission of the government. In this regard, the NSCG believes that governments should have no priority

rights to non-capital city names as compared to other applicants when it comes to allocation of new gTLDs.

- RrSG: Divergence - The RrSG does not support this recommendation. This presumes a city has some rights to the name in any context, which is not true within other offline contexts.

Do not require letter of support/non-objection if applicant has TM rights and use TLD for Brand purposes

- INTA/BRG/IPC: New Idea - Even if a gTLD corresponds to a city name and will be associated with that city, that does not necessarily mean it is a cause for any concern. Many companies are named after cities and have their head office in that city so that a gTLD for the company name would be “associated” with the city. INTA recommends this requirement be modified so that letters of support or non-objection will not be required where the applicant has trademark rights in the gTLD string and will use the TLD for purposes associated with the Brand.

Reliance on curative mechanism

- United States (In response to question e9): New Idea - It also would be beneficial to insert a curative mechanism (in the form of public interest commitments) that would ensure that the gTLD would not be used in a way that would falsely create a connection with a city governmental authority.
- NCSG (In response to question e9 and e10): New Idea - If at a later stage it appears that a name is misused, there are curative rights mechanisms available to file an objection. The objection process should be seen as a sufficient means to address governments’ concerns as to the application, In the same way as it works for other stakeholders who have to closely monitor an application process and raise their concerns in a timely manner in order to prevent violation of their rights and interests.
- Proposal 20: Eliminate preventative protections for non-capital city names and focus instead on curative protections. (*combination of support and opposition*)

Require letter of support/non-objection independent from intended-use

- RySG: Divergence - **Some** RySG members that support the proposed preliminary recommendations would prefer that letters of support or non-objection in Recommendations 10-13 are required “independent from the intended use” and are of the opinion that this adds to the clarity and predictability of the application process.
- ALAC: Divergence - **Some** support for the suggestion that all applications for city names be subject to the requirement for letters of support or non-objection from the relevant government or public authority irrespective of intended use statements submitted by applicants.
- Communications and Information Technology Commission (CITC): Divergence - Since it is a city name a government support is necessary thus the text starting with “if: (a) it is” till the end shall be removed.

- Georgia: Divergence - Documentation support or non-objection form from the relevant governments or public authorities must be required if the applicant will use the TLD for any purposes and not only for the purposes associated with the city name.
- Tom Dale: Divergence - Not supported. The “intended use” provision is inconsistent with the unique nature of geo TLDs and is open to gaming.
- In response to question e9, agreement from some respondents.
- Proposal 21: 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. (received a combination of support and opposition).

Related proposals that received a combination of support and opposition:

- Proposal 23: 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 on one of the following standards or a combination of these standards (see proposal for options)
- Proposal 24: 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.

Proposal/Options Mapping

- TBD

Follow-up / Referrals to other sections / parking lot / suggested next steps

Follow-up (with stakeholder groups)

- None

Referrals to other sections

- None

Parking lot

- None

Suggested next steps

- TBD

