**ICANN**
**Transcription**
**GNSO New gTLD Subsequent Procedures PDP WG Work Track 5 (Geographic Names at the top-level)**
**Wednesday, 5 June 2019 at 14:00 UTC**
Note: Although the transcription is largely accurate, in some cases it is incomplete or inaccurate due to inaudible passages or transcription errors. It is posted as an aid to understanding the proceedings at the meeting, but should not be treated as an authoritative record. The audio is also available at: https://audio.icann.org/gnso/gnso-sub-pro-track5-geo-names-top-level-05jun19-en.m4a
Zoom recording:
**https://icann.zoom.us/recording/play/yqgs4EVhPdCL4s_EyJXmWR_zZltazLHmK9 08r8w1K9JNaOoqGJZWaMeuvYjgeOuA [icann.zoom.us]**

Attendance of the call is posted on agenda wiki page:
https://community.icann.org/x/toijBg
The recordings and transcriptions of the calls are posted on the GNSO Master Calendar page http://gnso.icann.org/en/group-activities/calendar

ANDREA GLANDON:.        Good morning, good afternoon, and good evening. Welcome to the New gTLD Subsequent Procedures Sub-Team Track 5 (Geographic Names at the Top Level) call held on Wednesday, the 5th of June, 2019,a at 14:00 UTC.

In the interest of time, there will be no roll call. Attendance will be taken by the Zoom room. If you are only on the audio bridge, could you please let yourselves be known now?

Thank you. Hearing no further names, I would like to remind all participants to please state your name before speaking for transcription

purposes and to please keep your phones and microphones on mute when not speaking to avoid any background noise.

With this, I will turn it over to Annebeth Lange. Please begin.

ANNEBETH LANGE: Thank you, Andrea, and welcome, everyone. Are there any comments to the agenda before we start? Or any updates on statements of interest?

I hear nothing, so then we will start with a reminder of the process. Before we start with the discussion today, if you were—

MARTIN SUTTON: Sorry, Annebeth. It's Martin here.

ANNEBETH LANGE: Yes?

MARTIN SUTTON: We've got a hand up in the chat from Christopher.

ANNEBETH LANGE: Oh. Thank you.

MARTIN SUTTON:          [That's all right.]

ANNEBETH LANGE:         Further down [I] can see it. Okay, Christopher, go ahead.

CHRISTOPHER WILKINSON:  It's okay. Hi. Good afternoon, everybody. Regarding the agenda, I hesitate to start with what I think some of you think is my high horse, but I asked the PDP to review the ISOC 4217 three-letter codes. I believe that they tried to refer this back to Work Track 5. I also wish to initiate the discussion of the implications of the Board's decision regarding .amazon, which was also referred back to Work Track 5. So, at the convenience of the co-leads, I would be glad that these points would be added to the agenda, either this meeting or the next meeting. Thank you.

ANNEBETH LANGE:         Thank you, Christopher. Let us put it under Any Other Business for today and see how far we get. At least then we have it in writing. So we will see what we can do with it. Thank you.

Before we start with the discussion, a few words on the current status and process. You have received a one-pager on this, together with the agenda. But to be sure we are all on the same page, I think it's wise to go quickly through it. You all know that the supplemental initial report from Work Track 5 was published on the 5th of December in '18 with a close date of the 1st of February, '19.

In this supplemental initial report, it contains 13 preliminary recommendations and 11 questions and 38 proposals. What we have been doing now is that Work Track 5 has performed an initial and non-substantive review and analysis of the public comments received [on] the [elements] described about and seeking to making sure that the comments that are well-understood and that they have been categorized accurately.

Some of you have the non-mute. Could you please check the microphone, everyone?

Take a look at the process outline of Work Track 5. The amount of public comments received and the time spent to perform the initial review was sizable. I know we all feel that. As such, the Work Track 5 leadership and staff are attempting to summarize public comments received, as well as highlight new elements to facilitate their substantive consideration.

While there may be some level of quantification of support and a position and consolidation of concepts to highlight themes, this [is not] assessment of consensus. Please be aware of that.

The call leads propose that the 13 preliminary recommendations contained in the supplemental initial report should serve as the baseline for this next phase of deliberations. What this means in practice is that, when considering the new elements highlighted in the summary documents, these elements should be considered in the context of whether or not they [were] deviating from the existing preliminary recommendation.

Secondarily, when considering the merits of new elements, members should keep in mind that, in order to adopt and integrate the new element, it will require consensus report from fellow work track members.

The co-leads would also emphasize that potential changes to the preliminary recommendations can be [mysterian] – for example, increasing or decreasing the level or scope of protections – as opposed to more operational improvements or changes on the edges.

Ultimately, the purpose of this phase of work is to reach agreement on a set of recommendations that will be sent to the full working group for their consideration and [for] a consensus call.

We now go ahead with the summary document review, a continuation from the last time. Before we discuss new things, we have a little point here with wrap-up and final comments on sections covered on the 29th of May. We recognize that there was some legitimate confusion last time, and we hope that the reminder of the process that I know went through re-clarifies our purpose and goals.

UNIDENTIFIED FEMALE:     [We want to do something different].

ANNEBETH LANGE:     Someone has not muted their microphone. Could you please check, everyone? Thank you.

On the 29th of May, we went through the new ideas, concerns, and divergence from the preliminary recommendations, which, to remind you, are the reservation against application at the top level, the two-character ASCII strings, and [inaudible] three codes listed in the ISO 3166-1 standard.

We will now start discussion of the rest of the categories and Recommendations 2 to 9, which are reservation against application at the top level.

But before we do that, are there any outstanding issues from last time you want to raise? Just to repeat, the exercise last time was to figure out if any of the proposals, comments, and new ideas weren't deviation from the existing preliminary recommendation. And remember, in order to adopt and integrate new elements, it will require consensus support from fellow Work Track 5 members. Are there any comments at this stage? Please raise your hand if you have one.

Yes, Christopher? And then Martin.

Christopher Wilkinson?

CHRISTOPHER WILKINSON: Hi. Just a quick word about this one-pager, which I saw for the first time a couple of minutes ago. First of all, it seems to me that it gives too weight to the public comments and not enough weight to the works that were undertaken by Work Track 5 itself. There are issues that have been discussed thoroughly in Work Track 5 which I feel are probably not going to be covered by the process outline. So I would reserve the

position on that. There are issues which a few of us have advanced systematically which I believe, in Work Track 5, are minority positions. But that is because there a few of us and we represent the interests of a very large number of people. So I have reservations about the paragraph, for example, which says, "When considering the merits of new elements …" These are not new elements. They're elements that have been discussed thoroughly in Work Track 5. Insofar as they're a minority position, we do not see consensus support from fellow WT5 members. I think the fellow WT5 members should recognize that there are positions and interests which are outside the PDP and Work Track 5 which are severely impacted by the potential rules that will be developed for new gTLDs, particularly the geographical terms. Thank you.

ANNEBETH LANGE:     Thank you, Christopher. We will take note of that. Martin?

MARTIN SUTTON:     Before I go onto what I was going to say, I just feel that I'm a bit confused with the last comment from Christopher in terms of saying, "Don't put too much weight on the comments that we, as a work track, have sought form the community." In once sense, he's saying that. In the other sense, he's saying, "Bring into the equation things that aren't included" – for instance, those people with opinions outside of the group, outside of ICANN, that haven't commented. That's really confusing. I don't get that at all.

In terms of what we got to work with, we've got the output from Work Track 5. I think it clearly states in here that the influence of the comments is that they can inform the group if they feel there needs to be any adjustments. So I think that it's still very much in the area of responsibilities within Work Track 5 and its members to assess whether there is anything new or different that we need to take into account that may impact on the preliminary recommendations that were put forward.

So I'm pleased that I think this helps to clarify the current status of the work that we're doing within the group, and it's responsive to some of the comments from our last meeting. So, thanks, staff, for preparing that and pushing that out.

What I was going to say is that we did invite any of the members to send in anything in writing if there was concerns with regards to the areas that we covered on the last call. I don't recall seeing anything come across the list in that respect, so I think it reinforces, again today, if there's nobody in the queue, to speak to that, that we can put the two characters and three characters to bed. Thanks.

ANNEBETH LANGE:     Thank you, Martin. I agree with you. Christopher, perhaps we should ask you for a little more clarification because, on the one hand, you say that we shouldn't only go for the Work Track 5 members' view. On the other side, you say that we should take the outcome of those outside the work track. And that's what we have done for the comments because our comments on the initial report are comments from everyone

outside Work Track 5. So that's what we tried to do. We do the outline and then we ask for comments from the whole community. There will be several chances to comment from others than those in Work Track 5 later on anyway. So could you clarify a little what you meant?

CHRISTOPHER WILKINSON: First of all, thank you, Annebeth. I don't want to take more time than necessary on this call and will clarify in writing. Meanwhile, I would say that Martin's confusion does not surprise me at all because that is the interest of the constituency from which he derives. I'm sure he's being as neutral and balanced as possible. If you're going to set the intellectual property interests against the geographical interests of governments and communities, then there's more work to be done. Thank you.

ANNEBETH LANGE: Thank you, Christopher. Actually, I was a little confused myself, so it's good that we try to clarify these out.

Any more comments before we go on?

I can't see any more hands. We will then continue discussion of the other categories that have been recommended. Reserved – remember that we now go through the concerns and divergence. Those not mentioned are comments accepting preliminary recommendations. We start then with the long-form and short-form names listed in the ISO 3166-1 standard. Could you scroll down to where we are?

Yes. Thank you. This is both categories in association with the code that has been designated as [exceptionarily so] by the ISO 3166 maintenance agency. Here we have concerns from the Brands Registry Group that doesn't support any restrictions on geographic terms at the top level for applicants that hold a matching trademark. But maybe we need to accept the status quo. That is the preliminary recommendations. We have also input from the Non-Commercial Stakeholder Group that considers [that] category overly broad to be used for reservations.

Are there any comments to this section before we move on?

Anyone?

No? No hands. Christopher, is that a new hand or is it the old one?

CHRISTOPHER WILKINSON:    That is a new hand, just to say that, in my interpretation of trademark law, there is nothing in trademark law at the national level or even in the European level that gives the trademark holder the right to a geographical term at the top level. This is a form of monopolization of intellectual property rights which goes well beyond anything that I've understood was the purpose of trademark law.

There are several examples of this, including . amazon. I think you've seen my note about that. The BRG is fishing for something which they have no right to. Thank you.

ANNEBETH LANGE:    Nick Wenban-Smith please.

NICK WENBAN-SMITH:      Hi there. Can you hear me okay?


ANNEBETH LANGE:         Yes, we hear you.


NICK WENBAN-SMITH:      Just partly to give a change of voice or break to other speakers, really, you put here the concerns, but is it worth recording? Because I think, actually, think this was [nary], which wasn't particularly controversial. By and large, there's basically strong support for the existing rules, which is to reserve the long- and short-form names. It didn't cause any problems in the prior round. Broadly speaking, there are some concerns [in] the majority of the written comments which I've seen and in the meetings that I've been. I think in all of them. This isn't an area of particular controversy.

I think, when Christopher talks about the difficulties of trademark law, he's absolutely correct to say that a trademark is not a positive right to do something. It's a negative right and it stops other people from using your name in certain situations. So that is correct as well, but I think, obviously, in terms of the policy, we're talking about what is open to anybody to apply to, not just trademark holders. That's my initial response there.

Just in general, in response to – I was just thinking about Christopher is saying about those currency codes. I know we've been through this a number of times, but I think we come back down to the same difficulties

with the definition of what is geographic. We went through this a number of times in past meetings without really any resolution because what we're talking about here is what is geographic and what was just defined and being geographic and what fell outside of that geographic definition in the 2012 guidebook.

For years now, of discussions, we haven't really clearly identified an improvement on what happened there, at least on something everyone can agree on. Actually – this is my final point before I shut up – all of the comments made, with a few minor exceptions, are actually pretty predictable and could have been anticipated to have been made at the beginning of this process. So I think it's very sensible to break it down into these specific points, deal with them as we go through the list in this discrete way for the different parts of it, and try to move forward in the absence of any new new points as it were.

ANNEBETH LANGE:     Thank you, Nick. I think, before we give the floor to Greg here, it's wise to remind everyone that the status quo here is that it was reserved and also that, as you say, Nick, we have discussed what is and what is not a geographic term for the last 15 years. Also, 2012 was some kind of a compromise. It was give and take. Nobody got what they really wanted, but it was worked pretty well. What I'm doing now and reading now is that these comments here are from those who have concerns or divergence and not those who actually agree on this to keep the status quo because we should have read all of the comments. It will take such a long time, so what we try now to find if some of those concerns [are having] no support to change the status quo.

| | |
|---|---|
| GREG SHATAN: | Thanks. Just to set the record somewhat straight or at least to introduce a counterpoint, I don't think what's being claimed here as an exclusive right  as against any other potential user to use a brand as a top-level domain when it also is a geographic term. As we all know, strings can have multiple meanings and multiple uses. .amazon does not refer to the Amazon Basis or Amazon River. Therefore, whatever the conflict is – not that there is one – it's not saying that there is an absolute right to exclude others from using it. It's the right to register as a top-level domain. That right would also be available to others based on other rights. |
| | Also, with regard to the whole negative rights thing – well, I don't want to turn this into a legal debate – perhaps it's more common in the U.K. to review trademarks as a negative right, but that is not really the way I see it viewed in the U.S. At least there's quite a lot of debate. Certainly, trademark rights and trademark registration convey a number of positive rights. It's probably more correct to say that a patent is a negative right, that it excludes the right to others but that may not allow you the right to use it yourself because there may be patents that are excluding you. It doesn't work that way in trademark law. If you have a trademark – anyway, I don't want to go any further into that. These easy statements and the idea that a negative right, if it's not well-understood to people, seems to deprecate the nature of the aspect and the right, which, if you look deeply into it, isn't entirely true anyway – I don't want to go further down this frolic and detour but didn't want to leave claims unanswered. Thank you. |

ANNEBETH LANGE: Thank you, Greg. It seems like the trademark law is a little different between Europe and the U.S. It's complicated, anyway. What we know is that it's only one that can have a TLD. It's several that can have the same trademark.

Christopher, please? Is it an old hand?

CHRISTOPHER WILKINSON: Old hand.

ANNEBETH LANGE: Okay. Martin?

MARTIN SUTTON: Thanks, Annebeth. I just want to make sure that people don't get the wrong impression by what people misquote on the call here because, if you read the content of some of the answers, which we must remember are funneled down there into just highlighting some key points, we've already been through the vast amount of comments that came in.

To Christopher's point regarding a comment with regards to trademarks, I think he was referring back to where you've read out the BRG comment here in the concerns raised. I just want to point out that it's not saying that they have the rights to these and sole rights. It's saying it doesn't support any restrictions on that particular category.

So that's what's been pushed [out]. I think that's been clearly covered by Greg is his comment, but I just wanted to emphasize the fact that, if you're going to read these things out, make sure you read them out accurately and understand them accurately before putting a personal slant on these. So just to make sure it's clear that, where there's references there that have been pulled out, it talks about how there shouldn't be any restrictions. I just want to be clear on that. Thank you.

ANNEBETH LANGE:     Thank you, Martin. Yes, I agree with you. That's exactly what it says: "not any restrictions." And they may even be willing to accept the status quo. So it is here.

Should we go on to the next now or is there any more hands? Doesn't seem like that.

Okay. So we go to the separable component of a country name designated in the separable country names list. BRG has the same concerns as of the last category but is willing to accept the status quo. NCSG is of the opinion that the expansion of the number and type of the reserve names in the 2012 AGB is in conflict with the 27 policy and should not be allowed. The International Trademark Association: "These names should not be [reset]." That is what we have here of the concerns and divergence.

Comments to this section before we move on? Any hands?

I see none. Then we go – yeah, Martin, again? Martin, please.

**EN**

MARTIN SUTTON:     Hi, Annebeth. I'm just thinking here on the INTA concerns, if everybody's clear on what that refers to and whether people have actually gone down to the list that is supplied within the guidebook because what they're saying here is that they've raised a concern that, if you read through that list, there are different classes. Class C relates to probably less well-known areas or islands of countries. So it'd be interesting if anybody thinks there should be any refining done on that list or whether, as we've said and as Nick has pointed out already, unless there's some obvious concern or with to use those comments to change something, it would just remain a standard as it was.

ANNEBETH LANGE:     So what you are saying, Martin, is that it's some part of those names that they are opposed to[/]having reservation.

MARTIN SUTTON:     Well, if anybody wants to have a discussion on it, we could probably pull the list up. It's just that it's appended to the Applicant Guidebook. I'm just worried: have people actually read it? And do they understand that comment? Thank you. [inaudible]

ANNEBETH LANGE:     Thank you. [inaudible] [Great].

MARTIN SUTTON:     So you've got on this list – go up. Let's just pick out a couple of [inaudible].

**EN**

ANNEBETH LANGE:          [inaudible] [Talking about …]

MARTIN SUTTON:           Yeah. [inaudible]. "Includes/comprises variant or principle islands." So if we could just scroll down a little bit further. Thank for putting this up. That was very fast. We should have a list down here somewhere. I think we just – oh, here we are. Sorry. So there we are. So, for instance, in the U.S., minor outlying islands – Kingman Reef, Midway Islands, Wake Island, Navassa Island – what we're saying is that this is also restricted at this stage. Are people aware of this? Have they read that? If they've got no particular qualms whether we leave that in as a restriction or not based on what [inaudible] just highlighted, so be it. But I just thought we should give anybody a chance to comment.

I'll hand it over to Nick. Thanks, Nick.

NICK WENBAN-SMITH:       I think it's a really interesting point. I think it was way back when the Applicant Guidebook was first published, it did go through some of the – as you start to navigate through the ISO 3166 various separable country names and what's a sub-national name … obviously, we were applicants from Wales, which is a sub-national name under that list. So I took quite a close interest in it. The point is well made, I think, that Venezuela also has a Bird Island and … all sorts of the pop-quiz trivia points you can get for knowing some of these obscure outlying islands, which technically are all vetoed from being gTLDs. It's a bit surprising.

But the problem is – and this is the problem with the lists in the ISO 3166 in particular— that some bits that are very detailed and thorough because a particular country has taken a particular interest and got the list amended to include those things, I suppose, and other countries are a bit more relaxed and haven't gone through that approach. So there is a definite difference in treatment of some of the different places. Some of these I had not realized until you look at it: like Bear Island and all the rest of it are actually effectively blocked.

But what's the alternative approach then? Because either you have a list and you follow it or you don't or you need to come up with some alternative thing. I think, in the absence of a screaming injustice or pressure to register Palmyra Atoll or the Midway Islands as gTLDs, then we let sleeping dogs lie. That's my approach.

But I agree. The point is well-made that quite a lot of obscure and unlikely terms, actually, when you look into the detail, are blocked.

ANNEBETH LANGE:        Thank you, Nick. I agree, but I think it differs from different names. Some of them are really obscure, but [to] other countries, this is important, like—

KAVOUSS ARASTEH:        Hello. Can you hear me?

ANNEBETH LANGE:        Yes, Kavouss. We hear you.

**EN**

KAVOUSS ARASTEH:     I am switched between the two conference calls, from the auction to this one. I was connected to this. I want to stay on the audio bridge and so on. I don't understand the [inaudible] [divergence] of veto. Who's vetoing what on the [inaudible] subject? Could you please clarify because I'm not connected to the computer?

ANNEBETH LANGE:      It's a little difficult to understand your question here. Martin, did you hear what he was saying?

MARTIN SUTTON:       Hi, Annebeth. I think enough, yes. Thanks, Kavouss. Kavouss, we're just going through a list where it has variations or different categories of countries and their other – what we've got here is Category C. I can't remember how it was termed again, but it was variance of or principle islands of. For instance, if you look at Antigua and Barbuda, they have a Category C island called Redonda Island. So it was raised as a suggestion from one of the comments as to whether those in Category C were really needing to have those restrictions imposed. So it's not about veto. It's more about restrictions. Nobody can apply for anything that's termed in this way. So some are a little bit more obscure than others. There's a place called Saba and Bonaire [inaudible] Saba, but that's a different category. That would still remain, but there are some which are more smaller island bases, for instances, which are in this list.

**EN**

So the question was whether or not that's something worth taking forward, or does the group feel that there is unlikely to be any agreement within the group to adjust that particular restriction to remove Category C in the separable country names list? I hope that was—

KAVOUSS ARASTEH:       Hi. Can I comment?

ANNEBETH LANGE:       Yes, please. Go ahead.

KAVOUSS ARASTEH:       I don't think that we should make any distinctions between the small or big or Category C or Barbuda or Antigua and so on and so forth or a territory or an area or country. They are [respected] in other [inaudible] by organizations like the U.N. We have 194. All of them are treated equally without any distinction of whether they are big, like Canada or Russia, or more populated, like China or India. They are countries. I don't think that we should disregard the rights in one or the other because of the gTLD or because of any other [features]. So we have to respect their [interests]. Thank you.

ANNEBETH LANGE:       Thank you. Javier? Javier?

JAVIER RUA-JOVET:     This is Javier from [inaudible]. I just wanted to answer the question like Kavouss [inaudible] expertly. Yeah, this is like the same axiom of that ICANN is not in the business of determining what's happening [in a country] and what isn't because of the lists [enforced.] The same thing with the sub-national areas. Personally, Puerto Rico, .pr, where I come from, can also be seen as one of these in many ways. So I think there's consensus here, generally, that we shouldn't start making distinctions. Thanks.

ANNEBETH LANGE:     Thank you, Javier. That's a valid point. Greg? Please go ahead.

GREG SHATAN:     Thanks. First, it's not entirely clear to me what the genesis is of the separable country names list. It seems to be derived from 3166-1 standard, but it seems to be perhaps actually an ICANN-created list. I see that it said below that a separable country name's registry will be maintained and published by ICANN. If this is clearly only coming from 3166-1, then I agree with Javier. The Class C I see comes from the remarks column of ISO 3166-1, so one could argue it doesn't have the same weight as the actual list.

That said, and looking at this particular list – I have been one to protest when it looked like common words like [Tim] and Jim, not necessarily as brands but as top-level domains to be used for whatever they may be, are being taken away – in this case, with this particular list as I see it, concerns me much less than those. I, in this case, find some sympathy with the status quo. Diego Garcia is, in many ways, a more well-known

name for that location [than] a British Indian Ocean territory. Similarly, Bosnia and Herzegovina – saying that you protect that as a country name … You're not going to protect either Bosnia nor Herzegovina. I think it starts to sound like splitting hairs.

While I'm not one to encourage the slippery slope of adding more and more and more and more strings that have geographic meanings to the no-fly zone, I think this is one where their identities as countries or essentially near-countries are relatively controlled, unlike the list of provincial names, which caused the .tata issue, among others. This one seems manageable to keep in its current way.

So, in this case, I would not go to the maximalist or minimalist – whichever route it is that would strip away these protections. I think they're reasonable. Thanks.

ANNEBETH LANGE:    Thank you, Greg. Steve, you have your hand up.

STEVE CHAN:    Thanks, Annebeth. Since we're looking at the Applicant Guidebook right now, I just wanted to provide a little context about what the – actually, not context. Just a reminder of what the INTA comment said. What they were mentioning is that the Class C are not separable components of a country name. That was their rationale for why they should not be reserved. So, of course, not assigning any value to that. I just wanted to remind you all what the comment was in looking at the Applicant Guidebook now. Thanks.

| ANNEBETH LANGE: | Thank you, Steve. Any more comments here, or should we go on to the next? Could you go back again to the Google Doc please? |
|---|---|
| | Thank you. Then we go to permutation or transposition of any of the names included in the categories we have already discussed. The preliminary recommendation there is to reserve this category, with the exception of permutations or transpositions of alpha-three letter codes in ISO 3166. The reason for this is that all other three-letter combinations are allowed. |
| | Here we have a lot of comments. We have INTA divergence of the opinion that curative measures already in place will take care of it. The Business Community: divergent. May inhibit brands. APTLD would remove the suggestion in Preliminary Recommendation [inaudible] permutation of three-letter codes from ISO 3166. NCSG calls for clarification as to whether the recommendation intends to allow any applicant to apply for permutations and transpositions of alpha-three codes. |
| | We have a proposal there, Proposal 14, that each national government should determine which permutations are reserved. It has support from some governments and public authorities, but the position from many stakeholders from different parts of the community – governments, ccTLDs, businesses – [is that] many governments have no position due to lack of clarity. |
| | Are there any comments to this section? I'm looking for hands here. |

Nick, please, go ahead.

NICK WENBAN-SMITH:    Hi. I was going to say just wow because I thought, when we had this discussion in person, that we identified that it was never the intention – and in practice, never happens – that a permutation of an alpha-three, permutation letters of U.S.A, would also be caught on the restriction on alpha-three terms. We found some examples, where obviously they had been applied for and been gone through and granted, obviously. They'd been through the geographic review. So whatever of the ambiguity of the 2012 wording was in practice could never have been, in my view, the intention to restrict applications for a different order of the alpha-three letters.

So, when I looked down through all these comments, it has obviously created a huge amount of confusion because I'm quite confused by the comment[s]. I don't whether we can do a better job just to really improve the clarity because it's caused a whole string of things to go forward which are not very helpful. I think, if you look at the comments which have been made, they didn't understand the initial [rapport]. Perhaps we didn't do a good enough job to explain specifically what the issue was here around transpositions and permutations. I'm just baffled, really, by the range and variety of contradictory comments. That's all.

ANNEBETH LANGE:    Thank you, Nick. I think that the main reason when we discussed this was that it wasn't clear in the 2012. When you think it about it, there should not be a [restriction] there because, as long as the three-letter

**EN**

combination are not on the ISO 3166 list, it's allowed. To change the letters, as you say, it may put them in the open category, or perhaps it would have been another ISO 3166, and then it will have been forbidden.

Christopher?

CHRISTOPHER WILKINSON: Thank you, Chair. Two small comments. First of all, I agree with Nick. I've often read that passage and never understood it. Out of ontological deference to ccNSO, I've never before commented on it, but it obviously doesn't make sense.

But at the other extreme, in response to Greg and others, there are many geographical names that are not on this list. which focuses mainly on islands. For example, Amazon is not there under Brazil. There are countries – I think [inaudible] Indonesia, and the Philippines – who have many, many islands, and I have no idea, but I rather doubt, that the ISO 3166-1 lists cover them all.

So I just have to repeat firmly and for the record my view that is shared elsewhere, that all geographical names should be subject to prior authorization. I do not trust corrective measures to be relevant for many public authorities and communities worldwide. Thank you.

ANNEBETH LANGE: Thank you, Christopher. Then we will—

**EN**

KAVOUSS ARASTEH:  I fully agree with Christopher. Indonesia has thousands of islands. We should not exclude that because they are not on the list. They are very, very important and so on for the [inaudible] Indonesia and many others, so we should really be quite careful about that. I fully support what Christopher said. At this meeting and previous meetings, I continue to support him for this subject. Thank you.

ANNEBETH LANGE:  Thank you, Kavouss. Alexander Schubert?

ALEXANDER SCHUBERT:  Hello. Can you hear me?

ANNEBETH LANGE:  Yes, we can hear you.

ALEXANDER SCHUBERT:  Okay, great. Hi. I have very, very closely watched these three-letter gTLD applications [cloud] since 2012. In fact, there is one application, and it's delegated that, if a permutation or transposition of a three-letter code – it's delegated. It's there. So it violated the rule. I'm not saying which one it is.

If I understand right, what we're currently proposing is that transpositions and permutations of three-letter codes should not be allowed? Do I understand that right?

**EN**

ANNEBETH LANGE:        No.

ALEXANDER SCHUBERT:        Ah, we're saying they should be allowed.

ANNEBETH LANGE:        Yes.

ALEXANDER SCHUBERT:        Sorry. Then I got this wrong. And that's right. They should be allowed because that's what we agreed on in the past. I tried a lot of permutations and transpositions, and there's absolutely no way to confuse them. It's impossible. Then I misread the spreadsheet. It looked to me that we are trying to object to [inaudible].

ANNEBETH LANGE:        No. The preliminary recommendation in the supplemental report is that strings resulting from permutations of transpositions of alpha-three codes listed in the ISO 3166 standard should be allowed.

ALEXANDER SCHUBERT:        Should be allowed. Okay. That's good. They should be allowed.

ANNEBETH LANGE:        Yeah. It's been out for comment, and what we are doing now is reading those comments that do not agree.

ALEXANDER SCHUBERT:     Ah, and there's a comment that says, no, they should not be allowed.

ANNEBETH LANGE:     Yes. Okay?

ALEXANDER SCHUBERT:     That's fine—

[KAVOUSS ARASTEH]:     It should not be allowed. Alexander, it should not be allowed. Why should it be allowed? Under what [position]? Alexander used that previously: U.S.A. It should not be allowed. Thank you.

ALEXANDER SCHUBERT:     Yeah. What we are obviously doing now here is we are looking through the comments and trying to clarify whether the comments are replicated in the right way or not. So we are not so much discussing about the merit of a comment but just rather the comment as displayed in the right way.

ANNEBETH LANGE:     Exactly. And also if there's strong enough support to do something other than the preliminary recommendations.

ALEXANDER SCHUBERT:     Okay. Thank you.


ANNEBETH LANGE:         Thank you, Alexander. Greg?


GREG SHATAN:            Thanks. It occurs me, in listening to all of this, that this section of the Applicant Guidebook should, regardless of what decision we come down with substantively, definitely be edited for clarity and perhaps with additional examples or the like because it does seem to be not the easiest thing to grasp. Some of that may be the way it's being communicated. For instance, the term "permutation," if you take it to its natural conclusion, means to move every element around in any order. So it could be that a permutation of France could be Rancef, which makes no sense. I don't think that's what intended, although, when you get down to the three-letter codes, that does appear to be what was intended. I think it may help to define the term "permutation" more narrowly. What I see here in the green was that a permutation include removal of spaces, insertion of punctuation, and additional or removal of grammatical articles like "the."

The problem with the word "include" is it again creates ambiguity. Does that mean including without limitation or including only the following? It seems to me that we should define what permutations we are considering as permutations and which ones we aren't. It seems to be that taking any string and rearranging its letters in any fashion is not the type of permutation that we're talking about reserving in this event. Maybe that definition of redefining permutation or clarifying the extent

to which we are using the term "permutation" might solve the three-letter code issue. I don't think that was ever intended that any of these could be broken down on a letter-by-letter basis and tossed around like so many Scrabble pieces. Thanks.

ANNEBETH LANGE: Thank you, Greg. Justine?

Please, Justine, go ahead. We can't hear you.

JUSTINE CHEW: Sorry. I was trying to find the unmute button. Just in response to Greg, I think an explanation for permutation is already here. You see, under the second line the green box, it just gives some description of what permutation means.

Just coming back to the sentence that Annebeth read out earlier, I recall proposing some refinement text, but I don't know where it's ended up. So I'm just going to repeat the proposed text that I made earlier – hopefully that will clarify things for people – which is that I think the sentence should read, "Strings resulting from permutations and transpositions of the three-codes, which are themselves not on the ISO 3166-1 list, should be allowed." Thanks.

ANNEBETH LANGE: Thank you, Justine. Anything to make this clearer. There's obviously some confusion here. We'll try to make it even clearer.

Any more comments on that? Greg, you have your hand up. Is that your old hand?

KAVOUSS ARASTEH:    I have a comment.

ANNEBETH LANGE:    Okay, Kavouss. Come on.

KAVOUSS ARASTEH:    Those who are not on the list – we should see what are those who are on the list [are] existing countries. Who knows what will happen tomorrow? [Will] another country be created? If we look at 1988, some of those changes – many, many countries [inaudible] have been created. [inaudible] was in many countries, [inaudible] many countries and so on and so forth. So we don't know that, tomorrow, there will not be a new country. There might be new countries. [That was there] for existing and potential countries. Why we do exclude that? Thank you.

ANNEBETH LANGE:    Thank you, Kavouss. Can anyone answer that? Anyone have their thoughts about it?

Justine, please.

JUSTINE CHEW:

Hi. Thanks. Just in relation to what Kavouss mentioned just now, I think we had the same situation with the Komodo Islands; the fact that the three-letter code assigned to them has already been given up many moons ago; the .com. I also remember proposing something along the lines of, if a new country code or three-letter code were to be added to the list at some point in time, then there should be some allowance for a replacement code for that country to be given somehow. Thanks.

ANNEBETH LANGE:

Thank you, Justine. I think we move on to the next. Could we go back again? Yes, thank you. Then we go to the name by which a country is commonly known. For example, Holland for the Netherlands. Here we again have the concerns from the Brands Registry Group. That doesn't support any restrictions on geographic terms at the top level for applicants that hold the matching trademark but would be willing to accept the status quo. It's the same as they have said before.

NCSG and the BC also oppose reservation of these names. There are some new ideas here; for example, reservation only if evidence of this is presented. There's support from several governments, ccTLD regional organizations, and other stakeholders. But there's also a position, mainly from registry groups, and also concerns, about the lack of clarity about the standard of substantial evidence from, among others, BRG and the Registry Stakeholder Group. Several governments suggest that a panel should make this determination.

The proposal that reservation should apply in all languages has support from a lot of governments and also other stakeholders, but then again,

a position from others [is that] they seem to accept the status quo. Additional responses seem to support adding translations, but only official languages of the U.N. and the language of the country.

Are there any comments here before we move on to discuss the languages?

Seeing no hands, then we go to: languages is a difficult issue, and in AGB 2012, all languages was the rule. The question here is whether to discontinue. In the initial report, there was given several options to choose from. Support to continue reserving translations in any language: ccTLD regional organizations, governments, and some other stakeholder groups. If fewer languages are ultimately reserved, there seemed to be a preference for U.N. languages and official languages of the country. Other suggestions: official languages and commonly-used languages. But we also have suggestions that no translation should be allowed.

There is a new idea that suggests a curative process for commonly-used languages in the country in question in case the status quo is changed to reduce the number of languages.

Comments, please? Any discussion here?

Martin, is there anything on the chat that should be mentioned? It's difficult to follow everything here.

MARTIN SUTTON:          Not on languages. It does beg the question of whether we need to spend any time going back on the permutations piece. There's some

practical elements, I think, that Greg has highlighted; for instance, to what extent a permutation is allowable if you take a long-lettered name. That could be millions of permutations available to it. So that's on there at the moment. I think that might be something we might want to return back to.

In terms of languages, this is an open issue. We haven't put any preliminary recommendation forward from the Work Track 5 team. It has been discussed. At the last ICANN meeting, there was some useful discussions on that and some practical issues in terms of the way it is currently covered in the 2012 guidebook. With 2,000-odd different languages or more – I can't remember what it was – it doesn't particularly make sense to specify that every language translation should be restricted for all of these terms. So it would be good if we could get Work Track 5 members to discuss that further and come up with a way forward that they feel would be sensible.

Yet, Nick, I think Klingon definitely needs to be quoted if we're going to keep Klingon in there as a restricted language for any of these terms.

So I think it's important. This is the time for discussions now. It's not just reading out the comments. We can take some comfort that people have responded to our questions with some thoughts and ideas. We need input from the Work Track members now to see if there's anything we can do to improve that and change it or refine it.

ANNEBETH LANGE:     Thank you, Martin. Yes, what we have seen is that all the different suggestions or the alternatives that were presented have different

groups having a favorite. So there's no consensus there as far as we can so far. But then, if we're going to think on what is practicable in the long run, it's really important that we discuss something here. So I would welcome if anyone on the list now in this meeting has something to say about that. That would be good. We have to decide. We have to have a recommendation and think about the practicality as well.

Anyone want to volunteer and say something about this? Christopher?

CHRISTOPHER WILKINSON:    Thank you, Chair. Two small points. First of all, a long time ago I proposed [by my lights] the solution of U.N. languages, plus Portuguese because it's a practical ICANN language, plus the official languages of the country concerned. That was where I started from. I was duly sat on. Since some of you have tried to sit on me on other subjects, on this particular one I have just conceded. "If you don't like that's proposal, then find another one." So don't expect me to go to the wall of any particular formulation of which languages are concerned. But I think we do have to remember that we're working in an ICANN context and furthermore that we need to take account of the languages which are actually used in the world. But the most important one is clearly the official languages of the country concerned.

As I've just put in the chat, what about IDNs? Nearly all these country names will have one or two IDN versions in the countries concerned and sometimes internationally. And I'm not just talking about the odd accent. I believe that Work Track 5 has to date really not have had a thorough discussion about the application of the IDN environment to

**EN**

the policies that we have been painfully developing. But in this particular case, we have to specific. If we protect XYZ versions of a country name, we have to make it quite clear which scripts it's protected in. Naturally, I believe that national languages, official languages, and [vitally]-used languages at the local level should be protected, particularly as I believe that, in many countries and societies and economies, it is the IDN gTLD that will ultimately be the standard. Thank you.

ANNEBETH LANGE:     Thank you, Christopher. It has been suggested: U.N. languages plus some commonly-used languages combined with a curative [set and] some objection procedure. It's difficult as long as you don't have a list. We have the U.N. languages. That is a set that we can use. We have the languages used in the ICANN environment in translation and that kind of thing, but all languages to go between that and all languages? It's really difficult to set where we should stop.

Any more comments, please?

Nothing. It seems like this will be discussion—

MARTIN SUTTON:     [Hi.]

ANNEBETH LANGE:     Hi. There you are, Martin. Come on.

MARTIN SUTTON:          Annebeth, I'll fill in the gap.


ANNEBETH LANGE:         Good.


MARTIN SUTTON:          But welcome for anybody else to jump in with their own thoughts and ideas. I agree with some of the references there that have been made by Christopher in terms of IDNs. This is the rich area of IDNs in terms of the work that we've been doing in Work Track 5. So it is important to reflect that.

I think some of the things that were teased out at the last ICANN meeting were things such as [that] it needs official languages. So those would typically be an area for IDNs to come into the fore in a number of locations. There is the suggestion also that the U.N. languages are included. I think that the points raised at the ICANN meeting we had were somewhat supportive in that direction, but then there was obviously still some issues with regards to the fact that some countries don't use any of those U.N. languages. And they may have a variety of other official languages that they use. So it's trying to get that balance and come up with, I think, a starting point that we can work with, at least as a clear understanding that is manageable and predictable and practical to apply.

So it sounds to me, when you go through these lists, we've got the official language of whichever location we're talking about. We may

have U.N. languages across the board, or it could be a variance of U.N. languages or something that's relevant to that locale. So, if they have a set of different official languages, then those take priority in that scenario.

What does strike me is that the current, open, broad brushstroke of all languages is not practical. I think that that was appreciated through the discussions that we had at the ICANN meeting.

I'll stop now, seeing a hand is up. Thank you, Nick. Please.

NICK WENBAN-SMITH: I just wanted to say, Martin, I totally agree with what you just said. Put yourself in the shoes of a prospective applicant. In theory – well, you obviously can't – you're supposed to check that your string is not the translation of a country name or any other [proscribed] terms in any language or every language of the world. It's just impossible. I don't think we ever got to the bottom of actually working out what the Geographic Names Panel actually did in terms of checking that because they can't possibly have done it, either. I think this is an area where we obviously could and should do better. Something along the lines that you suggested I think is pretty sensible.

ANNEBETH LANGE: Thank you, Nick. Yes, I agree. We have to find something so it's not impossible for the applicant. As long as you have a kind of list and then, combined with some objection procedure or from the country in

question after the application has been published, that might be a solution for us.

So let's discuss this more when we get to Marrakech. I think that it's not the end of this discussion. If anyone more has something to say, please. Dev? Please.

DEV ANAND TEELUCKSINGH:      Can you hear me?

ANNEBETH LANGE:      Yes. Hi.

DEV ANAND TEELUCKSINGH:      Thank you. Just a note. I realize also that the ISO has in this thing what's called the 639 list. The 639 list – I put it in the chat – is the established codes for the representation of language or language families. So perhaps this kind of list of languages could be [made] more acceptable as opposed to an infinite number of languages. if the U.N. six languages alone is not enough. So just to point that out.

ANNEBETH LANGE:      Thank you so much. And you put the link in the chat so we have it there. Thank you.

No more comments?

MARTIN SUTTON:     Hi, Annebeth. It's Martin again.

ANNEBETH LANGE:     Yes, good.

MARTIN SUTTON:     Perhaps if we could take what we just talked about there and put that out to the list for comments between now and our next meeting. I don't think it needs to wait until Marrakech. I think I would suggest that we create a starting point and see what variations we might need to consider as a group. If we start with a very basic requirement, first of all, which is the local language, plus U.N. languages – let's start with that. What do people feel would be absolutely required on top of that and a reason to include it? Then we could perhaps use that as a basis for discussion across the list and the next call.

I think it would be helpful if we could come to conclusion before Marrakech. I don't see any reason why we can't progress this so that we come up with more of a robust final set of preliminary recommendations to walk through when we call meet in Marrakech. [How's that?]

ANNEBETH LANGE:     Thank you, Martin. I think that's a very good idea. Let's try to get from the [discussion] from this meeting what has been said and start with that. That's a good starting point for discussion. Let's do that. Thank you.

Then we go to the next session, and that is the geographic terms requiring [letters of support or non-objection. [inaudible] 10, 11, and 13.

I see that Steve is writing in what we have decided in the languages section before we go on here. Here we saw that the reference is the relevant preliminary recommendations in summary, as you can see here. They will need a letter of support or non-objection. We start with the capital city names and go through it as far as we get today. So that is capital city names of any country listed in the ISO 3166-1 standard.

The preliminary recommendation is to keep the status quo. That is that she should have a letter of support or non-objection. Those concerns/divergences that have been taken out of the comments are that [there is] no support of this rule: BRG, group of registries, NCSG, and the Registry Stakeholder Group. Much of the same reasoning for country names. In addition, NCSG claims that receiving non-objection letters from public authorities and governments are burdensome and sometimes impossible.

Some stakeholders advocate for an intended use provision, such as is the rule for cities today, if it should be reserved as all, while others want the rule to be support/non-objection, independent of intended use. Also here the namings or the different views here go in all direction.

Comments, please?

No hands? Okay. Let's go on to sub-national places; for example, [ways] that's been mentioned here. It should be an exact match listed in the ISO 3166-2 standard. Note that the themes here are similar to the

**EN**

capital city names and many of the same comments [inaudible] have been raised. In addition, there have been comments from the INTA and group of registries and BRG. They do not support the restrictions at all.

Comments?

Okay. The next section is UNESCO or M49 area. Note also that the themes here are similar to capital same names, and many of the same comments [inaudible] has been raised. In addition, NCSG opposed to reserve these. It goes too far, including that such organizations open the door to broad interpretations and expansion to the list of names that cannot be delegated.

Christopher Wilkinson has raised a new idea. Note that the general concept of [cross-border] regions is probably broader than the UNESCO's. And he raises the concept among [inaudible] that we haven't discussed at all so far.

Comments?

[Katherine] rights in the chat, "If only the comments are presented. The diversity of comments is not properly represented." That's true in a way, but the others are more or less in favor of keeping the status quo.

Any comments here?

Could you take the document a little further? Okay. This is the last thing we have gone through now. We have the summary of this section for Recommendations 10 and 12 and 13. Each of these areas has a similar set of proposals that received a combination of support and opposition. Introduce an intended use provision. Introduce an intended use

provision and insert contractual provisions. Eliminate the requirement for support/non-objection entirely. In addition to the support, there's keeping the status quo.

Now we have about ten minutes left. I think we should go to Any Other Business. Could you bring up the agenda again, please? Steve says in the chat, "[inaudible] highlighted the comment from them here." Okay. We have ten minutes, again.

Christopher, you raised these things. Do we want to say anything more about it? I'm not sure if anyone here can give you an answer to this. Olga has her hand up. She can come in here.

OLGA CAVALLI:              Thank you, Annebeth. Can you hear me?

ANNEBETH LANGE:          Yes, we can hear you.

OLGA CAVALLI:              Thank you. I would like to comment briefly about .amazon. This is a negotiation that is taking place in between the two parties – the company and the countries – and there will be a slot in the agenda, I think, in Marrakech in the GAC. As a general concept, it is okay that we have that in mind for the development of the working group. But [pointedly] about .amazon, I think we may think about the names that are not included in the lists. .amazon is one of these examples of conflicts. In that sense, we can have that in mind.

As per the negotiation itself, I think we have to follow what is happening in between the governments and the company and the further discussions that may happen within the GAC. That's what I wanted to add.

ANNEBETH LANGE: Thank you, Olga. Yes, we have some elements left in the preliminary recommendation for the cities and those kind of terms. But when we come to the chapter of those terms not included in the AGB, it's more relevant to discuss the Amazon decision. That's what you mean.

The currency codes … I really don't know what to say to you to this, Christopher. We [haven't] been taking it up all the time, but [there's a decision here] that it's geographic names. We were talking about what is a geographic name, and that is difficult, very difficult. It's been difficult all the time from when we started this. Where should we set the line for what is a geographic name or not?

Christopher, you have your hand up.

CHRISTOPHER WILKINSON: Good evening, everybody. I see we're nearly at the end of the call, so I should be as quick as possible. Regarding the currency codes, first of all, as an economist with some international track record of – don't let me say more – I believe that the risks to the financial system, from money laundering to currency speculation … if the currency codes are not reserved and protected, there are serious risks of … actually, with due respect to our CCT/ccNSO colleagues – some of you know that I have a

serious in ccTLDs – the risks of abuse to the three-letter currency codes are far greater than risks of abuse to three-letter country codes.

I've accepted, reluctantly, that you do not think that this is a geographical term, which is why I have insisted that the matter be taken up by the PDP as a whole. The PDP as a whole is sitting on its hands. The implication is that there are members of the PDP who think it would be quite a good idea to have open, unrestricted access to applying for and registering TLDs for currency codes.

For me, that's good enough. I would ask the Co-Chairs that, insofar as you have decided this is not a geographical term – which can be argued but I accept that conclusion for the time being – it seriously has to be addressed by the PDP. That's all I want to say for now. I'm asking the Co-Chairs to open up another big discussion about three-letter currency codes in Work Track 5, but please take your responsibilities. It's like a rugby match. If you don't want to score with the ball in your hand, you have to pass it to somebody else who can and who's prepared to catch it.

On .amazon, my understand is slightly different from Olga's: it seems to have gone one step beyond that, that the ICANN Board has reviewed and decided that the negotiation between the countries and the company have failed and that the ICANN Board has decided that the staff should proceed with the delegation of .amazon to amazon.inc, subject only – it's a big qualification, actually – to a public consultation, notably on the PICs that Amazon, Inc. has proposed. I don't know what those PICs are. I don't know when the public consultation will take place. It hasn't started. In terms of the longer-term implications, I have

written a note, which I've sent to the PDP with a copy to Work Track 5. But I have a vague suspicion that it didn't actually reach you all.

That being said, in short, the precedent created by .amazon must not be allowed to interfere with the recommendation in Work Track 5, notably the recommendation for systematic prior authorization of geographical names. If we fail to deal with this issue, there could be hundreds of .amazons over the next few years. [Note that] that would bring ICANN and the PDP and GNSO into serious international disrepute. Thank you.

OLGA CAVALLI:          Annebeth, can I comment?

ANNEBETH LANGE:          Yes, please. [inaudible] And now Jaap has his hand up as well.

OLGA CAVALLI:          Thank you. Christopher, I agree with you that this is a very important issue in relation to geographic names. What I meant is that, at this moment, if we can talk in general about what [inaudible] mean for Work Track 5, we should put that in the space dedicated to names which are not in any list. This is what I said.

[inaudible] other instances. [There] may be other things after the decision [was made] which is not in the hands of this group but in the hands of the countries or the parties involved. So this is what I meant.

I agree with you that it's a very important issue. If you may recall, mainly the analysis of the impact of using geographic names in new gTLDs came from this [conflict] we had in the first round. So it's not that I'm not agreeing with you. I'm just trying to clarify which are the different parts of the process.

ANNEBETH LANGE:     Thank you, Olga. Jaap, you have the last word before we close the call.

JAAP AKKERHUIS:     Just a quick reaction. [inaudible]. I've been approached a year ago by the ISO committee for 1 to7, which actually standardized these codes, asking me about the letters Christopher sent to them. They didn't understand what was is about and finally came to me. I explained what this process is doing and put out pointers to Work Track 5 website – stuff like that – and gave a summary about what the issue was. In the end, they seemed to understand what's going on and they would be back to their committee. Since then, I haven't heard from it. So my guess is that they don't share the problems about [it] that Christopher seems to have.

ANNEBETH LANGE:     Thank you, Jaap. It's good to get you into this [to] explain. Thank you. So I think we come to the end of the hour. We have to close the call.

Any last word from anyone? Olga, is that an old hand?

**EN**

OLGA CAVALLI: Yes, Annebeth. Sorry, it's an old hand. Apologies.

ANNEBETH LANGE: Okay. Thank you very much, everyone, for the discussion. Talk to you next week. Bye-bye.

**[END OF TRANSCRIPTION]**