

ICANN Board-GAC Consultation: Geographic Names

EXPLANATION OF ISSUE/HISTORY

The GAC Principles regarding New gTLDs contain two paragraphs addressing geographic names. Paragraph 2.2¹ relates to names at the top level and paragraph 2.7² relates to names at the second level. In its policy recommendations, the GNSO provided that no specific protections be put in place beyond those afforded in the objection and dispute resolution process:

- that community objection procedures provided protections the GAC sought at the top level, and
- protections at the second level should be left to individual registries.

There has been regular communication in the form of face-to-face meetings, communiqués and correspondence between the GAC, staff and the Board on the treatment of geographic names and other issues, since the Board approved the GNSO recommendations for the introduction of new gTLDs in Paris in June 2008.

Many amendments have been made to the Guidebook that incorporate GAC requests regarding the treatment of geographical names.

REMAINING AREAS OF DIFFERENCE:

1. The current Guidebook states that country and territory names will not be available in the first round. The GAC requests that Country and territory names not be available until the completion of the IDN ccPDP, and that it may be more appropriate to consider country and territory names outside the new gTLD program.
2. The current Guidebook protects country and territory names that appear on specific U.N. lists and their translations. The GAC requests that names by which countries, cities or regions are commonly known as, or abbreviations of, and which do not appear in the lists used to define geographic names in the Applicant Guidebook should also be given the same protection as names that do appear.

¹ 2.2 ICANN should avoid country, territory or place names, and country, territory or regional language or people descriptions, unless in agreement with the relevant governments or public authorities.

² 2.7 Applicant registries for new gTLDs should pledge to:

- a) adopt, before the new gTLD is introduced, appropriate procedures for blocking, at no cost and upon demand of governments, public authorities or IGOs, names with national or geographic significance at the second level of any new gTLD;
- b) ensure procedures to allow governments, public authorities or IGOs to challenge abuses of names with national or geographic significance at the second level of any new gTLD

3. The current Guidebook states that applications for strings that match city names require approval of the relevant government if the applicant asserts in the application that the TLD will represent the city. The GAC requests that ICANN review applications to ensure applicants do not avoid the safeguards of government support by misstating that the intended use of the name is for non-community purpose.

With regard to issues 2. and 3. the GAC believes that prior reviews of new gTLD strings can serve as an “early warning” to applicants, providing an opportunity to amend or modify the proposed string prior to proceeding further in the application process or provide opportunities to determine whether the applicant is the sole appropriate manager or relevant authority for that particular string, or whether the proposed string is either too broad to effectively identify a single entity as the relevant authority or appropriate manager, or is sufficiently contentious that an appropriate manager cannot be identified and/or agreed. See Letter from GAC to ICANN, dated 22 November 2010 at <http://www.icann.org/en/correspondence/dryden-to-dengate-thrush-22nov10-en.pdf>

Based on the GAC’s comments on version 4 of the Applicant Guidebook, dated 23 September 2010, <http://www.icann.org/en/correspondence/dryden-to-dengate-thrush-23sep10-en.pdf>, and recent conversations with GAC members, the following areas, highlighted in bold, are considered outstanding. The Board position and rationale is as follows:

- **Country and territory names not be available in new gTLD rounds until the completion of the IDN ccPDP.**

In correspondence to the GAC on 5 August 2010 and in response to GAC request, the Board Chair confirmed, after advice from the GAC and comments from the ccNSO, that country and territory names would not be available to delegation in the first round of the new gTLD application process. The issue of the use of country and territory names in general is considered as out of scope of the IDN ccPDP, and therefore linking the two processes does not appear appropriate.

Prolonging the exclusion of country and territory names in further new gTLD rounds should not be decided before the process that will be used to deal with this issue is clarified. While it is not certain that the country name exclusion will be removed after the first round, the Board believes it is preferable not to prejudge that possibility at that stage.

The ccNSO is considering the options available, and will advise the Board in due course. Modalities for subsequent rounds will be determined in view of these recommendations as well as community and GAC advice.

- **Names by which countries, cities or regions are commonly known as and which do not appear in the ISO lists should also be given the same protection as names that do appear.**

The Board has sought to ensure, throughout the process of developing a framework for new gTLDs, that there is a clear process for applicants, and appropriate safeguards for the benefit of the broad community including governments. The current criteria for defining geographic names as reflected in the Proposed Final Version of the Applicant Guidebook are considered to best meet the Board's objectives and are also considered to address to the extent possible the GAC principles. These compromises were developed after several consultations with the GAC – developing protections geographic names well beyond those approved in the GNSO policy recommendations. These definitions, combined with the secondary avenue of recourse available by way of objections were developed to address the GAC's concerns.

In developing the process for geographic names, ICANN has relied upon ISO or UN lists to assist with geographical definitions in the context of new gTLDs. The combined total of names currently protected in the new gTLD process is well in excess of 5000 names, and providing protection for “commonly used” interpretations of these names would multiply the number of names and the complexity of the process many-fold.

In correspondence to the GAC on 5 August 2010, the Board Chair indicated that the Board had sought to remove the ambiguity of the term ‘meaningful representation’ from the definition of country and territory names. The current definition is objectively based on the ISO 3166-1 and other published lists to provide greater clarity for applicants and appropriate safeguards for governments and the broad community.

Holland has been raised in this context as an example on a number of occasions by the GAC. However, while not appearing on the ISO 3166-1 list, Holland appears to be protected, as it the Danish translation of ‘the Netherlands’.

Language has been added to the Guidebook indicating that governments may send notifications regarding national laws directly to applicants or via public comment forum (see Applicant Guidebook, Module 1, section 1.1.2.5 <http://www.icann.org/en/topics/new-gtlds/draft-rfp-clean-12nov10-en.pdf>) once the applications are publicly posted. Such notifications are not meant to serve as formal objections or be cause for a modification to an application. It was decided early in the process development that applicants should not be able to amend applications or applied for strings in order to prevent abuses.

- **ICANN to review the proposal for city names in the applicant guidebook to ensure applicants do not avoid the safeguards of government support or non-objection by stating that the intended use of the name is for non-community purposes.**

It is acknowledged in the Guidebook (and in correspondence and discussions with the GAC) that city names present challenges because city names may also be generic terms or brand names and, in many cases, no city name is unique. Unlike other types of geographic names, there are no established lists that can be used as objective references in the evaluation process. This makes it impracticable or impossible for evaluators to effectively check whether applications for strings are city names and would exclude thousands of legitimate uses and applications. In addition, given that many of the names of cities are duplicated across the world, it would be impracticable for the evaluators to determine which government or public authority is 'relevant' in the context of the rules of the Applicant Guidebook. Thus, all city names are not afforded the same types of protection as country and capital city names.

However, an application for a *city name*, where the applicant declares that it intends to use the gTLD for purposes associated with the city name, will require support or non-objection from the relevant government or public authority.

Applicants are required to provide a description/purpose of what the TLD will be used for, and to adhere to the terms and conditions of submitting an application including confirming that all statements and representations contained in the application are true and accurate. The Registry Agreement has the same clause.

Language has been added to the Guidebook indicating that governments may send notifications regarding national laws directly to applicants or via public comment forum (see Applicant Guidebook, Module 1, section 1.1.2.5 <http://www.icann.org/en/topics/new-gtlds/draft-rfp-clean-12nov10-en.pdf>) once the applications are publicly posted. Such notifications are not meant to serve as formal objections or be cause for a modification to an application. It was decided early in the process development that applicants should not be able to amend applications or applied for strings in order to prevent abuses.

RELEVANT GUIDEBOOK SECTIONS

1.1.2.5 *Public Comment*

...Governments may provide a notification using the public comment forum to communicate concerns relating to national laws. However, a government's notification of

concern will not in itself be deemed to be a formal objection. A notification by a government does not constitute grounds for rejection of a gTLD application.

Governments may also communicate directly to applicants using the contact information posted in the application, e.g., to send a notification that an applied-for gTLD string might be contrary to a national law, and to try to address any concerns with the applicant.

As noted above, applicants are encouraged to identify potential sensitivities in advance and work with the relevant parties to mitigate concerns related to the application...

2.2.1.4.1 Treatment of Country or Territory Names³

Applications for strings that are country or territory names will not be approved, as they are not available under the New gTLD Program in this application round. A string shall be considered to be a country or territory name if:

- i. it is an alpha-3 code listed in the ISO 3166-1 standard.
- ii. it is a long-form name listed in the ISO 3166-1 standard, or a translation of the long-form name in any language.
- iii. it is a short-form name listed in the ISO 3166-1 standard, or a translation of the short-form name in any language.
- iv. it is the short- or long-form name association with a code that has been designated as “exceptionally reserved” by the ISO 3166 Maintenance Agency.
- v. it is a separable component of a country name designated on the “Separable Country Names List,” or is a translation of a name appearing on the list, in any language. See the Annex at the end of this module.
- vi. It is a 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.”

2.2.1.4.2 Geographic Names Requiring Government Support

The following types of applied-for strings are considered geographic names and must be accompanied by documentation of support or non-objection from the relevant governments or public authorities:

³ Country and territory names are excluded from the process based on advice from the Governmental Advisory Committee in recent communiqués providing interpretation of Principle 2.2 of the GAC Principles regarding New gTLDs to indicate that strings which are a meaningful representation or abbreviation of a country or territory name should be handled through the forthcoming ccPDP, and other geographic strings could be allowed in the gTLD space if in agreement with the relevant government or public authority.

1. 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.

In this case, it is anticipated that the relevant government or public authority would be at the national level.

2. An application for a city name, where the applicant declares that it intends to use the gTLD for purposes associated with the city name.

City names present challenges because city names may also be generic terms or brand names, and in many cases no city name is unique. Unlike other types of geographic names, there are no established lists that can be used as objective references in the evaluation process. Thus, city names are not universally protected. However, the process does provide a means for cities and applicants to work together where desired.

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.⁴

In the case of an application that meets conditions (a) and (b), documentation of support will be required only from the relevant government or public authority of the city named in the application.

3. 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.

In this case, it is anticipated that the relevant government or public authority would be at the sub-national level, such as a state, provincial or local government or authority.

4. An application for a string listed as a UNESCO region⁵ or appearing on the "Composition of macro geographical (continental) regions, geographical sub-regions, and selected economic and other groupings" list.⁶

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

⁴ City governments with concerns about strings that are duplicates, nicknames or close renderings of a city name should not rely on the evaluation process as the primary means of protecting their interests in a string. Rather, a government may elect to file a formal objection to an application that is opposed by the relevant community, or may submit its own application for the string.

⁵ See <http://www.unesco.org/new/en/unesco/worldwide/>.

⁶ See <http://unstats.un.org/unsd/methods/m49/m49regin.htm>.

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.

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.

An applied-for gTLD string that falls into any of 1 through 4 listed above is considered to represent a geographic name. In the event of any doubt, it is in the applicant’s interest to consult with relevant governments and public authorities and enlist their support or non-objection prior to submission of the application, in order to preclude possible objections and pre-address any ambiguities concerning the string and applicable requirements.

In the event that there is more than one relevant government or public authority for the applied-for gTLD string, the applicant must provide documentation of support or non-objection from all the relevant governments or public authorities. It is anticipated that this may apply to the case of a sub-national place name.

It is the applicant’s responsibility to:

- identify whether its applied-for gTLD string falls into any of the above categories; and
- determine the relevant governments or public authorities; and
- identify which level of government support is required.

The requirement to include documentation of support for certain applications does not preclude or exempt applications from being the subject of objections on community grounds (refer to subsection 3.1.1 of Module 3), under which applications may be rejected based on objections showing substantial opposition from the targeted community.

REFERENCE DOCUMENTS: USE AND PROTECTION OF GEOGRAPHICAL NAMES

- **SUMMARY OF ACTIONS TAKEN RESPONDING TO GAC AND PUBLIC COMMENTS**

- **CHRONOLOGICAL LISTING OF GAC ADVICE AND COMMENTS ON NEW GTLDS AND RESPONSES PROVIDED BY ICANN AND KEY DOCUMENTS PUBLISHED ON THE TOPICS**

SUMMARY OF ACTIONS TAKEN RESPONDING TO GAC AND PUBLIC COMMENTS

Use and protection of geographical names

- The inclusion of geographic names, as defined in the Guidebook, was developed in response to GAC principle 2.2.
- The protection of government interests in geographic names is accounted for by the requirement that no application for a geographic name (as defined in the Guidebook) can be approved without documentation of the support or non-objection from the relevant government or public authority.
- Country and territory names, as defined in the Applicant Guidebook, have been excluded from the first application round of the gTLD process based on GAC advice.
- A minimum list of reserved names was added to the Registry Agreement based on GAC principle 2.7 which called for protections at the second level. Similarly, all applicants are required to describe in the application their proposed measures for ensuring the protection of geographic names at the second and other levels in the TLD. This information is posted for public information and comment, in accordance with GAC advice.
- The capacity for an objection to be filed on community grounds, where there is substantial opposition to an application from a community that is targeted by the name also provides an avenue of protection for names of interest to a government which are not defined in the Applicant Guidebook.

THIS TABLE PROVIDES A CHRONOLOGICAL LISTING OF GAC ADVICE AND COMMENTS ON NEW GTLDS AND RESPONSES PROVIDED BY ICANN AND KEY DOCUMENTS PUBLISHED ON THE TOPICS

Use And Protection Of Geographic Names

GAC Advice and Comments	ICANN responses and key documents
<p>28 March 2007: GAC Principles regarding New gTLDs</p> <p>2.2 ICANN should avoid country, territory or place names, and country, territory or regional language or people descriptions, unless in agreement with the relevant governments or public authorities.</p> <p>2.7 Applicant registries for new gTLDs should pledge to:</p> <p>a) Adopt, before the new gTLD is introduced, appropriate procedures for blocking, at no cost and upon demand of governments, public authorities or IGOs, names with national or geographic significance at the second level of any new gTLD.</p> <p>b) Ensure procedures to allow governments, public authorities or IGOs to challenge abuses of names with national or geographic significance at the second level of any new gTLD.</p>	<p>ICANN mapping of GNSO Policy Recommendations</p> <p>2.2) is addressed by the GNSO Recommendation 20; “An application will be rejected if an expert panel determines that there is substantial opposition to it from a significant portion of the community to which the string may be explicitly or implicitly targeted.” providing grounds for an objection process and subsequent dispute resolution handling, as further developed in GNSO Implementation Guideline P. The GNSO Implementation Guideline H* is also of relevance in this context. Further guidance is provided by the GNSO Reserved Names WG Recommendation 20: “There should be no geographical reserved names (i.e., no exclusionary list, no presumptive right of registration, no separate administrative procedure, etc.). The proposed challenge mechanisms currently being proposed in the draft new gTLD process would allow national or local governments to initiate a challenge, therefore no additional protection mechanisms are needed. Potential applicants for a new TLD need to represent that the use of the proposed string is not in violation of the national laws in which the applicant is incorporated. However, new TLD applicants interested in applying for a TLD that incorporates a country, territory, or place name should be advised of the GAC principles, and the advisory role vested to it under the ICANN bylaws.</p> <p>Additionally, a summary overview of the obstacles encountered by previous applicants involving similar TLDs should be provided to allow an applicant to make an informed decision. Potential applicants should also be advised that the failure of the GAC, or an individual GAC member, to file a challenge during the TLD application process, does not constitute a waiver of the authority vested to the GAC under the ICANN bylaws.”</p> <p>Issues regarding geographical names in relation to the introduction of new gTLDs have been discussed by other entities in the ICANN community, including the ccNSO (see</p>

<http://ccnso.icann.org/meetings/losangeles/ccnso-council-minutes-31oct07.pdf>2.

From an implementation perspective, it is foreseen that corresponding requirements regarding documentation of government ascent be clearly stated to the applicants and all relevant applications be checked for compliance as appropriate.

In the absence of a reservation approach, the gTLD application process being developed by ICANN staff proposes to integrate the above GAC principle as outlined below.

Applicants wishing to apply for a gTLD string that is a meaningful representation of the name of a country or territory listed in ISO 3166-1 (in any script), should be prepared to provide documented support or documented lack of objection from the relevant government or public authority. This would be a considered a criterion for an applicant to pass the initial evaluation stage of the process.

In the case of an application for a string that the application evaluators believe is a meaningful representation of the name of a country or territory on the ISO 3166-1 list, where the application did not include documentation of agreement by the relevant government or public authority, ICANN would require the applicant to refer the application to the government or public authority to obtain an expression of support or of "no objection." In the absence of such an expression, the application would proceed no further toward approval.

Consistent with the GNSO Reserved Names Working Group's recommendation that potential applicants should be informed of the relevant constraints, the above procedure would be fully disclosed and documented in the Request For Proposals (RFP) for new gTLDs. Applicants could choose how to proceed based on knowledge of the steps they would be required to follow.

This approach is in line with principles that have historically been applied in ccTLD delegation and redelegation processes. As noted in RFC 1591 (Domain Name System Structure and Delegation) and ICP-1, Internet Domain Name System Structure and Delegation (ccTLD Administration and Delegation):

The desires of the government of a country with regard to delegation of a ccTLD are taken very seriously. The IANA will make them a major consideration in any TLD delegation/transfer discussions. Significantly interested parties in the domain should agree that the proposed TLD manager is the appropriate party. (see <http://www.isi.edu/in-notes/rfc1591.txt>; <http://www.icann.org/icp/icp-1.htm>).

The above procedure refers to a string that is a meaningful representation of the name of a country or territory on the ISO 3166-1 list. For strings denoting other geographical identifiers (for example: landmarks, rivers, cities), the objection

mechanism would remain available to significantly interested stakeholders, including governments. Objections to geographical identifiers other than country names would trigger a dispute resolution process where these issues can be properly adjudicated based on the particular circumstances.

Note that the GNSO anticipated that the implementation of the objection process that addresses recommendation 20 (described above) would be adequate to address applications for meaningful representations of country names. There is some discussion among the council that the procedure described in this implementation detail to consult with governments is not required. It is not clear though that the process of government consultation differs from the GNSO policy implementation. Consultation will continue with GAC and council to provide clear information regarding implementation.

2.7a) The GNSO Reserved Names WG considered geographical and geopolitical names without recommending that they be reserved at the outset, stating in their report: “In the case of geographical/geopolitical names and controversial names, it was very difficult if not impossible to define clear reservation requirements that could be applied for all new gTLDs”.

The GNSO Reserved Names WG report also states that: “Protection afforded to Geographic indicators is an evolving area of international law in which a one-size fits all approach is not currently viable. The proposed recommendations in this report are designed to ensure that registry operators comply with the national laws for which they are legally incorporated/organized.”

Further guidance is provided by the GNSO Reserved Names WG Recommendation 22: “The consensus view of the working group is given the lack of any established international law on the subject, conflicting legal opinions, and conflicting recommendations emerging from various governmental fora, the current geographical reservation provision contained in the sTLD contracts during the 2004 Round should be removed, and harmonized with the more recently executed .COM, .NET, .ORG, .BIZ and .INFO registry contracts. The only exception to this consensus recommendation is those registries incorporated/organized under countries that require additional protection for geographical identifiers. In this instance, the registry would have to incorporate appropriate mechanisms to comply with their national/local laws. For those registries incorporated/organized under the laws of those countries that have expressly supported the guidelines of the WIPO Standing Committee on the Law of Trademarks, Industrial Designs and Geographical Indications as adopted by the WIPO General Assembly, it is strongly

	<p>recommended (but not mandated) that these registries take appropriate action to promptly implement protections that are in line with these WIPO guidelines and are in accordance with the relevant national laws of the applicable Member State.</p> <p>2.7b) The GNSO Recommendation 16 states that: “Registries must apply existing Consensus Policies and adopt new Consensus Policies as they are approved.” This implies that all new gTLDs would be bound by the existing Consensus Policies, including the UDRP that applies to trademark-related disputes for second level domain names. Any new Consensus Policy that may emerge for dispute resolution on the second level will likewise apply to all new gTLDs in line with the above Recommendation. Provisions to that effect will be included in the base agreement for new gTLDs.</p>
<p>31 October 2007: Communiqué Los Angeles Appreciates work done by GNSO regarding the proposal for principles, recommendations and implementation guidelines for new gTLDs. GAC draws attention to the fact that the proposal does not properly take into account paragraph 2.2 in the <i>GAC principles regarding new gTLDs</i>, in particular the avoidance of country names. In practice some countries would not be in a position to avail themselves of the proposed objection mechanism especially those not participating in ICANN activities.</p>	
<p>13 February 2008: Communiqué New Dehli On IDN gTLDs:</p> <ul style="list-style-type: none"> • <i>GAC Principles regarding new gTLDs</i> are equally relevant to IDN gTLDs. • should avoid country, territory, place names and country territory or regional language or people descriptions, unless in agreement with the govts or relevant public authorities. <p>In the event that there is any doubt regarding the status of whether an application constitutes an IDN ccTLD or IDN gTLD, ICANN should consult with the govt. or RPA of the territory concerned to determine whether there may be any potential infringement of their sovereign rights regarding their country or territory name.</p>	
<p>26 June 2008: Communiqué Paris On the introduction of the gTLDs the GAC expressed concern to Board and GNSO that the GNSO proposals do not include provisions reflecting GAC Principles regarding new gTLDs, names 2.2, 2.6 and 2.7.</p>	
	<p>2 October 2008: Letter from ICANN CEO to GAC Chair http://www.icann.org/correspondence/twomey-to-karklins-02oct08.pdf Following up letter on treatment of geographic names after teleconference with</p>

	<p>the GAC. Letter outlines proposal for way forward re para 2.2:</p> <ul style="list-style-type: none">• Supporting documentation, evidence of non-objection, from the relevant government or public authority will be required for strings which represent a country or territory name. ISO 3166-1 list will be used as reference list.• Place names was considered very broad and were defined as:<ul style="list-style-type: none">○ sub-national geographic identifiers such as counties, states, provinces. The ISO 3166-2 identified as the reference list, and support documentation, evidence of non-objection required;○ city names are challenging because a city name can also be a generic term, or a brand name, and in many cases no city name is unique. Therefore, an applicant that clearly intends to use the TLD to leverage the city name, will require supporting documentation.• Regional language and people descriptions—difficult to determine the relevant government or public authority for a string which represents a language or people description as there are generally no recognized established rights for such descriptions <p>Paragraph 2.7 (a)</p> <ul style="list-style-type: none">• ICANN would be reluctant to place blanket restrictions on the use of geo names at the second level due to anticipated multi-national companies expected to apply for a brand name. Names with national and geographic significances difficult to define. <p>Paragraph 2.7(b)</p> <ul style="list-style-type: none">• Names with national and geographic significance are difficult to define, as is what constitutes an ‘abuse’ of a name. UDRP protects rights at the second level.
<p>5 November 2008: Communiqué Cairo Appreciates level of engagement inter-sessionally with ICANN staff which lead to better reflection of the GAC principles in New gTLDs in the DAG, particularly principles 2.2 and 2.6. As a result became more sensitive to the potential blurring of the existing distinction between the ccTLD and gTLD namespace.</p> <p>Questions related to consideration of country and territory names need to be</p>	

<p>addressed further. Will continue consideration of whether the strings being meaningful representations or abbreviations of a country or territory name in any script or language should not be allowed in the gTLD space until the related ccTLD PDP is completed.</p> <p>The procedure recommended in 2.7a of the GAC principles also needs to be further considered in the DAG.</p>	
<p>10 March 2009: Comments on V1 of Applicant Guidebook The GAC expects ICANN to apply GAC gTLD principles in respect to the handling of geographic names and in particular principles 2.2 (including place names) and 2.7 that are not comprehensively addressed in the implementation proposals.</p> <p>Strings being meaningful representations or abbreviations of a country and territory name in any script or language should not be allowed in the gTLD space until the related IDN ccTLD policy development processes have been completed.</p> <p>The proposed introduction of new gTLDs and in particular any process relating to the protection of geographic names should not result in an unreasonable administrative burden for government administrations.</p>	<p>24 October 2008: Applicant Guidebook Version 1 http://www.icann.org/en/topics/new-gtlds/draft-rfp-24oct08-en.pdf</p> <p>22 October 2008, Explanatory memo—Proposed process for geographic names applications http://www.icann.org/en/topics/new-gtlds/geographic-names-22oct08-en.pdf</p> <p>18 February 2009, version 1 Public Comments Analysis Report http://www.icann.org/en/topics/new-gtlds/agv1-analysis-public-comments-18feb09-en.pdf</p>
	<p>6 March 2009: Board meeting Mexico City Resolved (2009.03.06.07), the Board is generally in agreement with the proposed treatment of geographic names at the top-level, and staff is directed to revise the relevant portions of the draft Applicant Guidebook to provide greater specificity on the scope of protection at the top level for the names of countries and territories listed in the ISO 3166-1 standard, and greater specificity in the support requirements for continent names, and post the revised position for public comment.</p> <p>Resolved (2009.03.06.08), staff is directed to send a letter to the GAC by 17 March 2009 identifying the implementation issues that have been identified in association with the GAC's advice, in order to continue communications with the GAC to find a mutually acceptable solution. The Board would request a preliminary response by 24 April 2009 and a final report by 25 May 2009.</p>
	<p>17 March 2009: Letter from ICANN CEO to GAC Chair http://www.icann.org/correspondence/twomey-to-karklins-17mar09-en.pdf</p> <ul style="list-style-type: none"> • Outlines Board resolution of 6 March 2009 • Board believes treatment of geographic names at the top level provides a

	<p>workable compromise between paragraph 2.2 and the GNSO's policy recommendation 20.</p> <ul style="list-style-type: none">• Seeks the GAC's members input on possible options to resolve the outstanding implementation issues regarding the protection of geographic names at the second level, specifically paragraph 2.7.
<p>24 April 2009: Letter from GAC Chair to ICANN CEO http://www.icann.org/correspondence/karklins-to-twomey-24apr09.pdf</p> <ul style="list-style-type: none">• Geographic Names at the top level:<ul style="list-style-type: none">○ Rights of governments or public authorities in relation to the rights of the sovereign state or territory which they represent cannot be limited or made conditional by any procedures that ICANN introduces for new gTLDs.○ It would be sensible to enable Governments (or the GAC) to object to an application for a gTLD on public interests grounds without going through the time and cost of the formal objection process.○ ccNSO approach that country and territory names on the ISO list are treated as ccTLDs seems to be a sensible approach to ensure that geographic names are afforded sufficient protection.• Geographic names at the second level:<ul style="list-style-type: none">○ Registries should be asked to indicate how they intend to incorporate GAC advice in their management of second level domains.○ .info procedure could be drawn upon as an example○ at a minimum, the names contained on three lists [ISO 3166-1; United Nations Group of Experts on Geographical Names, Part III Names of Countries of the World; and List of UN member states in 6 official UN languages prepared by the Working Group on Country Names of the United Nations conference on the standardization of Geographical Names] must be reserved at the second level at no cost for the governments of all new gTLDs.• Potential misuse of respective names on the second level <p>In the event that a government notifies ICANN that there is misuse of any second level domain name, ICANN shall notify the registry and request the suspension of</p>	

<p>the said name pending the withdrawal of the objection.</p>	
<p>26 May 2009: Letter from GAC Chair to ICANN CEO http://www.icann.org/correspondence/karklins-to-twomey-29may09-en.pdf</p> <ul style="list-style-type: none"> Proposal in relation to geographic names at the second level is acceptable to the GNSO, and is repeated in the letter. <p>Notes that on other issues relating to geographic names at the top level and the potential misuse of the respective names on the seconds, the GNSO and GAC are not in agreement. The GAC will engage in further discussion in Sydney.</p>	
<p>24 June 2009: Communiqué Sydney The GAC discussed the Draft Applicant Guidebook version 2 and feels that it does not yet respond to all the concerns that governments have. The GAC notes that considerable work is underway seeking to address several critical yet outstanding issues but the GAC remains concerned about a number of important issues: - The need to ensure respect for national and public policy interests, in particular the need for adequate protection of geographic names (on the top and the second levels) and delegation/re-delegation procedures;</p>	
	<p>18 February 2009: Applicant Guidebook Version 2 http://www.icann.org/en/topics/new-gtlds/draft-rfp-clean-18feb09-en.pdf</p> <p>31 May 2009, Summary and analysis of public comments on version 2 http://www.icann.org/en/topics/new-gtlds/agv2-analysis-public-comments-31may09-en.pdf</p>
<p>18 August 2009: Comments on V2 of Applicant Guidebook The GAC has commented on the use of geographic names as gTLDs on various occasions. The GAC principles of 28 March 2007 emphasize that "ICANN should avoid country, territory or place names, and country, territory or regional language or people descriptions, unless in agreement with the relevant governments or public authorities" (Article 2.2). In a letter dated 24 April 2009, the ICANN Board received input from the GAC regarding the issue of geographic names as new gTLDs. In this letter the GAC pointed out that the rights of relevant governments or public authorities, as representatives of the sovereign state or territory, cannot be limited as such by ICANN or by any procedures introduced by ICANN for new gTLDs.</p>	<p>Reply from ICANN Chairman 22 September 2009 http://www.icann.org/en/correspondence/dengate-thrush-to-karklins-22sep09-en.pdf</p> <p>While understanding the sentiment that a country name TLD should be treated as a ccTLD, ICANN policy constrains the way in which it is possible to provide country name TLDs to all countries and territories is under the new gTLD program at this time.¹ The treatment of country and territory names, in version 2 of the Draft Applicant Guidebook, was developed in the context of the points raised by the GAC, the ccNSO, and the GNSO policy recommendations and trying to find a balance among the somewhat contrary views. Applications for country and territory names</p>

¹ Meaningful representations of country or territory names in non-Latin scripts will be available under the IDN Fast Track process but country and territory names in Latin scripts are available in the gTLD program only, until the ccTLD policy development is complete.

<p>The GAC is of the opinion that the DAG2 is a substantial improvement on its predecessor, but that it does not yet fully reflect the GAC position that governments and other public authorities, as representatives of citizens of a sovereign state, territory, province or city, have a legitimate interest in the use of geographical names as new TLDs.</p> <p>The GAC therefore proposes the following amendments to be incorporated in version 3 of the Draft Applicant Guidebook (further in the text - DAG3):</p> <p>i. Strings that are a meaningful representation or abbreviation of a country name or territory name should not be allowed in the gTLD space</p> <p>These strings represent countries or territories and the principle of sovereignty must apply. TLDs in this category should therefore be treated in the same way as ccTLDs.</p> <p>The use of exhaustive listings (e.g. ISO 3166-1) will not cover all the ccTLD-like applications envisaged by the GAC and ccNSO, in particular in the following categories:</p> <p>‘Commonly referred to as’ type strings representing a country or territory but which are not official titles, e.g. .america, .ceylon, .holland;</p> <p>Common or general names that are often applied to more than one country, e.g: .guinea</p>	<p>will require evidence of support or non-objection from the relevant government or public authority which is consistent with GAC principle 2.2.², and that evidence must clearly indicate that the government or public authority understands the purpose of the TLD string and the process and obligations under which it is sought.</p> <p>Safeguards have been developed to ensure that the relevant government or public authority’s sovereign rights are respected, and that the process is understood. It is ultimately the government or public authority’s discretion whether to support, or not support, an application for a country name TLD, and the circumstances under which they would be willing to do so.</p> <p>The Board raised concerns that the criteria for country and territory names, as it appeared in version 2 of the Draft Applicant Guidebook was ambiguous and could cause uncertainty for applicants. Subsequently, on 6 March 2009, the ICANN Board directed staff to, among other things, “... revise the relevant portions of the draft Applicant Guidebook to provide greater specificity on the scope of protection at the top level for the names of countries and territories listed in the ISO 3166-1 standard”.</p> <p>The revised definition, provided in a Geographical Names excerpt of the guidebook posted on 30 May 2009, continues to be based on the ISO 3166-1 standard and fulfills the Board’s requirement of providing greater clarity about what is considered a country or territory name in the context of new gTLDs. It also removes the ambiguity that resulted from the previous criteria that the term ‘meaningful representation’ created.</p> <p>The Board’s intent is, to the extent possible, to provide a bright line rule for applicants. While the revised criteria may have resulted in some changes to what names are afforded protection, it has not changed the original intent to protect all names listed on the ISO 3166-1 list, including the short or long form of the name. It is felt that the sovereign rights of governments continue to be adequately protected as the definition is based on a list developed and maintained by an international organisation.</p> <p>In the context of the revised definition, the name America is afforded protection,</p>
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² ICANN should avoid country, territory or place names, and country, territory or regional language or people descriptions, unless in agreement with the relevant governments or public authorities

	<p>while the names Ceylon and Holland are not. However, the objection process does provide a secondary avenue of recourse. An application will be rejected if an expert panel determines that there is substantial opposition to it from a significant portion of the community to which the string may be explicitly or implicitly targeted. With regard to the names .Guinea and .Guinea-Bissau; only the relevant government or public authority for the respective countries can agree to support, or not-object, to the use of their respective names.</p>
<p>28 October 2009: Communiqué Seoul Following discussions in Seoul however, both between GAC members and with other stakeholders, the GAC feels that many of its concerns remain outstanding, related in particular to:</p> <p>- the need to respect national public interests and sovereign rights regarding strings with geographical meaning;</p>	
	<p>4 October 2009: Applicant Guidebook Version 3 http://www.icann.org/en/topics/new-gtlds/draft-rfp-clean-04oct09-en.pdf</p> <p>15 February 2010, Summary and analysis comments version 3 http://www.icann.org/en/topics/new-gtlds/summary-analysis-agv3-15feb10-en.pdf</p>
<p>10 March 2010: Comments on V3 of Applicant Guidebook The GAC restates the advice contained in the Chair’s letter of 18 August 2009 which states: “<i>Strings that are a meaningful representation or abbreviation of a country name or territory name should not be allowed in the gTLD space</i>”. The GAC interprets para 2.2 of the GAC gTLD principles that strings which are a meaningful representation or abbreviation of a country or territory name should be handled through the forthcoming ccTLD PDP, and other geographical strings could be allowed in the gTLD space if in agreement with the relevant government or public authority.</p> <p>----</p> <p>The GAC is of the view that the definition of geographical strings continues to be insufficient and is not in line with GAC gTLD principles paras 2.2 and 2.7. For example, commonly used abbreviations or regions not listed in ISO 3166-2 should</p>	<p>Reply from ICANN Chairman 5 August 2010 http://www.icann.org/en/correspondence/dengate-thrush-to-dryden-05aug10-en.pdf</p> <p>Country and territory names prohibited in version 4 of the Draft Applicant Guidebook As you are aware, the treatment of country and territory names in the DAG4 Guidebook was developed specifically to adhere to paragraph 2.2 of the GAC principles on new gTLDs, i.e., the GAC view that governments should not be denied the opportunity to apply for, or support an application for, their respective country or territory name. However, the GAC’s clarification of their interpretation of GAC principle 2.2³ has resulted in a reconsideration of the treatment of country and territory names in the new gTLD process. This has resulted in a change of approach as reflected in the recently published draft version 4 of the Applicant Guidebook: namely, that country and territory names will not be available for delegation in the</p>

³ “The GAC interprets para 2.2 of the GAC gTLD principles that the strings that are meaningful representation or abbreviation of a country or territory name should be handled through the forthcoming ccTLD PDP, and other geographical strings could be allowed in the gTLD space if in agreement with the relevant government or public authority.”

<p>also be considered as geographical names.</p>	<p>first round of the new gTLD application process.</p> <p>With regard to the definition of country names, the Board has sought to ensure both clarity for applicants, and appropriate safeguards for governments and the broad community. A considerable amount of time has been invested in working through the treatment of country and territory names to ensure it meets these two objectives. Following discussion at the Mexico City meeting, the Board recommended that the Applicant Guidebook be revised in two areas regarding this subject: (1) provide greater specificity as to what should be regarded as a representation of a country or territory name in the generic space, and (2) provide greater specificity in defining the qualifying support requirements for continent names, with a revised position to be posted for public comment.</p> <p>The resulting definition for country and territory names is based on ISO 3166-1 and other published lists to provide clarity for potential applicants and the community. It seeks to remove the ambiguity created by use of the term ‘meaningful representation.’ Therefore, the definition of country and territory names has not been amended in the recent Guidebook draft and remains consistent with the Board goals and resolution on this issue.</p> <p>While the revised criteria may have resulted in some changes to what names are afforded protection, there is no change to the original intent to protect all names listed in ISO 3166-1 or a short or long form of those names (and, importantly, translations of them). This level of increased clarity is important to provide process certainty for potential TLD applicants, governments and ccTLD operators – so that it is known which names are provided protections.</p> <p>The definition is objectively based on the ISO list, which is developed and maintained by a recognised international organisation.</p> <p>It is acknowledged that ICANN has used the concept of ‘meaningful representation’ of a country or territory in the context of the IDN ccTLD Fast Track. This reflects the objective of rapid initial deployment of IDNs and the associated need to remove as many potential obstacles as possible. There have always been particular sensitivities about geographic names where non-Latin scripts and a range of languages are involved. It does not follow that these considerations should automatically apply to the broader ccTLD and gTLD spaces. It is reasonable that the criteria for including names (the Fast Track) could be different than the criteria for excluding names (gTLDs).</p> <p>The ccNSO will be undertaking policy discussions, which may result in a change in</p>
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	<p>position on these two issues. In particular, defining the distinction between country code and generic names may warrant a broader cross-SO/AC policy discussion. Once policy is developed, it will be appropriate for the Board to reconsider these positions.</p>
	<p>28 May 2010: Applicant Guidebook Version 4 http://www.icann.org/en/topics/new-gtlds/draft-rfp-clean-28may10-en.pdf</p> <p>12 November 2010: Summary and analysis of comments version 4 http://www.icann.org/en/topics/new-gtlds/summary-analysis-agv4-12nov10-en.pdf</p>
<p>23 September 2010: Comments on V4 of Applicant Guidebook</p> <p>The GAC appreciates the work undertaken by ICANN to address the GAC’s concerns relating to the use of geographical names. In particular, the GAC welcomed the addition of the clearly stated provision in version 4 of the DAG that country and territory names are to be excluded from the first application round. However, as stated in its Nairobi communiqué, the GAC underlines that this exclusion should be prolonged until the completion of the ccPDP.</p> <p>The GAC notes that the guide still does not take fully into consideration the GAC’s concerns about extending the protection of geographical names. The GAC remains of the view that the definition of geographical strings continues to be insufficient and inconsistent with GAC gTLD principles and earlier advice by the GAC. In particular, names by which countries are commonly known as and which do not appear in ISO lists should also be given the same protection as country names that do appear.</p> <p>The GAC notes that ICANN referred governments to the “secondary avenue of recourse available by way of objections” in the Chair’s letter of 5 August 2010. The GAC therefore asks ICANN to ensure that the criteria for community objections are implemented in a way that appropriately enables governments to use this instrument to protect their legitimate interests.</p> <p>Applications for gTLDs which are city names will need careful handling. The GAC considers that the provisions in version 4 of the DAG in relation to city names carry the danger that an applicant could seek to avoid the safeguards of government support or non-objection if the application simply states that the intended use of the name is for non-community purposes. The GAC asks ICANN to review the proposal in the DAG in order to ensure that this potential loophole does not arise.</p>	<p>23 November 2010: Reply from ICANN Chairman http://www.icann.org/en/correspondence/dengate-thrush-to-dryden-23nov10-en.pdf</p> <p>The Board has sought to ensure, throughout the process of developing a framework for new gTLDs, that there is 1) a clear process for applicants, and 2) appropriate safeguards for the benefit of the broad community including governments. The current criteria for defining geographic names as reflected in version 4 of the Draft Applicant Guidebook are considered to best meet the Board’s objectives and are also considered to address to the extent possible the GAC principles. These compromises were developed after several consultations with the GAC – developing protections for geographical names well beyond those approved in the GNSO policy recommendations. The current definitions, combined with the secondary avenue of recourse available by way of objections were developed to address the GAC’s concerns.</p> <p>A detailed account was provided in my letter of 5 August 2010, to the GAC.</p> <p><i>Country and territory names</i></p> <p>I understand that the issue of the use of country and territory names will not be part of the IDN ccPDP; however, the ccNSO is considering options available to consider this issue and the Board anticipates a policy process which provides direction on this issue. The Board will, after the first round of new gTLDs, reconsider the treatment of country and territory names in the new gTLD process.</p> <p>As stated in previous communications, the Board sought to remove the ambiguity of the term ‘meaningful representation’ from the definition of country and territory names to provide greater clarity for applicants and appropriate safeguards for governments and the broad community. The current definition is objectively based</p>

<p>The GAC takes this opportunity to remind the Board that governments need time to consult internally before deciding on whether or not to deliver a letter of approval or non-objection, in particular in cases there is more than one application for a string with a geographical name. This timeline needs to be factored into the DAG advice.</p>	<p>on the ISO 3166-1 and other published lists to provide clarity for potential applicants and the community.</p> <p><i>City names</i></p> <p>It is acknowledged in the Guidebook (and in previous missives to the GAC) that city names present challenges because city names may also be generic terms or brand names, and in many cases no city name is unique. Unlike other types of geographic names, there are no established lists that can be used as objective references in the evaluation process. Thus, city names can not be afforded universal protection. However, the process does provide a means for cities and applicants to work together where desired.</p> <p>Applicants are required to provide a description/purpose for the TLD, and to adhere to the terms and conditions of submitting an application including confirming that all statements and representations contained in the application are true and accurate.</p> <p><i>Letter of support</i></p> <p>While appreciating that governments need time to consult internally before deciding whether to support an application, obtaining government support or non-objection is the responsibility of the applicant and is stated in Module 2 of the Applicant Guidebook. While it has not been decided how long the application period will be open from the time of launching the new gTLD program, there is a requirement that a four month communications campaign be undertaken prior to launch.</p>
	<p>25 September 2010: Board meeting in Trondheim http://www.icann.org/en/minutes/resolutions-25sep10-en.htm</p> <p>Board Briefing Materials: One [PDF, 3.23 MB] Two [PDF, 2.03 MB] Three [PDF, 816 KB] Four [PDF, 240 KB] Five [PDF, 546 KB]</p> <p>“...Whereas, on 23 September 2010, the Governmental Advisory Committee (GAC) provided comments on version 4 of the draft Applicant Guidebook. Resolved (2010.09.25.___), staff is directed to determine if the directions indicated by the Board below are consistent with GAC comments, and recommend any</p>

	<p>appropriate further action in light of the GAC's comments.”</p> <p>Geographic Names</p> <p>Sub-national place names: Geographic names protection for ISO 3166-2 names should not be expanded to include translations. Translations of ISO 3166-2 list entries can be protected through community objection process rather than as geographic labels appearing on an authoritative list.</p> <p>Continents and UN Regions: The definition of Continent or UN Regions in the Guidebook should be expanded to include UNESCO’s regional classification list which comprises: Africa, Arab States, Asia and the Pacific, Europe and North America; Latin America and the Caribbean.</p> <p>Governments that file objections should be required to cover costs of objection process just like any other objector; the objection process will be run on a cost-recovery and loser-pays basis (so the costs of objection processes in which governments prevail will be borne by applicants). Also, the Board notes that the GAC proposal for free government objections is not specific as to particular objection grounds or particular government objectors (for example whether both national and local government objectors would be covered).</p>
	<p>12 November 2010: Proposed Final Applicant Guidebook http://www.icann.org/en/topics/new-gtlds/draft-rfp-clean-12nov10-en.pdf</p>
<p>9 December 2010: Communiqué Cartagena</p> <p>That the GAC will provide the Board at the earliest opportunity with a list or "scorecard" of the issues which the GAC feels are still outstanding and require additional discussion between the Board and the GAC. These include:</p> <ul style="list-style-type: none"> • Use and protection of geographical names; 	<p>10 December 2010, Board meeting</p> <p>New gTLD Remaining Issues http://www.icann.org/en/minutes/resolutions-10dec10-en.htm#2</p> <p>Resolved (2010.12.10.21), the Board:</p> <ol style="list-style-type: none"> 1. Appreciates the GAC's acceptance of the Board's invitation for an inter-sessional meeting to address the GAC's outstanding concerns with the new gTLD process. The Board anticipates this meeting occurring in February 2011, and looks forward to planning for this meeting in consultation and cooperation with the GAC, and to hearing the GAC's specific views on each remaining issue. 2. Directs staff to make revisions to the guidebook as appropriate based on

	<p>the comments received during the public comment period on the Proposed Final Applicant Guidebook and comments on the New gTLD Economic Study Phase II Report.</p> <ol style="list-style-type: none">3. Invites the Recommendation 6 Community Working Group to provide final written proposals on the issues identified above by 7 January 2011, and directs staff to provide briefing materials to enable the Board to make a decision in relation to the working group's recommendations.4. Notes the continuing work being done by the Joint Applicant Support Working Group, and reiterates the Board's 28 October 2010 resolutions of thanks and encouragement.5. Directs staff to synthesize the results of these consultations and comments, and to prepare revisions to the guidebook to enable the Board to make a decision on the launch of the new gTLD program as soon as possible.6. Commits to provide a thorough and reasoned explanation of ICANN decisions, the rationale thereof and the sources of data and information on which ICANN relied, including providing a rationale regarding the Board's decisions in relation to economic analysis.7. Thanks the ICANN community for the tremendous patience, dedication, and commitment to resolving these difficult and complex issues.
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