

Cross-Community Working Group - Framework for use of Country and Territory Names as TLDs (CWG - UCTN)

{Strawman} Options Paper

Version 1 May 2015 BB edits clean

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## Purpose of this Options Paper

The purpose of this draft options paper is to lay out the core issues that the Cross-Community Working Group: Framework for Use of Country and Territory Names as TLDs (CWG-UCTN) is addressing in carrying out its Charter (<http://ccnso.icann.org/workinggroups/unct-framework-charter-27mar14-en.pdf>). It also provides a starting point in the identification of options around a consistent framework for the treatment of country and territory names as top-level Internet domains (TLDs).

It is anticipated that this document will serve as a working document that both sets a road map for the CWG-UCTN's work in fulfilling its Charter, and records the CWG-UCTN's discussions and work in that process. This document should therefore inform the CWG-UCTN's drafting of an Initial Report, which shall contain, consistent with the CWG-UCTN's Charter, "a review and analysis of the [CWG-UCTN's] objective, a draft Recommendation and its rationale."<sup>1</sup>

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<sup>1</sup> CWG-UCTN Charter, at <http://ccnso.icann.org/workinggroups/unct-framework-charter-27mar14-en.pdf>, at 3.

## 1. Background on use Country and Territory Names in the Domain Name System (DNS)

### 1.1. Formative years

Initially, the Advanced Research Projects Agency Network (ARPANET), a United States Department of Defense research project, implemented the Transmission Control Protocol (TCP) and Internet Protocol (IP), to enable the consistent identification of computers connected to the ARPANET, termed 'hosts', by assigning to each host a unique numerical address, termed an 'Internet Protocol' address. While the IP address facilitated communication between computers, long strings of numbers are less intuitive to human users. Therefore it was recommended that hosts also would be given short, unique, mnemonic names and a master list, called the "hosts.txt file", was developed that contained IP addresses of all hosts in the network and listed the related names.

The use of the domain system instead of a fixed file was first mentioned by Jon Postel in RFC 881.<sup>2</sup> RFC 882 additionally provides a description of an early form of the DNS. An update of the implementation schedule can be found in RFC 897. One of the core evolutionary aspects was apportioning responsibilities; no longer would a single fixed file needed to be maintained (a task, which grew larger as the network grew), but rather the network would be structured into 'domains'. An entity with authority over a domain would be responsible for keeping track of all of the hosts connected to that domain.<sup>3</sup>

The next phase of the formation and structuring of the DNS was documented in RFC 920,<sup>4</sup> which defined the Top Level Domains (TLDs). ARPA, GOV, EDU, COM, MIL, and ORG, and country code Top Level Domains. This document includes a reference to ISO 3166-1 as a list of 'English country names and code elements' (the 'ISO 3166-1 list')<sup>5</sup>. Actual delegations of two letter country code TLDs started in 1985, initially mainly to academic institutions.

In November 1987 RFC 1032 ('titled Domain Administrators Guide') was published. In this RFC the evolution of ideas set out in RFC 920 were documented, in particular and relevant in this context, policies for the establishment and administration of domains, including the use of ISO 3166 as the standard for country names. According to, RFC 1032:

*Countries that wish to be registered as top-level domains are required to name themselves after the two-letter country code listed in the international standard ISO-3166. In some cases, however, the two-letter ISO country code is identical to a state code used by the U.S. Postal Service. Requests made by countries to use the three-letter form of country code specified in the*

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<sup>2</sup> J. Postel, RFC 881: "The Domain Names Plan and Schedule", Nov. 1983, <https://tools.ietf.org/html/rfc881>

<sup>3</sup> David D. Clark, RFC 814: "Name, Addresses, Ports and Routes", Jul. 1982, <https://tools.ietf.org/html/rfc814>

<sup>4</sup> J. Postel and J. Reynolds, RFC 920: "Domain Requirements", Oct. 1984, <https://tools.ietf.org/html/rfc920>

<sup>5</sup> ISO, *Country Codes: ISO 3166*, [http://www.iso.org/iso/home/standards/country\\_codes.htm#2012\\_iso3166\\_MA](http://www.iso.org/iso/home/standards/country_codes.htm#2012_iso3166_MA)

Heather Forrest 24/4/2015 10:53

**Comment [1]:** Disclaimer by Jaap: this is not pretending to be a complete history of how the current policy of came into existence. Based on what is published in the IETF RFCs, it goes back to the early days (early 80's) when (cc)TLDs were established and their relation with ISO 3166.

*ISO-3166 standard will be considered in such cases so as to prevent possible conflicts and confusion.*

The CWG-UCTN is not aware of any request to use the three-letter form of country code.

### 1.2 RFC 1591

In March 1994 RFC 1591<sup>6</sup> was published, which set out the naming practice at that time. Amongst other things, RFC 1591 reflects the significant amount of work that had transpired in the late 1980s and early 1990s. Critically for the context of the use of country names as Top Level Domains, RFC 1591 identified and preserved the link between ccTLDs and the ISO 3166-1 list and established two significant principles (In terms of RFC 1591:

*The IANA is not in the business of deciding what is and what is not a country.*

And

*The selection of the ISO 3166 list as a basis for country code top-level domain names was made with the knowledge that ISO has a procedure for determining which entities should be and should not be on that list.*

To date these two principles are still at the core of the policy for establishing ccTLD (and IDN ccTLDs)

### 1.3 Evolution of policies on use of Country and Territory Names as TLDs since RFC 1591

In the early 1990s, responsibility for maintaining the ARPANET project shifted away from the United States Department of Defense to the National Science Foundation. In 1997, responsibility was again shifted, this time from the National Science Foundation to the National Telecommunications and Information Administration (NTIA), a division of the United States Department of Commerce.<sup>7</sup> At this time, the US government faced increasing pressure to divest its control of the internet. ICANN has its origins in then-US President Clinton's direction to the NTIA to

#### **How are entries included in ISO 3166 and codes assigned?**

**(NEEDS TO BE UPDATED: Jaap)**

ISO 3166-1 list provides a set of standardized two-letter codes assigned to the official name of each of the countries listed in the United Nations (UN) Terminology Bulletin Country Names and the Country and Region Codes for Statistical Use of the UN Statistics Division. "Once a country name or territory name appears in either of these two sources, it will be added to ISO 3166-1 by default",<sup>1</sup> and then is automatically available for designation as a ccTLD and delegation to an appropriate registry operator. New ccTLDs for countries that do not appear on the ISO 3166-1 list cannot be requested or petitioned from IANA or the ISO. Indeed, IANA has long characterised such requests as 'absolutely futile'.<sup>1</sup> The decision to embrace an existing international standard thus removed IANA from having to determine what constitutes a country for the purposes of ccTLD delegation. Over time, there have been a few deviations from the ISO 3166-1 list, including .uk (United Kingdom) and .eu (European Union).

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<sup>6</sup> ISO, *Country Codes: ISO 3166*, [http://www.iso.org/iso/home/standards/country\\_codes.htm#2012\\_iso3166\\_MA](http://www.iso.org/iso/home/standards/country_codes.htm#2012_iso3166_MA)

<sup>7</sup> Committee on Internet Navigation and the Domain Name System: Technical Alternatives and Policy Implications, *Signposts in Cyberspace: The Domain Name System and Internet Navigation* (National Academies Press, 2005) at 76-77.

address these growing concerns.

The policy on use of country and territory names for ccTLDs documented in RFC 1591 was preserved to date. At its core it relies on the ISO 3166-1 standard, and thus avoids any responsibility for determinations of what is considered a country for the purposes of the ISO 3166-1 list, and assignment of a code to a country, a sub-division or other relevant geographic entity on the list by a third party i.e. the ISO 3166 Maintenance Agency.<sup>8</sup>

in the first round of new gTLDs country names were excluded. The two 'proof of concept' new gTLD expansion rounds were commenced in 2000<sup>9</sup> and 2003<sup>10</sup> respectively, together adding fifteen new gTLDs to the DNS. Nearly all of these new gTLDs utilise terms of a generic, categorical nature; none could be interpreted as identifying a 'country name', as that term is commonly understood. (NEED TO INCLUDE A REFERENCE why not: ).

The use of names of country and territory as a gTLD string became a policy issue as part of the New gTLD process. As part of the implementation, a definition of 'geographic names' first appeared in the third version of the gTLD Applicant Guidebook. With subsequent versions of the gTLD Applicant Guidebook, revisions were made, the most significant being the bifurcation of 'country or territory names', which were deemed ineligible, from other geographic names.

INSERT BRIEF DESCRIPTION OF PROCESS LEADING UP TO GAC and ccNSO –LETTERS and BOARD RESPONSE TO GAC< RESULTING IN FOOTNOTE IN APPLICANT GUIDEBOOK>

The 11 January 2012 version of the gTLD Applicant Guidebook in place during the new gTLD applications period provided that "[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

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<sup>8</sup> ICANN, *ICP-1: Internet Domain Name System Structure and Delegation (ccTLD Administration and Delegation)*, <http://www.icann.org/en/icp/icp-1.htm>.

<sup>9</sup> ICANN, New TLD Program Application Process Archive, <http://archive.icann.org/en/tlds/app-index.htm>

<sup>10</sup> ICANN, Information page for Sponsored Top-Level Domains, <http://archive.icann.org/en/tlds/stld-apps-19mar04/>

Lars HOFFMANN 13/5/2015 12:38

**Comment [2]:** This seems to imply that some did?

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”.

- vii. it is a name by which a country is commonly known, as demonstrated by evidence that the country is recognized by that name by an intergovernmental or treaty organization.”<sup>11</sup>

A comprehensive description of the evolution of policy and its implementation on use of names of countries and territories under the new gTLD Program is included in Annex [A

[Insert Annex B]

## 2. Background on the ccNSO Study Group

The formation of the CWG-UCTN is a result of the ccNSO Study Group on the Use of Country and Territory Names, which was established in May 2011 and tasked with the aim of delivering the following outcomes:<sup>12</sup>

1. *An overview of current and proposed policies, guidelines and procedures for allocation and delegation of strings currently used or proposed to be used as TLDs that are either associated with Countries and Territories (i.e., by inclusion on the ISO 3166-1 list) and/or are otherwise considered representations of the names of Countries and Territories.*
2. *A comprehensive overview of the types and categories of strings currently used or proposed to be used as TLDs that are either associated with Countries and Territories (i.e., by inclusion on the ISO 3166-1 list) and/or are otherwise considered representations of Country and Territory names.*
3. *A comprehensive overview of issues arising (or likely to arise) in connection with applying the current and proposed policies, guidelines and procedures for allocation to types and categories of strings currently used or proposed to be used as TLDs that are either associated with Countries*

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<sup>11</sup> gTLD Applicant Guidebook Version 9 (11 January 2012), Module 2, Section 2.2.1.4.1, Treatment of Country or Territory Names, at <http://newgtlds.icann.org/en/about/historical-documentation/matrix-agb-v9>.

<sup>12</sup> ccNSO SG Statement of Purpose, at <http://ccnso.icann.org/workinggroups/use-of-names-statement-of-purpose-31jan10-en.pdf>, at 2-3.

*and Territories (i.e., by inclusion on the ISO 3166-1 list) and/or are otherwise considered representations of Country and Territory names.*

In its Final Report,<sup>13</sup> the Study Group recommended that a Cross-Community Working Group be established to:

- *Further review the current status of representations of country and territory names, as they exist under current ICANN policies, guidelines and procedures;*
- *Provide advice regarding the feasibility of developing a consistent and uniform definitional framework that could be applicable across the respective SO's [sic] and AC's [sic]; and*
- *Should such a framework be deemed feasible, provide detailed advice as to the content of the framework.*

The Study Group considered that such a framework would inform future ICANN policies and procedures as to how names of country and territory could be used as TLDs:

*That is, which policy or procedure is applied to a country or territory name as TLD, determines the applicable governance framework, the structure of relationships between the relevant stakeholders (including end-users) and their respective roles and responsibilities. This is not just relevant for the selection or delegation stage, but also for subsequent stages, once a country or territory name Top Level Domain is operational.*

### 3. Background on this CWG-UCTN

This CWG-UCTN was formed in March, 2014. Members of the CWG are identified on the CWG's web page, which is linked to the ccNSO's web page.<sup>14</sup>

Throughout the remainder of 2014, the CWG-UCTN focused on its first Charter mandate, namely to 'further review [of] the current status of representations of country and territory names, as they exist under current ICANN policies, guidelines and procedures.' The CWG confirmed the findings of the ccNSO Study Group as set out in its Final Report while noting particular examples from the implementation of the AGB<sup>15</sup> in the 2012 new gTLD expansion round.

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<sup>13</sup> Final Report: <http://ccnso.icann.org/node/42227>

<sup>14</sup> The ccNSO Study Group online resources were set up and managed by the ccNSO. For administrative ease and convenience, these existing resources were relied upon when setting up an online site for the CWG.

<sup>15</sup> The final version of the gTLD Applicant Guidebook is version 10, dated 4 June 2012, accessible at <http://newgtlds.icann.org/en/applicants/agb> (hereinafter, 'AGB').



At the face-to-face meeting of the CWG-UCTN at ICANN52 in Singapore, the CWG agreed to use and continue to develop a strawman options paper drafted by the CWG co-chairs<sup>16</sup> and GNSO and ccNSO supporting ICANN staff. The strawman options paper was drafted to provide the CWG with a starting point in undertaking its remaining chartered responsibilities, namely consideration of the feasibility of developing a consistent and uniform framework respecting the use of country and territory names as TLDs and provision of advice in relation to the content of such a framework.

The strawman options paper tabled at ICANN52 set out starting points to address each of these points. CWG members agreed at ICANN52 to adopt the approach proposed in the strawman options paper. This working document is therefore based upon the strawman options paper, to which the CWG's ongoing work has been, and will continue to be, added as the CWG's work progresses.

Lastly, in recognition of the frequent use of acronyms in the ICANN environment, the complexity of this topic and the value of consistent use of terminology in this paper, given its intended outcome of informing a consistent policy framework, a Definitions section is included. Relevant terms will be defined within the text in their first usage and included in the Definitions below. Some defined terms may, for improved readability, be shortened or identified subsequently by an acronym; where this practice is used, the shortened form or acronym will appear in parentheses immediately following its first use as well as in the Definitions.

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<sup>16</sup> Heather Forrest (GNSO), Annebeth Lange (ccNSO), Carlos Raul-Gutierrez (GNSO) and Paul Szyndler (ccNSO).

#### 4. Methodology

As noted above, the CWG-UCTN was established to further develop the results of the work of the ccNSO Study Group on Country and Territory Names. A notable finding of the Study Group in its Final Report is the complexity of defining ‘country and territory names’.<sup>17</sup> To facilitate its work, the Study Group identified various categories of representations of country and territory names that could be used as top-level domains (TLDs).

Building upon this existing work, this CWG will explore the potential for the development of a ‘consistent and uniform definitional framework’ in top-level domain policy (across the ccTLD and gTLD namespaces) of the following two high-level categories of use:

1. Country codes; and
2. Country and territory names.

For each category, the CWG should consider:

- The scope of the category (in other words, the definition of “country codes” and “country and territory names” such that the names falling within this category are identifiable);
- The status quo of ICANN policy respecting such use, including any recorded reasons or justifications for such policy;
- Issues arising in relation to developing a “consistent and uniform definitional [policy] framework”; and
- Possible framework options, including an analysis of the benefits and burdens of each option.

#### 5. Definitions

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<sup>17</sup> See also WIPO Study on Country Names, 2013

Country and Territory Names	<p>Context to this definition is provided above in the section “Background on Country and Territory Names in the DNS”.</p> <p>The term “country or territory names” was defined in Module 2, Section 2.2.4.1 of the AGB, as set out on page X, above.</p> <p>The term “country or territory names” has not elsewhere been defined in policy adopted by ICANN’s Board of Directors.</p> <p>This CWG-UCTN adopts the following definition for the purposes of its work:</p> <p>[For discussion: <i>“The expression ‘names of States’ is meant to cover the short name of the State or the name that is in common use, which may or may not be the official name, the formal name used in an official diplomatic context, the historical name, translation and transliteration of the name as well as use of the name in abbreviated form and as adjective”.</i></p> <p><b>WIPO Study on Country Names, SCT/29/5 REV.</b> ORIGINAL: ENGLISH DATE: JULY 8, 2013]</p> <p>Note that territory does not refer to regions or other sub-state entities of federal countries or similar. E.g. Australia’s ‘Northern Territory’ is a federal state and not considered a territory under this definition.</p> <p>Rather ‘territory’ refers to British overseas territories, such as the Cayman Islands, Australia’s external territories, such as the Christmas Islands, self-governing territories of the Danish Realm such as the Faroe Islands, or the Bouvet Island, a dependent territory of Norway.</p>
Country Codes	<p>These codes are understood as representations and/or identification of countries and territories for the purpose of the DNS</p> <p>Context to this definition is provided above in the section ‘Background on Country and Territory Names in the DNS.’</p> <p>Prior to the New gTLD Program, country codes have been based upon the ISO 3166-1 standard.</p> <p>This CWG-UCTN adopts the following definition for the purposes of its work:</p> <p>[For discussion: <i>Standard (i.e. ISO) lists of 2 and 3 letter abbreviation of country names.</i>]</p>

Annebeth Lange 13/4/2015 14:40

**Comment [3]:** In my view there is a need for further explanation of “Territory Names”, even if it is mentioned under the definition of ISO Codes further down. Experience shows that this is a area of confusion for many – mixing together the word “territory” with “regions” etc.

Annebeth Lange 13/4/2015 14:45

**Comment [4]:** Somewhere it should be mentioned that these codes are understood as representations or identifications of countries and territories.

CWG-UCTN	Cross-Community Working Group - Framework for Use of Country and Territory Names as TLDs
Chartering Organizations	Chartering Organizations of the CWG-UCTN, together the ccNSO and GNSO
ISO 3166-1	<p>Context to this definition is provided above in the section "Background on Country and Territory Names in the DNS".</p> <p>This CWG-UCTN adopts the following definition for the purposes of its work:</p> <p>[For discussion: The international standard developed by the International Standards Organization (ISO), and as maintained from time to time by ISO.]</p>
Study Group	ccNSO Study Group on the Use of Country and Territory Names
AGB	<p>The new gTLD Applicant Guidebook published 4 June 2012</p> <p>See: <a href="https://newgtlds.icann.org/en/APPLICANTS/AGB">https://newgtlds.icann.org/en/APPLICANTS/AGB</a></p>


## 6. Framework on the Use of Country and Territory Names: Analysis and Options

### 1. Country Codes under ISO 3166

The official home of page for the ISO 3166 standard can be found at

<[http://www.iso.org/iso/home/standards/country\\_codes.htm](http://www.iso.org/iso/home/standards/country_codes.htm)>. This page has a link to the alpha-2 list of codes

<<https://www.iso.org/obp/ui/#search/code/>>. This gives a list of all 657 country codes, of which only 249 are assigned. Listed are also the status of non-assigned codes.

ISO codes are intended to be used in any application requiring the expression of current country names in coded form. The term 'Country Names' is defined in definition 3.4 'name of country, dependency, or other area of particular geopolitical interest'. That is why we often see the term "Countries and territories" used as a reminder that it is not just about countries.

The standard consists of three parts:

- ISO 3166-1 (Part 1: Country codes);
- ISO 3166-2 (Part 2: Country subdivisions code);
- ISO 3166-3 (Part 3: Code for formerly used names of countries).

The edition (version) of a Part is identified by the year of publication. Therefore the full reference to the current (third) Edition of ISO 3166 Part 1 is: ISO 3166-1:2013.

The ISO codes only use the ASCII letters (A-Z) and numbers (0-9) and (in ISO 3166-2 only) hyphens (-).

ISO codes are structured as follows:

- ISO3166-1 uses two letter codes (alpha-2), three letter codes (alpha-3) and numerical codes;
- ISO 3166-2 uses codes starting with an ISO 3166 alpha-2 code followed by a hyphen and one or more letters or numbers;
- ISO 3166-3 uses 4 letter codes. Often codes in ISO 3166-3 contain the original obsoleted (alpha-2) codes.
- The alpha-2 and 3 codes can have various classifications such as, Assigned by ISO 3166/MA, Unassigned, and Reserved in various ways: (Exceptionally, Transitionally, and indeterminately). For additional details, see also: [http://www.iso.org/iso/home/standards/country\\_codes/country\\_codes\\_glossary.htm](http://www.iso.org/iso/home/standards/country_codes/country_codes_glossary.htm).

The authoritative source for these terms is, of course, the Standard itself.

There is not just a single list. Rather, the term is often used colloquially to denote the list with the Country Code Assignments in Section 9 of ISO 3166-1. People tend to use the term 'ISO Code List' imprecisely. They often use the term to include the Reserved Codes. Similarly confusing is the use of the

term 'the ISO 3166-2 list' while not meaning Part 2 of the ISO 3166 standard at all, but referring instead to the list of the (alpha-2) codes in Part 1.

Note that when the term 'ISO 3166-2 list' is misused in this way it is often undefined whether all possible codes are meant (i.e., both the Assigned and the Reserved Codes, or just the Assigned Codes).

## 1.1. Two-letter Country Codes

### 1.1.1. Scope

This category of usage comprises two-letter country codes as identified in ISO 3166-1.

### 1.1.2. Status Quo

Module 2 Section 2.2.1.3.2, String Requirements, provides in relevant part:

3.1 Applied-for gTLD strings in ASCII must be composed of three or more visually distinct characters. Two character ASCII strings are not permitted, to avoid conflicting with current and future country codes based on the ISO 3166-1 standard.

3.2 Applied-for gTLD strings in IDN scripts must be composed of two or more visually distinct characters in the script, as appropriate. Note, however, that a two-character IDN string will not be approved if:

3.2.1 It is visually similar to any one-character label (in any script); or

3.2.2 It is visually similar to any possible two-character ASCII combination.

The justification for deeming two-character ASCII ineligible is clearly stated in Section 2.2.1.3.2 as excerpted above: "to avoid conflicting with current and future country codes based on the ISO 3166-1 standard."

### 1.1.3. Issues

- ISO 3166-1 is not a static reference. As new countries and territories are formed/founded and other cease to exist, the standard is amended accordingly.
- Two-letter strings in IDN scripts have already been added to the root through the New gTLD Program.

Lars HOFFMANN 1/5/2015 12:14

**Comment [5]:** Should we add here who is the arbiter for this?

1.1.4. Potential Options

Option	Application	Benefits	Burdens/Risks
1. All two-character strings reserved for use as ccTLD only, ineligible for use as gTLD	ASCII	For discussion	For discussion
2. (Version 2a: Two-character strings eligible for use as gTLD if not in conflict with ISO 3166-1.)  (Version 2b: Two-character strings eligible for use as gTLD if not in conflict with [ISO 3166-1 and/or other standard/list].)	ASCII	For discussion	For discussion
3. Unrestricted use of two-character strings if not in conflict with an existing ccTLD or any applicable string similarity rules.	ASCII	For discussion	For discussion
4. Future two-character strings reserved for use as IDN ccTLD only, ineligible for use as gTLD	IDN	For discussion	For discussion
5. Unrestricted use of two-character strings if not in conflict with an existing TLD or any applicable string similarity rules or [other	IDN	For discussion	For discussion

Annebeth Lange 18/3/2015 14:25  
**Comment [6]:** I am not sure what is meant by this. That neither new countries could get a two-letter code as ccTLD nor use as gTLDs?



conflict conditions to be discussed, for example, visually similar to any one-character label (in any script) or visually similar to any possible two-character ASCII combination]			

### 1.1. Three-letter Country Codes

#### 1.1.0. Status Quo

#### 1.1.1. Reasons/Justification

#### 1.1.2. Issues

#### 1.1.3. Potential Options

### 2. Country and Territory Names

## ANNEX B

In the early stages of the 2008 New gTLD policy development process, the Government Advisory Committee (GAC) published guidelines recommending that the creation of new gTLDs of national significance be avoided 'unless in agreement with the relevant governments or public authorities'.<sup>18</sup> The

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<sup>18</sup>GAC, *Principles Regarding New gTLDs*, 2.2, <https://archive.icann.org/en/topics/new-gtlds/gac-principles-regarding-new-gtlds-28mar07-en.pdf> (28 Mar. 2007)

GNSO, the body responsible under ICANN’s Bylaws for making policy with respect to gTLDs,<sup>19</sup> had convened, prior to the ICANN Board’s decision in 2008 to proceed with further gTLD expansion, a Working Group to review existing practice and make recommendations on the future use of reserved names (“Reserved Names Working Group” or “RN-WG”). The 2007 RN-WG’s Report<sup>20</sup> recommended that the following work be conducted in relation to ‘geographical & geopolitical names’:

- a. Review the GAC Principles for New gTLDs with regard to geographical and geopolitical names
- b. Consult with WIPO experts regarding geographical and geopolitical names and IGO names
- c. Consult with the GAC as possible
- d. Reference the treaty [INSERT] instead of the Guidelines and identify underlying laws if different than a treaty
- e. Consider restricting the second and third level recommendations to unsponsored gTLDs only
- f. Restate recommendations in RN-WG report for possible use in the New gTLD evaluation process, not as reserved name
  - i. Describe process flow
  - ii. Provide examples as possible
  - iii. Incorporate any relevant comments from the IDN-WG report
- g. Provide a brief rationale in support of the recommendations, referring to the role of the category as applicable
- h. Edit other text of the individual subgroup report as applicable to conform with the fact that geographical and geopolitical names will not be considered reserved names
- i. Finalize guidelines for additional work as necessary

Helpfully, the Final Report of the RN-WG, dated 23 May 2007, identifies the then-status quo of “Reserved Names Requirements” as follows:

Category of Names	TLD Level(s)	Reserved Names	Applicable gTLDs
Geographic & Geopolitical	second level, and third level (if applicable)	All geographic & geopolitical names in the ISO 3166-1 list (e.g., Portugal, India, Brazil, China, Canada) and names of territories, distinct geographic locations (or economies), and other geographic and geopolitical names as ICANN may direct from time to time	.asia, .cat, .jobs, .mobi, .tel and .travel

<sup>19</sup> ICANN, Bylaws for Internet Corporation for Assigned Names and Numbers, a California Nonprofit Public-Benefit Corporation (as amended 30 July 2014) <https://www.icann.org/resources/pages/governance/bylaws-en>

<sup>20</sup> GNSO Reserved Name Working Group Report, <http://gns0.icann.org/en/drafts/rn-wg-fr19mar07.pdf>

The roles of these names were reported as follows:

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.

Several of the RN-WG's recommendations are relevant to the use of country names in the DNS and the current work of this CWG-UCTN:

Recommendation 5 – Single and Two Character IDNs of IDNA-valid strings at all levels: Single and two-character U-labels on the top-level and second-level of a domain name should not be restricted in general. At the top level, requested strings should be analyzed on a case-by-case basis in the new gTLD process, depending on the script and language used in order to determine whether the string should be granted for allocation in the DNS. Single and two character labels at the second level and the third level if applicable should be available for registration, provided they are consistent with the IDN Guidelines.

Examples of IDNs include .酒, 東京.com, تونس.icom.museum.

Recommendation 10 – Two Letters (Top Level): We recommend that the current practice of allowing two letter names at the top level, only for ccTLDs, remain at this time.

Examples include .AU, .DE, .UK

Recommendation 20 – Geographic and geopolitical names at Top Level, ASCII and IDN: 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. 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.

Recommendation 21 – Geographic and geopolitical names at all levels, ASCII and IDN: The term 'geopolitical names' should be avoided until such time that a useful definition can be adopted. The basis for this recommendation is founded on the potential ambiguity regarding the definition of the term, and the lack of any specific definition of it in the WIPO Second Report on Domain Names or GAC recommendations.

Recommendation 22 – Geographic and geopolitical names at Second Level & Third Level if applicable, ASCII and IDN: 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 gTLD

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 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.

A definition of 'geographic names' first appeared in the third version of the gTLD Applicant Guidebook.<sup>21</sup> With subsequent versions of the gTLD Applicant Guidebook, revisions were made, the most significant

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<sup>21</sup> - Country or territory names, meaning:

- an alpha-3 code listed in the ISO 3166-1 standard.
  - a long- or short-form name listed in the ISO 316-1 standard, or a translation of the long- or short-form name in any language.
  - a long- or short-form name associated with a code that has been designated as "exceptionally reserved" by the ISO 3166 Maintenance Agency.
  - a "separable component of a country name" designated on a list based on the ISO 3166-1 standard.
  - a "permutation or transposition" of any of the above, where "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'.
- Exact matches of a sub-national place names, such as a county, province, or state, listed in the ISO 3166-2 standard.
- A representation, in any language, of the capital city name of any country or territory listed in the ISO 3166-1 standard.

being the bifurcation of ‘country or territory names’, which were deemed ineligible, from other geographic names. The 11 January 2012 version of the gTLD Applicant Guidebook in place during the new gTLD applications period provided that “[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”.
- vii. it is a name by which a country is commonly known, as demonstrated by evidence that the country is recognized by that name by an intergovernmental or treaty organization.”<sup>22</sup>

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- A city name, where the applicant declares that it intends to use the gTLD for purposes associated with the city name.

- The name of a continent or UN region appearing on the ‘Composition of macro geographical (continental) regions, geographical sub-regions, and selected economic and other groupings’ list.

ICANN, *Draft Applicant Guidebook, version 3*, 2.1.1.4.1, <http://www.icann.org/en/topics/new-gtlds/draft-rfp-clean-04oct09-en.pdf>.

<sup>22</sup> gTLD Applicant Guidebook Version 9 (11 January 2012), Module 2, Section 2.2.1.4.1, Treatment of Country or Territory Names, at <http://newgtlds.icann.org/en/about/historical-documentation/matrix-agb-v9>.