



# New gTLD Program Explanatory Memorandum

## Proposed Process for Geographic Name Applications

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### Background – New gTLD Program

Since ICANN was founded ten years ago as a not-for-profit, multi-stakeholder organization dedicated to coordinating the Internet's addressing system, one of its foundational principles, recognized by the United States and other governments, has been to promote competition in the domain-name marketplace while ensuring Internet security and stability. The expansion will allow for more innovation, choice and change to the Internet's addressing system, now constrained by only 21 generic top-level domain names. In a world with 1.5 billion Internet users—and growing—diversity, choice and competition are key to the continued success and reach of the global network.

The decision to launch these coming new gTLD application rounds followed a detailed and lengthy consultation process with all constituencies of the global Internet community. Representatives from a wide variety of stakeholders—governments, individuals, civil society, business and intellectual property constituencies, and the technology community—were engaged in discussions for more than 18 months. In October 2007, the Generic Names Supporting Organization (GNSO)—one of the groups that coordinate global Internet policy at ICANN—completed its policy development work on new gTLDs and approved a set of recommendations. Contributing to this policy work were ICANN's Governmental Advisory Committee (GAC), At-Large Advisory Committee (ALAC), Country Code Names Supporting Organization (ccNSO) and Security and Stability Advisory Committee (SSAC). The culmination of this policy development process was a decision by the ICANN Board of Directors to adopt the community-developed policy in June 2008 at the ICANN meeting in Paris. A thorough brief to the policy process and outcomes can be found at <http://gns0.icann.org/issues/new-gtlds/>.

This paper is part of a series of papers that will serve as explanatory memoranda published by ICANN to assist the Internet community to better understand the Request for Proposal (RFP), also known as *applicant guidebook*. A public comment period for the RFP will allow for detailed review and input to be made by the Internet community. Those comments will then be used to revise the documents in preparation of a final RFP. ICANN will release the final RFP in the first half of 2009. For current information, timelines and activities related to the New gTLD Program please go to <http://www.icann.org/en/topics/new-gtld-program.htm>.

Please note that this is a discussion draft only. Potential applicants should not rely on any of the proposed details of the new gTLD program as the program remains subject to further consultation and revision.

## Summary of Key Points in this Paper

- TLDs that are country, territory or counties and states names will require documented support from a relevant government or authority.
- Applicants requesting a TLD that represents a city name will also require such support unless the name is to be used only to represent a generic term or brand.
- Multiple applications for the same city name will require applicants to resolve the contention among them (as with existing practice regarding contested country code TLDs).
- Objection is available for misappropriation of language and people descriptions.
- IDN strings will be evaluated by linguistic panels.

## Background

Based on advice received from ICANN's Governmental Advisory Committee (GAC), applications for TLD strings that are considered to represent a country, territory or place name or regional language or people description should require the approval of the relevant government or public authority. The ICANN bylaws state that the advice of the Governmental Advisory Committee on public policy matters shall be duly taken into account, both in the formulation and adoption of policies. (See <http://www.icann.org/en/general/bylaws.htm#XI>.)

The *GAC Principles Regarding New gTLDs* (GAC Principles), paragraph 2.2, states that "ICANN should avoid country, territory or place names, and country, territory or regional language or people descriptions, unless in agreement with the relevant governments or public authorities."



"Relevant government or public authority" means the national government or public authority of a distinct economy as recognized in international fora, as those terms are used in the ICANN bylaws and the GAC Operating Principles, associated with the country code. (From GAC ccTLD principles.)

### Note 1

The GAC advice is inconsistent with recommendation 6 of the GNSO Reserved Names Working Group (referred to in this paper as the RNWG) that "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 (e.g., Recommendations 3 and 20 of the New gTLD Final Report) 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.

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Strings must not infringe the existing legal rights of others that are recognized or enforceable under generally accepted and internationally recognized principles of law.

#### Note 2



An application will be rejected if an expert panel determines that there is substantial opposition to it from a significant portion of the community to which the string may be explicitly or implicitly targeted.

#### Note 3

In discussions with ICANN's Board and the GNSO Council, the GAC has indicated that they do not consider the objection process to be an adequate safeguard to a government's protection of their country or territory name, or other geographic or geopolitical terms, on the basis that many governments are not engaged in the ICANN process and would not be aware or understand the relevance to them of the introduction of new gTLDs or the application process.

The Board resolved (2008.06.26.02), based on both the support of the community for New gTLDs and the advice of staff that the introduction of new gTLDs is capable of implementation, the Board adopts the GNSO policy recommendations for the introduction of new gTLDs <http://gnso.icann.org/issues/new-gtlds/pdp-dec05-fr-part-08aug07.htm>.

Further, the Board directs staff to continue to further develop and complete its detailed implementation plan, continue communication with the community on such work, and provide the Board with a final version of the implementation proposals for the board and community to approve before the new gTLD introduction process is launched.

Following is a consideration of the contrary views and a proposed process for strings which represent a geographical name.

## Considerations

According to Article XI, Section 2.1.j of the ICANN bylaws, the advice of the Governmental Advisory Committee on public policy matters shall be duly taken into account, both in the formulation and adoption of policies. In the event that the ICANN Board determines to take an action that is not consistent with the Governmental Advisory Committee advice, it shall so inform the Committee and state the reasons why it decided not to follow that advice. The Governmental Advisory Committee and the ICANN Board will then try, in good faith and in a timely and efficient manner, to find a mutually acceptable solution.

The GAC has expressed concerns that the GNSO proposals do not include provisions reflecting important elements of the GAC principles. These elements include the treatment of geographical names as outlined in paragraph 2.2 of the GAC principles.

The GAC does not agree that the objection and dispute resolution procedures described by the GNSO policy recommendations is adequate for ensuring that governments and public authorities are aware of applications for strings which represent their country or territory names, or certain other geographic and geopolitical descriptions. The GAC principles state, among other things, that ICANN should avoid such names "...unless in

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agreement with the relevant governments or public authorities". Therefore, the GAC has stated a preference that such applications require the affirmative relevant government or public authority's approval as opposed to relying on the objection process.

There are some areas of "intersection" between the GAC Principles and GNSO Policy Recommendations. The GAC principles call for a process that requires the applicant to provide evidence that the government or public authority supports, or does not object, to the release of names. It does not call for the names to be reserved and therefore names will not be withheld. While confirming government or public authority approval of a string will require an additional administrative step in the process, which the RNWG does not support, an application which has the relevant government or public authority support is expected to reduce the instances of objection for such names.

However, the requirement to include evidence of support for certain applications does not preclude or exempt any applications from being the subject of objections under GNSO Recommendation 20, under which applications may be rejected based on objections showing substantial opposition from the targeted community.

The RNWG does recognize that applicants interested in applying for a geographical name should be advised of the GAC principles and further "...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". With this knowledge, a prudent applicant would take steps to discuss their application with the relevant government or public authority, and seek their support, prior to submitting the application to reduce the possibility of being subject to an objection from the government at a later stage in the process. Prescribing evidence of support, or non-objection, is seen as a formalization of this step for the applicant.

Such a process for country and territory names was discussed to some extent among the GNSO Council, ICANN staff and others during a New gTLD implementation review in Los Angeles.

Country and territory names are relatively easily understood terms and the ISO 3166-1 list will be used as a guide to determining names that fit into this category. Even in the case of translations and alternative, accepted representations of country/territory names can be discerned with only limited difficulty. However, "place names" are more difficult to define and for the purposes of this process, the term "place names" is interpreted as sub-national names which could be those of a state, province or county. The protection of city names is challenging because it can also be a generic term, or a brand name, and the names are rarely unique. The protection of language names is considered difficult to administer as in a lot of cases there are no easily established rights associated with a language or a people description.

A suggested approach for each category will be addressed separately below.

## Approach

### Country and territory names

Applicants requesting a gTLD string that is a meaningful representation of the name of a country or territory listed in the ISO 3166-1 list

[http://www.iso.org/iso/country\\_codes/iso\\_3166\\_code\\_lists/english\\_country\\_names\\_and\\_code\\_elements.htm](http://www.iso.org/iso/country_codes/iso_3166_code_lists/english_country_names_and_code_elements.htm) will be required to provide documented evidence of support, or

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non-objection, from the relevant government or public authority. This will include a representation of the country or territory name in any of the six official United Nations languages (French, Spanish, Chinese, Arabic, Russian and English) and the country or territory's local language. For example, an application for .France in any of these languages will require evidence of support, or non-objection, from the French government; an application for .India in any of the UN languages, or any of the 11 official languages of India, will require evidence of support, or non-objection.



A string is meaningful if it is in the Official Language and: a) is the name of the Territory; or b) a part of the name of the Territory that denotes the Territory in the language; or c) a short-form designation for the name of the Territory, recognizably denoting it in the indicated language.

#### Note 4

Official language is defined as: 'one that has a legal status in the Territory or that serves as a language of administration (Official Language). This definition is based on: *Glossary of Terms for the Standardization of Geographical Names*, U.N. Group of Experts on Geographic Names, United Nations, New York, 2002. A language is demonstrated to be an Official Language: a) If the language is listed for the relevant Territory as an ISO 639 language in Part Three of the "Technical Reference Manual for the standardization of Geographical Names", United Nations Group of Experts on Geographical Names (the UNGEGN Manual) (<http://unstats.un.org/unsd/geoinfo/default.htm>); or b) If the language is listed as an administrative language for the relevant Territory in ISO 3166-1 standard under column 9 or 10; or c) If the relevant public authority in the Territory confirms that the language is used in official communications of the relevant public authority and serves as a language of administration.

It will be the applicant's responsibility to identify if the string represents a country or territory name, and also to determine the relevant government or public authority.

The letter/s should clearly express the support, or non-objection, for the application and demonstrate an understanding of the string being requested and what it will be used for.

The ISO 3166-1 list is identified as the reference list for determining, for the purposes of new gTLDs process, a country or territory name as the list is consistent with RFC 1591 in the selection of the ISO 3166 list as a basis for country code top-level domain names and is accepted in the ICANN community. The United Nations Multilingual Terminology Database at [unterm.un.org](http://unterm.un.org) may be used as an adjunct to the reference list to assist with the representation of country or territory names in local languages.

### **Place names – counties, states, provinces (sub-national geographic name)**

Place names are considered those that represent a sub-national geographical identifier such as counties, states, regions or provinces. City names will be addressed separately below. The ISO 3166-2 list (for more information see [http://www.iso.org/iso/country\\_codes/background\\_on\\_iso\\_3166/iso\\_3166-2.htm](http://www.iso.org/iso/country_codes/background_on_iso_3166/iso_3166-2.htm)) which provides a list of subdivisions within a country and will be used as a reference for applicants. A string which represents place names identified on this list will require evidence or support, or non-objection, from the relevant government or public authority.

Where the string is a sub-national geographical identifier on this list over which more than one government or public authority claims authority, ICANN will require the applicant to provide evidence of support, or non-objection, by all the relevant governments or public authorities claiming such authority.

It will be the applicant's responsibility to identify if the string represents a place name, and also to determine the relevant government/s or public authority/s.

The letter/s should clearly express the support, or non-objection, for the application and demonstrate an understanding of the string being requested and what it will be used for.

### **Place names – cities**

City names offer challenges because a city name can also be a generic term (Orange or Bath), a brand name (Leyland or Austin), and in many cases no city name is unique.

An applicant that declares it intends to use the TLD for purposes associated with the city name, will require supporting documentation, or evidence of non-objection, from the relevant government/s or public authority/s. It will not be necessary for an applicant to receive a non-objection from governments or public authorities considered outside the jurisdiction of the city intended to be represented by the applicant.

An applicant seeking a TLD that could be considered a city name, but is also a generic term or a brand name, and it is clear that the applicant declares to use the TLD for the generic or brand name use will not require supporting document, or evidence of non-objection.

Applicants, who are requesting a string which is also a city name, but will be used to represent a generic term or brand name will not require evidence of support or non-objection, provided the application clearly reflects that it will be used to leverage the generic term or brand name.

The capital cities of the countries or territories on the ISO 3166-1 list are more readily identifiable and will require evidence of support, or non-objection, from the relevant government or public authority for the use of the name.

It will be the applicant's responsibility to identify if the string represents a place name, and also to determine the relevant government/s or public authority/s.

### **Applications for the same city name**

In the event that more than one application is received for a city name, and all the applications have support from the relevant governments or public authorities, and pass all other application requirements, applicants will be placed in contact with each other and asked to resolve the contention. This is consistent with IANA processes regarding contested delegation of ccTLDs.

### **Language and people descriptions**

It is difficult to determine the relevant government or public authority for a string which represents a language or people description as there are generally no recognized established rights for such descriptions.

Recommendation 20 of the GNSO Final Report provides that an entity can object to a misappropriated community label thereby providing recourse for affected communities members.

Therefore, no further protection for strings representing such terms are afforded under this process.

### **Continents and UN Regions**

An application for a string which represents a continent or UN region appearing on the Composition of macro geographical (continental) regions, geographical sub-regions,

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and selected economic and other groupings list <http://unstats.un.org/unsd/methods/m49/m49regin.htm> will require evidence of support, or non-objection, from a substantial number of the relevant governments and/or public authorities associated with the continent or the UN region.

It will be the applicant's responsibility to identify if the string represents a place name, and also to determine the relevant government/s or public authority/s.

## Applicability of IDNs

It is anticipated that the gTLD process will include IDNs. Therefore, IDN strings will be evaluated by panels with access to appropriate linguistic expertise to ascertain whether the IDN string represents a geographic or geopolitical name and therefore requires government approval. In the event that an IDN is considered to represent any of the categories defined above, the same requirements will apply.

## Requirements

The evidence of support, or non-objection, from the relevant government or public authority is defined as a signed letter of support, or non-objection, from the Minister with the portfolio responsible for domain name administration, ICT, foreign affairs or Office of the Prime Minister or President; or a senior representative of the agency or department responsible for domain name administration, ICT, Foreign Affairs or the Office of the Prime Minister.

The letter should clearly express the government or public authority's support, or non-objection, for the application and demonstrate an understanding of the string being requested and what it will be used for.

A Geographical Names Panel (GNP) will be established to evaluate applications to determine if a string represents a country or territory name, sub-national geographic name, city name, continent or UN Region; verify the supporting documentation is from the relevant government/s or public authority/s; and confirm the authenticity of the supporting documentation.

If there is any doubt regarding the relevant government or public authority, or the authenticity of the communication, the GNP may consult with additional expertise. This may include relevant diplomatic authorities or the Governmental Advisory Committee member for the government concerned on the competent authority and appropriate point of contact with their administration for communications. These consultations will occur in a manner consistent with the current ICANN's IANA root management function.

## Procedure

1. Applicant submits a geographic application and indicates whether the TLD represents a:
  - Country or territory and ensures that the application has the evidence of support, or non-objection from the relevant government or public authority;
  - Sub-national geographic name such as a province, state, or county and ensures that the application has evidence of support, or non-objection, from the relevant government/s or public authority/s;

- Capital city of a country or territory and ensures that the application has evidence of support, or non-objection from the relevant government/s or public authority/s;
  - City name which the applicant intends to use for purposes associated with the city and ensures that the application has evidence of support, or non-objection, from the relevant government/s or public authority/s
  - Continent or UN Regions and ensures that the application has the evidence of support, or non-objection, from a significant number of the governments or public authorities of the corresponding countries and territories.
2. All new gTLD applications will be reviewed by the Geographic Names Panel (GNP) to determine if the applied for TLD represents:
- A country or territory name as listed on the ISO 3166-1 list, including translations of the name in the UN languages (English, French, Arabic, Spanish, Russian and Chinese) or the local language of the country or territory;
  - A sub-national names such as province, county or state as listed on the ISO 3166-2;
  - The capital city name of a country or territory appearing on the ISO 3166-1 list;
  - A city name which the applicant intends to use for purposes associated with the city
  - Continent or UN Region appearing on the *Composition of macro geographical (continental) regions, geographical sub-regions and selected economic and other groupings list*.

The GNP may consult additional expertise.

3. Applications for strings determined to represent one of the geographic terms in Item 2 will be reviewed by the GNP to ensure that the necessary supporting documentation as outlined in Item 1 forms part of the application.
4. Applications determined by the GNP not to have the necessary supporting documentation will be considered incomplete. Applicants will be afforded an opportunity to provide, within a defined period, the necessary supporting documentation.
5. The GNP verifies that the supporting documentation is from the relevant government or public authority, which could be but is not limited to, the Minister responsible for domain name administration, ICT, foreign affairs or the Office of the Prime Minister or President. The GNP may consult additional expertise where there is doubt, such as the relevant GAC representative or diplomatic authority for the government concerned.
6. The GNP also verifies the authenticity of the supporting documentation. The GNP may also consult additional expertise, such as the relevant GAC representative or diplomatic authority to assist with this process.
7. Where the GNP determines that the supporting documentation is not from the relevant government or public authority, or that the documentation is not

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authentic, the application will be considered ineligible and will not proceed further in the process. Applicants will be notified.

8. Where the GNP determines that the supporting documentation is from the relevant government or public authority, and that the documentation is authentic, the application will proceed to subsequent steps of the TLD evaluation process.
9. The results of the evaluation of all applications will be published.