

<b>Distribution</b>	Public
<b>Date</b>	1 February 2019

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## Governmental Advisory Committee Comment on the Initial Report of The GNSO New gTLD Subsequent Procedure PDP Work Track 5 on Geographic Names at the Top Level

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### General Comment

The GAC welcomes the opportunity to [comment on the Initial Report of Work Track 5](#) of the GNSO New gTLD Subsequent Procedures PDP Working Group regarding the use of Geographic Names as Top Level Domain Names.

The GAC has not had an opportunity to discuss or agree on responses to the specific proposals and questions in the Initial Report. We note there are different views within the GAC on these specific proposals and questions. However, the GAC continues to take a close interest in these issues and, for information, we would like to reiterate relevant existing GAC advice. We hope this is useful context to support the process going forward.

The GAC would like to reiterate the content of GAC advice about these issues, in particular the following concepts included in the [GAC Principles Regarding New gTLDs](#) (28 March 2007):

2. *Public Policy Aspects related to new gTLDs*

*When considering the introduction, delegation and operation of new gTLDs, the following public policy principles need to be respected:*

*Introduction of new gTLDs*

- 2.1. *New gTLDs should respect:*
  - a) *The provisions of the [Universal Declaration of Human Rights](#) which seek to affirm "fundamental human rights, in the dignity and worth of the human person and in the equal rights of men and women".*
  - b) *The sensitivities regarding terms with national, cultural, geographic and religious significance.*
- 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.*
- 2.3. *The process for introducing new gTLDs must make proper allowance for prior third party rights, in particular trademark rights as well as rights in the names and acronyms of inter-governmental organizations (IGOs).*
- 2.4. *In the interests of consumer confidence and security, new gTLDs should not be confusingly similar to existing TLDs. To avoid confusion with country-code Top Level Domains no two letter gTLDs should be introduced.*

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### Delegation of new gTLDs

- 2.5. *The evaluation and selection procedure for new gTLD registries should respect the principles of fairness, transparency and non-discrimination. All applicants for a new gTLD registry should therefore be evaluated against transparent and predictable criteria, fully available to the applicants prior to the initiation of the process. Normally, therefore, no subsequent additional selection criteria should be used in the selection process.*
- 2.6. *It is important that the selection process for new gTLDs ensures the security, reliability, global interoperability and stability of the Domain Name System (DNS) and promotes competition, consumer choice, geographical and service provider diversity.*

Previous advice on Geographic Names and how they should be handled in the context of New gTLDs, in particular:

- *Strings that are a meaningful representation or abbreviation of a country name or territory name should not be allowed in the gTLD space. ([Letter from GAC Chair to ICANN Chairman of the Board](#), Par. II.3, 18 August 2009)*
- *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 [then] forthcoming ccTLD PDP, and other geographical strings could be allowed in the gTLD space if in agreement with the relevant government or public authority. ([GAC Nairobi Communiqué](#), Annex B, 10 March 2010)*

The GAC previously stated: "The GAC urges that mechanisms be established for the resolution of post-delegation deviation from conditions for government approval of or non-objection to the use of a geographical name. The GAC is of the view that this could be achieved with the inclusion of a clause in the registry agreement requiring that in the case of a dispute between a relevant Government and the registry operator, ICANN must comply with a legally binding decision in the relevant jurisdiction. However, in case of the need for approval or non-objection from multiple governments, proper mechanisms for resolving post delegation disputes must be detailed." ([GAC Nairobi Communiqué](#), Annex B, 10 March 2010)

In the [GAC Helsinki Communiqué](#) (30 June 2016), Section VI.4.a, the GAC advised the ICANN Board to:

- i. *encourage the community to continue in depth analyses and discussions on all aspects related to a potential use of 3-letter codes in the ISO-3166 list as gTLDs in future rounds, in particular with regard to whether such a potential use is considered to be in the public interest or not.*
- ii. *keep current protections in place for 3-letter codes in the ISO-3166 list in place and not to lift these unless future in depth discussions involving the GAC and the other ICANN constituencies would lead to a consensus that use of these 3-letter codes as TLDs would be in the public interest.*

## Previous GAC Advice Related to Selected “Questions for Community Input” in the Initial Report

### Question e2 (definition of geographic name)

*The definition of the term “geographic name” could impact development of policy and implementation guidance, as well as program implementation details, such as guidance for the Geographic Names Panel in the New gTLD application process.*

*In your view, how should the term “geographic name” be defined for the purposes of the New gTLD Program? Should there be any special requirements or implications for a term that is considered a “geographic name”? Is “geographic name” the appropriate term to use in this context, as opposed to, for example, “term with geographic meaning”? Why or why not? [...]*

#### Previous GAC Advice Relevant to this Question:

- 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. ([GAC Principles Regarding New gTLDs](#), Par 2.2, 28 March 2007)
- Strings that are a meaningful representation or abbreviation of a country name or territory name should not be allowed in the gTLD space. ([Letter from GAC Chair to ICANN Chairman of the Board](#), Par. II.3, 18 August 2009)
- 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. ([GAC Nairobi Communiqué](#), Annex B, 10 March 2010)
- The process for introducing new gTLDs must make proper allowance for prior third party rights, in particular trademark rights as well as rights in the names and acronyms of inter-governmental organizations (IGOs). ([GAC Principles Regarding New gTLDs](#), Par 2.3, 28 March 2007)

### Question e3 (balance of preventative and curative mechanisms)

*[...] In your view, what is the right balance or combination of preventative and curative rights mechanisms in relation to protection of geographic names in the New gTLD Program?*

#### Previous GAC Advice Relevant to this Question:

*“The GAC urges that mechanisms be established for the resolution of post-delegation deviation from conditions for government approval of or non-objection to the use of a geographical name. The GAC is of the view that this could be achieved with the inclusion of a clause in the registry agreement requiring that in the case of a dispute between a relevant Government and the registry operator, ICANN must comply with a legally binding decision in the relevant jurisdiction. However, in case of the need for approval or non-objection from multiple governments, proper mechanisms for resolving post delegation disputes must be detailed.”*  
([GAC Nairobi Communiqué](#), Annex B, 10 March 2010)

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### Question e5 (basis for policy development)

To what extent should the following serve as a basis for the development of policies regarding geographic names?

- International law
- National/local law and policy
- Norms and values (please specify)
- Another basis not categorized above (please specify)

Please explain.

#### Previous GAC Advice Relevant to this Question:

- In the [GAC Principles Regarding New gTLDs](#) (28 March 2007), Paragraph 1.2 states: "These principles shall not prejudice the application of the principle of national sovereignty. The GAC has previously adopted the general principle that the Internet naming system is a public resource in the sense that its functions must be administered in the public or common interest. The WSIS Declaration of December 2003 also states that "policy authority for Internet-related public policy issues is the sovereign right of States. They have rights and responsibilities for international Internet-related public policy issues." 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. ([GAC Principles Regarding New gTLDs](#), Par 2.2, 28 March 2007)
- The process for introducing new gTLDs must make proper allowance for prior third party rights, in particular trademark rights as well as rights in the names and acronyms of inter-governmental organizations (IGOs). ([GAC Principles Regarding New gTLDs](#), Par. 2.3, 28 March 2007)

### Question e7 (Process to delegate 3-letter codes)

Some Work Track members have expressed that there should be a process in place to delegate 3-letter codes and/or other country and territory names to specific parties, such as relevant governments and public authorities or other entities. Do you believe that this is an issue on which Work Track 5 should make a recommendation?

#### Previous GAC Advice Relevant to this Question:

The [GAC Helsinki Communiqué](#) (30 June 2016), stated in its Section VI.4.a, "the GAC advises the ICANN Board to:

- i. encourage the community to continue in depth analyses and discussions on all aspects related to a potential use of 3-letter codes in the ISO-3166 list as gTLDs in future rounds, in particular with regard to whether such a potential use is considered to be in the public interest or not.
- ii. keep current protections in place for 3-letter codes in the ISO-3166 list in place and not to lift these unless future in depth discussions involving the GAC and the other ICANN constituencies would lead to a consensus that use of these 3-letter codes as TLDs would be in the public interest."