

**ICANN  
Transcription ICANN Kobe  
GNSO New gTLD Subsequent Procedures  
Work Track 5 (Geographic Names) Part 2  
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Martin Sutton: Welcome back everybody. So we'll carry on through. We've just got a couple more of the recommendations to review before we move onto some other conversations about open issues. So I know we cut off very quickly the Recommendation 10. Did anybody have any additional comments before we move on? If not, there's comments in the room. Hang on a second.

Please, if we could just read the comments in the room and I'll try and scroll through as well.

Julie Hedlund: This is Julie Hedlund from staff. So first, there's a question from Maxim Alzoba. A question in the letter is issued by a particularly city administration, mayor's office relevant federal level administration, who is going to decide what is intended use, the next mayor's office? That's a question. And then just moving to the comment from Syed. If the government means the relevant administrative division department who has nominated a

representative of the GAC by the concerned government. And that's a comment.

Martin Sutton: Thank you, Julie. So I think in terms of the recommendation 10 that we're referring to here, the intended use doesn't really come into question. It's actually just text to clarify was the suggestion there. So I'm not quite sure if I'm missing the point on that. But I know that that comes up anyway as we go through the next recommendations. So perhaps we'll reflect it in there.

So if we move onto Recommendation 11. Okay, so this is beyond capital city names, an application for a city name where the applicant declares that it intends to use the GTLD for purposes associated with the city name. So in that particular point, an application will be subject to a geographic names requirement. They will require documentation of support and non-objection from the relevant governments or public authority and it is clear from the applicant statements within the application that the applicant will use the TLD primarily for purposes associated with the city name and the applied for string as a city name is listed on official city documents.

So what do we have on this one? We've got, similar to the last one I think, several comments of support and that we covered off further in the general comments that were reviewed earlier. Several comments opposed but still willing to support the recommendation, nevertheless, and several comments opposed to the recommendation, believing that cities do not have a legal basis in the name and therefore no letter of support or non-objection should be needed. And several comments opposed to the recommendation for a different reasons, believing the intended use requirements should be removed.

No themes identified. Again, so we've got a spread of comments there. So it's not perhaps as easy as some others where we saw a general trend towards acceptance of the preliminary recommendations. We've also seen new ideas, concepts, or deliberations for substitute support for non-objection

with informed consent. Also do not require support or non-objection when use is associated with city but the applicant has trademark rights. And 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. And then there's a reference to a resource for city names and (unstaps.un.org) where an application for such a string will be subject to the geographic names requirements.

So starting to see similar concerns as the previous recommendation. Anybody have any comments? Jorge?

Jorge Cancio: Just first comment on the under description of level of support, I wanted to mention that I feel that the intended usage requirement is not so much a requirement or it's not opposed because of that. It's a rule. It's intended use rule, which is being opposed by many of the comments. So perhaps if this text will be reused for something else, I would speak of the rule instead of a requirement. And it's also important to note that those at least of my recollection of the different comments I've seen on this topic, the opposition is not so much to the recommendation itself as it requires letters of non-objection for the (unintelligible) delegation of city names.

It is on a piece of that recommendation as it stands, which is the intended use rule. So there's let's say a qualitative difference to the opposition of the other commenters who oppose the recommendation as such, the whole or the basic grounds of the recommendation. And finally, on the level of support I hear on Recommendation 11 with, let's say, the qualifications I've made on why many of the comments oppose the intended use rule. I understand that staff or the co-leads (unintelligible) have switched from many to several. Because if you look at that, well, actually, the numbers of those who support the recommendation fully is probably not many. It's several. It's kind of an important group but it's not a majority.

And on the other side, you have those who oppose the recommendation completely and those who oppose the intended use rule specifically. So just to put it on the record that here, I understand this distinction between many and several.

Martin Sutton: So this one suggests there's sort of a real spread of comments coming in. Anybody else? Greg?

Greg Shatan: Greg Shatan for the record. Maybe just a point of clarification and I think it's actually on the prior slide. I was a bit confused or maybe surprised to see that there was a level of support that was - we opposed a recommendation but we'll support it anyway. Several comments are opposed but are still willing to support the recommendation nevertheless. How can they be against it and for it at the same time?

Martin Sutton: So without having to put all of the detailed comments through, this is just summarized where they - so for instance, I think mentioned earlier, interviews are that they are willing to continue with the recommendations as they've put forward on the basis that there are no further restrictions applied. So there was some caveats in terms of their acceptance of the recommendations based on the fact that they felt it was a compromised position from 2012.

So that was an example. There were others as well. So that was captured by those comments or summaries. So let's move onto the Recommendation 12. Thank you. So this was for 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 standard. And from this particular one, again, we're seeing some split. So several appears quite often in the level of support here identified. So several comments of support, several comments are opposed but still willing to support the recommendation, several comments oppose the recommendation believing that there's no legal basis in the name, therefore no letter of support or non-objection should be needed.

So very much a carryover of the same responses to 11. And if we could just move down the slide a bit to the for aspects, no themes identified, but no ideas, concepts, amend text. 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. And the other point here is if sub-national place names listed in the ISO 3166 standard continue to be protected, they should be subject to intended use requirements. Those are the additional points flagged up through comments. Very similar to the last one. If anyone has got any additional - Jorge?

Jorge Cancio: I'm sorry for taking so much of the floor, but it won't come as a surprise that here I have some questions why we are switching from many to several. Because on Recommendation 11, there was this objection or opposition to the intended use rule by probably about 20 comments. But - and this of course was a reason from switching from many to several. But on Recommendation 12, I really have my recollection as the result of the public comment being very similar to the one on capital city names.

And the same goes for Recommendation 13, so I make my comment now for efficiency purposes. I don't know why we are switching from many to several because that big chunk of comments that really supported that change on Recommendation 11 is not present in Recommendation 12 and 13. Because although commenters supported this recommendation. So that's the first thing and also, just for the record, on new ideas, I still don't see that intended use as any new idea. Thank you.

Martin Sutton: Jorge, I'll just try and compare the responses between but does anybody else have any comments or response to Jorge's view? Greg?

Greg Shatan: Greg Shatan for the record. I'm concerned that we don't somehow back ourselves into an overemphasis on treating this as if it were a survey and that somehow, whether something is many or several is how dispositive of the opinions that we should be having on this. We could just say some, some,

and some or one and more than one. It's really - at this high level, whether the number of comments that go in a particular direction and whether they are many, or several, or 36.2% of all comments received is really takes us completely away from the concept of qualitative analysis of comments and turns this into an opinion poll, which it's not.

And even as much as we fall short, and sometimes when we try to do polls, this is not even - we didn't even try. This is just public comments. So I think we - and any discussion of many versus several and trying to find a weight, and trying to apply that weight as a counterweight to what the people think or to kind of bolster what's being said. While yes, we can get a warm, fuzzy feeling if it seems like everyone agrees with us. But aside from that, one principled idea that's well expressed may be more persuasive than all the me toos in the world.

So I think, again, by not actually looking at the comments but by looking at a description of the numerosity of the comments, we're not grappling with the issue of the comments themselves. Now, maybe, we're doing that in other sessions but I think by getting sucked into a discussion of numerosity or balance that we're kind of - we've lost sight of what we're actually trying to do. Thanks.

Martin Sutton: Okay. Thanks, Greg. Paul?

Paul McGrady: Paul McGrady again for the record. So I guess I want to be a little bit careful that I understand what we're doing. So you've asked for responses back to what Jorge said, but I'm a little concerned that now, we're drilling down into the substance of this but we're not quite through the list of - we're not quite through the community update part of it. If we want to do that, we can do that. I'm just afraid we won't get through the rest of the material. Because we could talk about the specific things that Jorge raised for hours and hours. We already have and we will continue to, I'm sure.

I just want to make sure - I just would like to, again, come back to what's the session for. And I think it should be for getting all this stuff aired, setting aside the things that are pretty much done, and then putting something like this into the we're not there yet bucket. But if we're going to get into the substance that's fine too. Thanks.

Martin Sutton: Thanks, Paul. And I think to just move on through these and then we'll get onto the open issues. But points taken and noted. So I've got (unintelligible). Okay. Please your comment first and then we'll get (unintelligible).

Steve Chan: Thanks. This is Steve Chan from staff and for those in the AC room, you might have seen that folks remote are having trouble hearing people remotely, obviously. And so part of it is apparently that if you turn sideways and away from the mic, they can't hear. So I'm trying not to do that myself. It's hard not to, staring straight ahead. So just as a reminder, try to speak directly into the mic and hopefully help our remote participants. Thanks.

Katrin Ohlmer: Katrin Ohlmer for the record. I totally agree that it's not about numbers. But still, my feeling is that if certain amount of people raise certain point, this gives an indication where opinions, majorities are. So I still would not underestimate the number, not in counting people, but if a certain point is reiterated 10, 20, 30 times, probably a bit different to just one position. Thank you.

Martin Sutton: Okay. Thanks. Points taken and those will need to be further reviewed as areas where we can see some still very diverse positions. So if we move onto Recommendation 13, the last one, it's much the same again. We won't repeat the same comments that we've heard regarding several, many, some but this is on the UNESCO regions. So Jorge?

Jorge Cancio: I'm very sorry, but I think I made a question that requires an answer from staff or from the co-lead. So because it's a very specific point, I think I tried to articulate it very specifically why we moved in Recommendation 11 where

several makes sense to several in Recommendations 12 and 13. So I think we need to understand that why this is so - why that analysis of the public comment was made.

Martin Sutton: Okay. Thanks. Steve will kindly inform us.

Steve Chan: I can try at least. This is Steve Chan from staff. And so I'll be honest, I wrote much of the content for these slides, so much of the credit and apparently, the blame can be made on me here. But I just wanted to point out - reiterate this is not a consensus call. So if you're taking that away that this is intended to try to assess consensus, that is definitely not what this intended to do. These slides are not intended to make that leap. That's intended solely for the co-chairs to do and that's not what these slides are intended to do.

So I think if there's a switch from many to several, I don't think there's intended to be a deeper meaning to that. It's not intended to be a conclusion. So I don't know how to stay that differently but it wasn't intended to carry some extra nuance from switching from many to several in most cases. I don't know if that's helpful but apparently not.

Jorge Cancio: Thank you, Steve. Just for the record, I take that is there no really a substantive answer or fundamentally why we are changing from several to, well, from many to several in Recommendation 12 and 13. So I myself, at least, I think that if we continue with the logic of the other slides, of the other recommendations, we should be talking about many in Recommendation 12 and 13. And I think that is important.

Martin Sutton: Greg and then we'll move onto the next section.

Greg Shatan: Thanks, Greg Shatan for the record. I'd like to suggest the opposite, which is that we remove all kind of mushy terms about number, or weight, or numerosity, or levels of support from these because there's - again, as Heather pointed out, and I think Heather has engaged with the rules of the



GNSO as intimately as anyone can, as many of us have, of course, I think that's just leading us down the wrong path.

First, it takes us away from the qualitative analysis and it turns this into something which it isn't. And then it becomes a question of whether the nuance has been correctly and how many is many, and how many is several, and how many is some, and how many is certain. Let's just remove all of those. They're only a confusion. We could just have one and certain or something like that, or one and some and leave it at that. So it's either one and more than one essentially. So we get away from this attempt to nose count and then an attempt to have it be implied that it is somehow important that it is many and not several or several and not many and that three different severals may add up to opposition to a many or not.

This is a fool's errand if we go down that way and if we are going to get into this, then we should actually do it quantitatively and get away from these mushy terms and go to percentages. But then again, I still think that takes us exactly the wrong place. It takes us away from qualitative analysis. Thank you.

Martin Sutton: Thank you. Okay. Noted. Points taken. Thank you. We will move onto the next bit, which is open issues. So again, encourage engagement, interaction as we go through areas that perhaps haven't been focused upon within the preliminary recommendations. So at this stage, I'll hand over to our colleague, Nick. Thanks, Nick.

Nick Wenban-Smith: Thank you, Martin. It's Nick Wenban-Smith for the record. I am proxy here as a co-chair for Annebeth Lange, who sends our apologies that she can't be here. So be gentle with me because I'm fresh to the questions and it's 2:00 in the morning in my - right, okay. So if we move onto the next slide, we have, believe it or not, in the geographic names some areas of open issues.

So Slide 36, there we go. So we have, I believe, I think an hour before the session closes. And so it would be interesting to see what community engagement we can get on there's a number of open issues here. And then on the second slide just to warn you, there are some areas where we noted some divergent opinions and we wanted to explore some of the rationale for how people's reading of the preliminary recommendations and why it was that they felt they wanted to express a divergent opinion. Because that's very valuable to us in trying to evaluate, quantitatively, the comments made.

So this slide talks about translations. You will see that in the 2012 applicant guidebook, there's a certain number of reserve terms, long form names in the ISO 3166. Short form names are separable components, the capital city names as we have discussed previously. And what the preliminary recommendations didn't go into, and perhaps this is what we want to get some input on in this session, is that the applicant guidebook rule was that all of those four bullet points -- the long form name, the short form name, the separable components, and the capital city names were expressed to be blocked from being new GTLD in any language. And that's the quotes there is from the language in the applicant guidebook.

And in one of our face-to-face sessions, I can't remember where it was not, they all slightly blur into one, but I think I made a point around that's quite a large string of terms potentially unlimited. And if you were in the shoes of an applicant, how can you even check that the strings that you're considering applying for isn't a translation of one of the four things in some obscure language. And you might in good faith make an application and find yourself coming against this rule.

And so I think there was a sort of suggestion, which didn't get taken up in the preliminary recommendations, is that is that overly broad, and in practice, impossible for applicants to navigate. And you'll see here there was a suggestion, I think it might have been my suggestion, that the language of the country, of the names in the reserved list, plus the UN languages, for

example, might be a proportionate restriction when we step back a bit and think about, well, what are the purposes of these restrictions and what is it that we're trying to prevent in terms of policy, and confusion with an official country name.

So that is essentially the issue and in terms of getting some helpful feedback. But at the moment, I have to say some people in the sessions expressed the rule that they didn't think that this was overly broad. And unless the community collectively can reach position whereby they agree that actually perhaps there would be a more proportionate limitation on that in any language in the worldwide anywhere that that is what we're going to stick with going forward.

So I would like to try and see if we can't come to something a bit more pragmatic perhaps going forward. I think that's the intent of this slide and I wondered has anyone got any thoughts on this question? Going to be a really short session. Heather?

Heather Forrest: Thank you. Heather Forrest. I'll offer a question to get us started. It's not clear to me why we would be focusing on the six UN languages and official languages. One can imagine, and I'm afraid maybe my brain isn't quick enough at the moment to come up with one off the top of my head, but one can imagine a situation in a country where the six UN languages are fairly meaningless to that country and therefore, would be overbroad in that situation. So by blocking those six UN languages in a country in which those languages were meaningless seems to me to potentially put us into an overbroad situation. Thank you.

Nick Wenban-Smith: I agree that it's an overboard, potentially, situation in some countries where none of those languages are spoke. But it's less overbroad than the current rules, which are every language in the world, worldwide, is blocked. Susan, is that your hand?

Susan Payne: Thanks. Yes. I mean this is - I can't recall exactly what everyone said in the comments, but obviously, this is one of the areas of the numerous listed questions that was part of the public comment period, where we were asked for our views on the language issue generally. As I said, I can't remember exactly what everyone has said but I suspect you'll find there's the anticipated range of opinion from why is it, well, obviously leaving aside the why are you doing this at all part. But to the sort of it should be the national languages of the country in question right up to those who do actually think that it should be every single language in the world regardless of how widely spoken.

My own view is a bit similar to Heather's, I suppose, which is it seems to me that if we're really talking about safeguarding the so-called rights of the people in the country in question, we should be thinking about the languages that are the official languages in that country. And frankly, one of the UN languages may be utterly irrelevant to safeguarding whatever it is that we're supposedly trying to protect.

Nick Wenban-Smith: Thank you, Susan. If I can summarize what you have said and what Heather said is that you think the in any language terminology is overly broad, and in fact you think the UN languages would be overly broad and it should be limited to the official languages of the country in question. Is that a fair summary? I don't know if anyone has a different view. I think Jorge is next.

Jorge Cancio: Thank you, Nick. I really am a bit surprised on this position of you, of how relevant to the name of your country, of your capital city name may be in the UN languages. Because I think it's more or less self-evident that it is relevant because the UN languages are the languages used in the most important political, intergovernmental, and international fora. And your name in such languages of course has a very strong connection to your country or to your capital city name. Because if I recall correctly, this discussion on all languages or not all languages is basically on country names. Is that correct?

Nick Wenban-Smith: It's on the long form name, the short form name, the separable components, and the capital city names. Every language in the world, those terms are blocked at present.

Jorge Cancio: Exactly. So those are really - I think it's really self-evident that your country name, be it short form or long form, in English, in French, in Russian, in Chinese, in Arabic, and I'm forgetting Spanish. Spanish is perhaps not so important internationally. In some regions, it is of course, and I'm speaking as a half-Spaniard in this case. So understand it as a joke.

It is really something that touches upon you and if you have - even if none of those languages is spoken in your country, if there's a domain out there with your name in one of those UN languages, it really has an impact on your country, on your capital city. That's the first thing. The second thing is as I think almost 15 or 20 inputs in the public comment period from different stakeholder groups mentioned this is kind of a solution in search of a problem. Because where in the report have we identified the problem with all languages rule? Because this is a rule which is not new. It's from the 2012 round. Where did we find problems in the application of that rule. I haven't seen any.

So why are we proposing a solution for a problem that doesn't exist. So that's really the basic point. And finally, if there were to be a problem, and I can put myself or I can try, in the shoes of somebody advising an applicant. And you are trying to find out if this name is a country name or is a capital city name. And while you have Google and all those things, you can look into the UN sources, of course. But there could be also what has been proposed in this working group, which would be kind of geo names advisory panel.

You go to this panel under conditions of confidentiality and ask, is this name a country name or a capital city name in any language, which is somehow how spoken in the world? And they could have some dedicated people, or

staff, or databases some work on that in order to be able to advise that prospective applicant on that. So I think that the problem has not been substantiated and if there were to be a problem, we would have other means to solve this, instead of changing a rule from 2012.

Nick Wenban-Smith: Thank you. I've got Paul next in the queue. Then I think Susan and then Greg.

Paul McGrady: Thanks. Paul McGrady here. I checked -- 7,102 languages spoken around the world; 150 to 200 languages are spoken by more than a million people and there are 46 languages, which only have a single speaker. I hope those 46 people remain healthy. So we've got sort of this - we've got this thing that's written. I guess my question is do we know where it came from, right? Is this any language, language, is that something that somebody preparing for round 1 fought for really hard? Or is it just something that ended up, everybody likes to blame staff, but is it just something that ended up in an applicant guidebook draft and we were all moving so fast that nobody caught it?

And in other words, is this really a sacred cow, or is this something that we can live with changing, right. I think that's question #1. If it really is important to somebody, it would be great for them to step up and say, no, I mean it, 7,102 languages, you've got to check that before you file your next application. That's really, really cost prohibitive, right, and I don't even know how somebody would do that.

But assuming that somebody really cares about it, I think we should have them identify themselves. If there isn't somebody who really cares specifically about all 7,120 languages, then I think we're trying to find some sort of rule of reason, right? How many languages? Is it the UN languages? We can't say official language if some countries don't have official languages. I happen to be a citizen of one that doesn't have an official language, but we

have to find some way to get at what we're concerned about, right? I suppose.

But I don't think that unless somebody can identify that this was language that somebody really cared about that we necessarily have to keep it. I think we should be trying to -- and I don't think saying, well, we didn't have a problem the last round. If we see the potential for a problem, there's no reason to jump in front of the steamroller and get steamrolled and then deal with this in Round 3, right.

So it would be nice if we could sort of boil it down to, is there some place where this - is there some number of languages where this rule still makes sense? Thanks.

Martin Sutton: I think we had Susan and then Greg. Is that right?

Greg Shatan: Greg Shatan for the record. I haven't gotten back to all of our work, but I do recall some discussion of this as an issue. So and if we want to have a discussion about why it's an issue, we can certainly do that. I think first off, it's a little bit dangerous to discuss this as a single lump. We have basically three country name categories and then capital cities that I don't think should be lumped in with country names necessarily in terms of this. And I think that as pointed out, it's essentially impossible to check against all names. And I think it's sitting there as kind of an objection in waiting for anybody who manages to determine what the name of Turkmenistan is in Finnish, and maybe it's nothing like Turkmenistan and does anybody know.

So I think that the UN languages plus the language of the country or city official or most commonly spoken language kind of strikes me as a potential rule of reason. But saying that anything that is in any language anywhere known or barely known is somehow reserved creates, I suppose it's technically a specific list. And if somebody has a link to the names of all countries and all capital cities in all languages, I'd like to see it. But I think

right now, this is - it's unenforceable but it's just a constant threat. So I think that if we're to find a formulation that does deal with kind of the reality of - the importance of a name in a given language, whether it's one of the most common languages in the world or the language or languages of the place, that would seem to protect the substantive problems and at the same time create a rule that's more reasonable and more understandable. Thank you.

Nick Wenban-Smith: Thanks for that comment. Next up in the queue, I think I've got Heather. I would just like to read out one of Michael's comments in that chat around whether all languages, in any language, whether that would include fictional languages such as Klingon, or Dothraki, or something like that. I think that's an interesting point. And I think the reason for this being discussed as an open issue for taking your indulgence and some time for a bit is to see whether as a community, we can't improve upon the rule in language in the existing rulebook, which is quite broad. And I think if we can find a better solution then I think it's incumbent on us to try to find that better solution. If it's not possible then it's not possible.

Heather?

Heather Forrest: Thank you very much. Heather Forrest for the record. I just wanted to respond to Paul's question about the history of this particular provision. If we talk about the history of this provision within the policy development process of the GNSO, there are two relevant policy development processes that we need to bear in mind. One is captured in the final report on the PDP for the introduction of new GTLDs. That PDP sets out a number of recommendations, none of which speaks explicitly to what we're discussing here.

To the point that I made in the chat a few moments ago, there is a Recommendation #2 that says strings must not be confusingly similar to an existing top-level domain or a reserve name. And that clue there, the reserve name, gives us the next PDP that we need to consider. Other tangentially



relevant recommendations but there's really nothing in the PDP that came out of the GNSO, Paul and others, that speaks to this point.

More to the point is the reserved names working group. That group's final report, Recommendation 20, says there should be no geographical reserved names, i.e. no exclusionary list, no presumptive right of registration, no separate administrative proposal, et cetera. The proposed challenge mechanism is 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.

This language that we see here is explicitly a product of the implementation process. It did not come from the GNSO. So that speaks to its history, Paul. Thank you.

Nick Wenban-Smith: Thank you. I think when you talk back to the GNSO policy recommendations, that's quite a valuable input. However, it's the 2012 guidebook, which has given us this language and it's the 2012 guidebook in the way that it was implemented, which is what we need to critically review to see whether it's not the case that improvements can be found, if there are any positions that concerns us to do so.

So does anyone else have any new thoughts? (Michael).

(Michael): Thank you, Nick. The question of languages is always a very interesting one for polyglots and people that obsess over it every day like myself. But even within languages you just have the tip of the iceberg, because every language has its own subset of rules, and grammar, and other aspects where there's no official specific word or equivalent for, for example, a city name in Denmark or versus where are now, in Japan. It's almost impossible to consider what the equivalent of what that might be and it's almost intelligible for many, even in their own language.

But one of the things I wanted to bring up, aside from that, was the question of whether or not we're looking, as any languages, and maybe perhaps it's clarified in the applicant guidebook, but I don't have that in front of me, is the aspect of scripts as well as with languages. Because for many times where you have the equivalent of such a country name or capital name, it may be written in the script of the local language, but it can also be written in ASCII, which probably looks intelligible for many, but are we considering that along with this, how we interpret it out of the applicant guidebook?

Nick Wenban-Smith: I think it's a really interesting question and I just don't think we know the answer to that. So I mean, Jorge, I mean I know you said, effectually, I think you were one of the few voices in support of the existing rules. Is that fair? Is there any way that you could see some merit in some of the inputs saying that that actually is an overly broad characterization and that there might be some sort of compromise? You don't have to answer now but I just want you to think about whether or not that rule is practical and proportionate.

Jorge Cancio: Thank you, Nick, for putting me on the spot. Actually, as I said, there are about 15 to 20 comments with the same position and they are coming from different stakeholder groups. They also say that if there is any limitations, it should still afford protection to all official and relevant national, regional, and community languages. So that's still quite broad, but I, for instance, and this is a discussion we already had in Work Track 5, I don't know whether face-to-face or online. I can't remember the many thousands of emails we have exchanged and also the teleconferences of course.

But for instance, in Switzerland, we have official languages. We are one of the countries who define official languages but many other countries don't. At the same time, we have some non-official languages in Switzerland spoken by large minorities of people, which in my view, still affords and merits some sort of requirements to get to talk to that country. Because it identifies your community very strongly. So I don't know, but how the rule could look in the

end. I don't have any objection of principle to limiting the number of languages.

At the same time, I have a problem in that, as I said before, we have here a solution looking for a problem. Because in the other - in the first round, we haven't really seen any problems. Or if anyone has seen them, this hasn't been brought to the table of this working group. So yes, I don't know. Perhaps we could explore that but in the end, it's a bit tricky because also the communities or the spoken language in certain countries is something that changes over time. And in Switzerland, for instance, that depends very much on the waves of immigrations we had in the last 20 years. And relevant community languages are not the same now than they were 20 years ago.

Nick Wenban-Smith: Thank you. One of the -- just reflecting for 30 seconds -- one of the things I'm thinking of is that there might have been application made in the 2012 round, which actually is in breach of this rule and we just don't even know about it. Because it's possible, right? And that's why I'm sort of interested in exploring this a bit further.

The second thing which comes to mind is the overlap of this topic with string similarity. Because obviously, lots of the words for London in languages other than English are quite similar to London. So you might think that they would be problematic, not only because it's the word London in a language some other than English, but also that actually it's visually or phonetically similar in a way which would block it because of the sort of string similarity rules.

So understanding a bit more of the intersection of those areas, I was wondering whether that might be an interesting area. Katrin?

Katrin Ohlmer: This is Katrin Ohlmer for the record. I would like to add one point from the (GOTD) group perspective. It's not only that the language has different languages spoken in a country. It's also, like, France, Spain, and

Netherlands where you have a lot of huge regional communities speaking certain language, which is certainly not the national language.

So maybe we could work on that last bullet point to add the relevant national, regional, and local languages. And I would also like to echo the proposal to have the six UN languages as the national identity of that country added to the list as a compromise.

Nick Wenban-Smith: Thank you. I think for any rule, which is clear, in a sense, it's got to be specific and in black letter, you know what is in the rule and what isn't in the rule. And that's, as a lawyer, kind of what my problem with it in any language. At the moment, it seems incredibly vague and difficult to pin down exactly what it means, which is unattractive.

But to Jorge's point, if there wasn't any problems in the previous round and there are reasons for these protections, then if there isn't a consensus amongst the communities, or if the co-chairs can't hear clearly that collectively, we want to change this to something, which is in the view of the community an improvement or more workable or proportionate, then my understanding is we're stuck with this and we carry on muddling through and hope that there aren't any problems in the next round. But it would be sad if there were and we couldn't have done something to prevent it.

Sorry, Paul and Greg again.

Paul McGrady: Paul McGrady. I'm gathering from the discussion today that there is in fact an appetite to look at this again, right, that there is - there may be some rule of reason, some number of languages that make sense or some other context in particular relationship to specific applications. I'm not sure but I don't think that any - I'm not hearing a lot of people calling for sort of throwing up our hands and just an leaving implementation detail that we don't really think makes sense in place.

So I think we're not going to get there today to the solution. But it seems to me that there is an appetite to keep talking about it and try to get to solution on this one. Thanks.

Nick Wenban-Smith: Thank you. Greg, and then I think we can move onto the next area.

Greg Shatan: Thanks. Nick, I share your concern that this is kind of this amorphous list, which is I guess bounded in theory, but unknowable in practice. And while many countries names sound similar in many languages that's not necessarily the case depending on the country, depending on the language. I don't know if anybody knows what (Gisadahlia) is or (Elephen Bens Kustin). The first one is Costa Rica and the second one is Ivory Coast or Côte d'Ivoire, which is also known as (Bregna Slonovata Koska) and (Obalasta Obala Bialacosti) and (Panti Gading) and (Panti Geding) and (Probrezi Slonovini) and (Probrazi Slonovini) and (Vibrezha Toshi Sloniviege) and (Chiyangya Hian). That's all Ivory Coast.

So by our rule, we have just heard a list of reserve names. Anybody who knew that before I mentioned it, I will give you many gold stars. Thank you.

Nick Wenban-Smith: Well, thank you, Greg. I think we're much better informed now on that and we didn't even get into Klingon and Dothraki, which I'm personally disappointed about. If we could move onto the next slide. On this slide - sorry, yes.

(Gia Perez): (Gia Perez) for the record. Well, since Greg mentioned this, I want to point out that it seems to be trending that countries are switching the names to the local languages nowadays and I guess these names (unintelligible) pop up here. It's actually things happen all interesting aspect that people don't - where I never hear people talk about. What happens when things disappear, either come to be (unintelligible) or not. Do they stay? If country name cease to exist, will then so (unintelligible) or not? I mean this complicates the question slightly more. A lot of people are tending to make rules and don't -

and for things that are new but nobody thinks about the exit statement. I mean is there anything you want to do about that? That's basically my question.

Nick Wenban-Smith: I think it's a really interesting point. I think my reading of the guidebook is that it covers the name as at that point of the application. So Beijing would have been protected as a capital but Peking possibly would not have been. That's the way I read it. It's an open question, whether you think it's a question of policy. The former names of capitals and countries ought to be protected and whether something which is protected as GTLD and granted on that basis then has that rescinded. I don't think that's an area we want to go into.

So sorry, next slide is one of my favorite slides because it's the last one. So in this slide, we look at some divergent issues where we've received public comments on the (unintelligible) recommendations. And I think as the co-chairs, we have seen that there are areas in the community where they - there's a clear expression of dissatisfaction with the preliminary recommendations. And I think we want to make sure that we fully understood. Obviously, we can read the comments but it's nice to sometimes have a bit of background, and context, and commentary and to tease out some of the principles or objections behind those preliminary recommendations.

And so the first one actually we did touch on earlier, that was my fault, about the letter-number, number-letter combinations, and the two character things. And I think to move this off the table, we discussed the intersection of that with it's not because their geographic. It's because they're confusingly similar to existing TLDs and that it's a string confusion point, about which I think the people who have made those comments would be probably reassured. Because I can't think of a world where you have somebody applying for P1, for example, or F0. And then them not being considered to be visually confusing with PL or with code for my Faroe Island friends.

So that I think I got there. I don't know if anybody else wanted to reflect further on it or we can move onto the next point. Any thoughts? Okay. So the second point here, we've heard some quite divergent opinions in the public comments, is around the alpha-3 codes, the ISO 3166.

So not wanting to repeat too much what we've said previously, but there are around 270 codes with three letters, which exactly match country codes. Point 1, there's about 17,500 combinations of the three letters. So it's a very small percentage of the overall. But there are some nice words in there like arm, A-R-M, and gin, which is one of my favorite ones, which is the three-letter code for Guinea, and is therefore not available. So you can have a top-level sort of vodka and beer but you can't have one for gin. That's a woeful state of affairs but that's the rule, okay.

And there was a suggestion that, okay, these are a special category but don't forget there's the exception of .com, which is the code for the Comoros Islands and that's always been there. And perhaps there might be a way to release some of these as GTLDs if you moved them into the same bucket as the capital cities and subnational place names with the relevant non-objection or support letter from the authority or government of that country. Perhaps they should - there are fair generic uses, which ought to be legitimate. And there ought to be a route to get those forward.

And those comments were made. I think the leadership team have heard the comments and I think it will be interesting to give them a bit more airing to see whether that is a non-starter or it's something we should explore a bit further. Thank you. Any thoughts? Let me just check the Adobe room. It's very difficult to multitask. No hands up in the chat room.

Greg first up.

Greg Shatan: Thanks, I was going to leave and say be right back or type BRB into the chat but then I realized that was the three-letter code for Barbados and therefore was reserved so I didn't do it. And my friend Ben can't get his because that's Benin. And I agree with you, there are a bunch of - these are not top-level domain, unlike the two-letter codes. They have not been passed in that regard. We could kick this can down the road but Canada might disagree with us because that's their three-letter.

In a sense, we're just a cog in the machine but that's Congo so we can't say that. Either I think in some way we're just cubs looking at that. But this is Cuba so we can't say that. There are just too many things in this list that are - just take us to and fro. That's Faroe Islands, three letter, of course, that I think we have an issue that'll take us from the East, or E-S-T, which is Estonia, actually, sorry. And I know we have some Estonians participating. So I don't mean to gab on but that is the three letter for gab on is (unintelligible).

Nick Wenban-Smith: How long have you been preparing this for?

((Crosstalk))

Greg Shatan: This is adlib off of the list on Wikipedia of three-letter codes, which is why I've been doing it in alphabetical order because I've been scrolling down. So I encourage us to think about this in the context of geo names but we can't because geo is Georgia. Thank you.

Nick Wenban-Smith: So I just - thank you very much, actually, for that very entertaining contribution. In terms of the proposal on the table or the suggestion, did you think that there should be a way to release these? I mean I think I understand your basic stated position that you don't really agree with geo protections and so therefore, obviously, they should be available. But in the context of where we're starting from, they're currently unavailable absolutely.



Greg Shatan: That states too much. I actually do agree with geo protections in terms of many of the kind of what we consider the easy cases, the two-letter codes, the country names. Those are all sensible. This is one that takes us - that's neither. That's not a TLD related thing, nor is it as uniquely associated as, say, Canada is with Canada. Can is somewhat less uniquely associated with Canada.

So my view is that in the spectrum of how we deal with various geo categories that this is a category, which at the least, should be available for release under certain circumstances. And at the moment should not be protected at all. But again, looking for a middle ground that this is a category where there should be at least some form of release or maybe it should also be subjected to an intended use limitation that if I want to have a fish related top level domain and I want it to be fin that Finland have a chance to stop me. But that's kind of where I'm at on this in terms of this needs to be opened up somehow, at the very least with the cooperation of the country in question. But that again kind of gives them a unique right or privilege over the three-letter term, which is, to my mind, not something that's really that we've established is an appropriate limitation. Thanks.

Nick Wenban-Smith: Thank you. Were there any other thoughts there? I mean it's a difficult one because when I look at G-I-N, I don't think of Guinea, but then I'm self-consciously aware that that's my own cultural background, right, and other people might not have that view. But then I look, there are some numbers of the alpha-3s like, say, USA, which is the alpha-3 for the United States of America. And I think it's very difficult to disassociate those three letters with that country's identity.

And I know this is an area where some of my country code colleagues very strongly. So it's a difficult area but if the suggestion was made maybe with a non-objection that there ought to be a way to make these available, if we can give people an airing to articulate pro or con than this is one of the ways in which we do that.

If there's no further comment from that specific one, moving onto the next bullet point. And thank you, Greg, for mentioning intended use here. So there were some categories in the guidebook, I think for example sub-national names, and you could not use -- and I speak from the perspective of the registry operator for the Wales domains. This is a - Wales is, well, it's a country but it's a sub-national name for the purposes of the ISO 3166. And therefore, you cannot register it without the right letter of non-objection or support. And that was regardless of the use to which you were going to put it.

So if you happened to have a brand name, say, in Russia or South America, which exactly matched a sub-national name, you would be blocked without the blessing of the country's government or administrative authority. And I think the point made was, look, in practice there's going to be no real consumer confusion or harm where you've got a specific brand use with a very small set of registrants not open for general use. So what's the harm in that and why can't they find a route if they could do it, say, with - if they weren't intending to use it, then why do they need to go through the support and non-objection process.

And obviously, some people feel very strongly about that and some people don't. But if there was any thoughts around that area, then this would be an opportunity, since we're here face-to-face, to hear a bit more about it. Or not. (Unintelligible).

Woman 1: I would be not confident with saying that it's blocked. It is some names, some three letter, two letter are included in this, and this has existing meaning for the community, for the country. So it's not blocking if it's already used in some way. So I wouldn't use the word blocking.

Nick Wenban-Smith: Okay. Jorge, thank you. It's very boring for everybody to listen to me bleed on and on.

Jorge Cancio: I'm just jumping in to help you out.

Nick Wenban-Smith: Thank you very much.

Jorge Cancio: To be serious, I understand that this bullet refers to the geo names covered by the letter of non-objection rule not to country names. Or is it covering also country names?

Nick Wenban-Smith: None of the categories for non-objection was a sub-national country name. So for example, Wales. Sub-national.

Jorge Cancio: But I think that if we continue discussing the intended use rule, we will still have a split and there are those who want to extend it. There are those who want to suppress it fully from the city names. I think that if we want to go further and to convert, it may make sense to regard the letter of non-objection so much as definite blocking of a name, which is an insurmountable block on the road. You can never go beyond if you don't agree with the government or the administration at stake.

But we should look into how do we objectivize, how do we rationalize that procedure, the non-objection rule. Because I think it has the positive element into it, in that it brings into the discussion an administration which represents a local or regional community, which has a connection with that name.

At the same time, it would be probably unreasonable to give them a full rejection power without any basis. So if we look into how to objectivize the letter of non-objection procedure, that may be a win-win for everyone in this room, for instance. And I've repeated this sometimes, with that deadlines for the government or the administration to response. So we wouldn't have TLD applications, which are still lingering on today after more than six years after the last round began. If we had something as simple as deadlines.

And governments normally when they are bound by the rule of law, they are used to deadlines. Maybe it's three months, it's six months. If you want that deadline to have some effect so that it doesn't become this insurmountable block, you have to provide for default rules. For instance, if there is no reaction from the administration and you can prove that you have notified that administration by a procedure to be defined, you can go along with your applications. Why not?

And third, you can have the - of course, the geo names application board or panel to advise you on that. And in certain cases, even if you have a disagreement with a government, you could have something like a dispute resolution procedure where you could say, okay, these are my rights and those are the arguments from the other side. And let's decide this instead of in a completely open political environment where you received letters from companies, countries, groups of countries and things like that. And you spend 10 years or 20 years on a conflict. You would have a procedure that is agreeable by all. And instead of spending seven years on something, you could do it on perhaps in nine months and actually perhaps in three years. So why don't we go that way?

Nick Wenban-Smith: Okay. Thank you. That's sort of super interesting. One of the things I deal a lot with in my professional practice as a lawyer is getting consent letters for various things. And it's not an uncommon clause in a contract whereby consent is required. It can't be unreasonably withheld or delayed. And is it fair to say that that's the kind of concept that you are putting down on the table here, Jorge?

Because when it comes to things like all the languages in the world and intended use or non-intended use, are we looking at the second one here. Because the next point about whether for a name which matches the name of a city somewhere in the world, whether or not even - because at the moment, if you express the use of that name to be associated with the (unintelligible) community, you have to get the non-objection letter. And if you don't, then

you don't have to get the non-objection letter. And I think the points were made, well, you have a well-known city name, let's say. It's not a capital city, so you don't have to get the non-objection letter.

And in reality, it's an open TLD and you're going to market it towards the people of that city. But you don't express that that's your intention when you make your application. So you get around the non-objection process. So the sort of concept of unreasonable withholding or delay of a consent could be a more broadly applicable concept, could it not? Is that what you're also advocating there? Is that possible?

Jorge Cancio: I'm not sure if I'm getting all the nuances. This is via symmetry between a native speaker and a non-native speaker. But I think this is the direction I'm proposing.

Nick Wenban-Smith: Thank you. I mean, I'm sorry about the asymmetry but you're more intelligent than me. So you've got to get (unintelligible). Paul?

Paul McGrady: Thanks, Paul McGrady for the record. I feel like we've talked about this and talked about this a bit, right, and talked about it, and talked about it. And I won't be as clever as Greg but let's just pick one of the - and I apologize to anybody from Toledo. It's one of the worst places in the United States, in my opinion. And I grew up in Cleveland so I'm going to hold onto that. So we've got Toledo, Spain. We've got the province of Toledo in Spain. We've got Toledo, Ohio in the United States. Toledo, Ohio, by the way, is far larger than Toledo, Spain. Not nearly as beautiful. There's the Toledo district in Belize. There's a Toledo settlement in Belize. In Brazil, there's Toledo, I'm going to say it wrong, there's two Toledos in Brazil. There's two in Colombia. There's one in the Philippines, five in Spain. In the U.S., I've already talked about Toledo, Ohio. There's a Toledo, Illinois; Toledo, Iowa; Toledo Kansas; Toledo, Missouri; another Toledo in Missouri; Toledo in Oregon; one in Washington State; one in Texas but it's in red letters. I know what that has to do. And there's also one in Uruguay. This is, like, a quick look, right.

So this idea of going out and applying to all these governments, none of which have a new GTLD division, by the way, right, and knowing whether or not you've jumped through all the hoops, that's just for one little example, right. And so, again, if you're a company that makes scales, which I think there's a Toledo company that makes scales, that's a lot of work. So I appreciate the idea coming back up yet again but I think that we have to - whenever we build something, it has to be practical. And all of this permission seeking in advance to use words like Toledo, at the end of the day really aren't terribly practical.

So again, I hate to always throw cold water on this idea every time it pops its head up. But again, I think we need to just really think, at the end of the day, if what we build here is impractical. All we're doing is opening ourselves up for disputes in the future and more criticism of the new GTLD program.  
Thanks.

Nick Wenban-Smith: Thank you. Jorge? Sorry.

Jorge Cancio: Just a short comment. I think we agree that we have to be practical and I think that (Ash) made some very specific proposals to be practical and to bridge the differences to other people. But I see that the intended use doctrine is recovering one time. And again, just to go to the Toledo example. Toledo, at least I'd put my Spaniard shoes on. In Spain, you have legal rights as a city on the name because that's usual in continental Europe. So you can get that name delegated to Toledo, whatever company. By the way, they could apply for Toledo Scales or whatever they do.

And then what you can get as a pragmatic -- and I'm making fun of that a bit, please allow me -- solution of that is that you have the Government of Spain objecting to that, creating a (farce) here in this environment in ICANN or in other international environments, you will have a litigation in Spain on that from the city, from the province, perhaps from the region because they feel

they represent also the province, perhaps from the government of Spain, perhaps from other stakeholders. And you will have that on years, and years, and years of conflict instead of having those people on board from the very start and avoiding all that fuss.

So it's really a change of approach. Perhaps in some North American countries, you don't have that kind of attachment, that kind of tradition, that kind of legal culture regarding names of places. But although this is perhaps a different setting to then continental Europe, we have to understand that that exists and that, for instance, the name of France on the second level domain was taken away from domain name holder and given to the government of France, according to French law.

And the same can happen to city names in other places. Do we want to be pragmatic? Do we want to be practical? Do want to avoid such kind of issues or do we just put our head into the sand and pretend those issues are not out there.

Nick Wenban-Smith: Thank you. I was in - I think I was in Canada but I think it's the same in the States and at breakfast, they offered me Greek yogurt and I said, I'm really impressed you've got your yogurt from Greece here on the West Coast of America. No, it's not from Greece, you idiot. It would be illegal to call that Greek yogurt in the U.K. because it's not from Greece, right.

So we're nearly at the end of the session. We've got five minutes. Going to hand over to Martin. Was there one final point from Greg? I know we've done this to death now.

Greg Shatan: Thanks. Greg Shatan for the record. I just want to say that I think it assumes too much that the France.com case establishes any kind of rule of law, broadly speaking. It's quite unique both on the substance and its procedural posture. I think if the Toledo Scale company wanted .toledo, it's at least an

open question and maybe even a far-fetched question as to whether Spain could do a darn thing about it, much less whether they should.

So I think assuming that there is this problem out there that can only be solved by putting everything under consent rules I think assumes far too much. We are trying to come up with global rules and it might a de rigueur in the EPDP, for instance, to apply EU rules to the world. But I think we're a little premature in deciding that that's where we're going with all rules. And this is one where I think this idea of national law, and local law, and somehow that these are going to apply globally.

Why don't we try applying some of the national free speech laws that are more oppressive globally and see how well we do with that. It's a fraught and complex issue as to the extraterritorial extension of any of these national or local laws. And it's certainly nothing upon which we can base a broad rule. Thank you.

Nick Wenban-Smith: Thank you. Paul, did you have your hand up? I think we've got very quickly.

Paul McGrady: Compared to Greg, I just will sound inarticulate. Thank you.

Nick Wenban-Smith: Thank you very much. I'll hand over - thank you everybody for your contributions. I don't think we ever said this was going to be easy, which is kind of the reason why we're here. So thank you very much for everybody.

Martin Sutton: Okay, everybody. We're just about to wrap up this session, which is due to close on the hour. So just wanted to cover off sort of the next steps, just so everybody is aware. Work Track 5 Group still continues to meet and review all of the remaining public comments and to summarize those. Our next meeting is later in March on the 27th. So that will continue that activity and we'll obviously reflect on a lot of the conversations today to see which items



we need to take further from here. So thanks for all the input that we've had today.

Ultimately, the aim is to converge with the overall working group. So all of the outputs and recommendations that Work Track 5 comes up with will be presented to the overall SubPro working group. And then the intention that the final report then is a combined set for subsequent procedures, inclusive of the geographic terms, is targeted for around Q3 this year depending on everything moving forward at the current rate.

So I think that covers it for today. There is a session at 1:30 today, which is the first one of the subsequent procedures working group coming together. So please join us for that at 1:30. And other than that, I can say arigato, I believe. Is that right, Michael?

((Crosstalk))

Martin Sutton: Thanks everyone. Bye now.

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