



# Welcome

Jeff Neuman & Avri Doria | Geo Names Webinar | 25 April 2017

# Geographic Names Webinar

**1**

Co-Chair  
Introduction  
(10 mins)

**2**

Presentations  
(8 mins each)

**3**

Questions  
(10 mins)

# Purpose

- Several efforts are separately looking at this issue, each focusing on different elements
- The topic of reserved names in general, and geographic names specifically, at the top level is within the scope of work for this PDP, and must be resolved for the PDP to meet its objectives
- The Working Group is promoting dialogue to:
  - Collaborate
  - Understand the various needs
  - Discuss proposals to address geographic names at the top level in future new gTLD procedures
- This webinar will feed into sessions at ICANN59

# Background

- **IDN-WG outcomes report (2007)**

- **GAC Principles Regarding New gTLDs (2007):**

*2.2 ICANN should avoid country, territory or place names, and country, territory or regional language or people descriptions, unless in agreement with the relevant governments or public authorities.*

- **Reserved Names Working Group (2007):** Recommendation 20 stated that there should be no reserved geographic names:

*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. . .*

# Background

- **PDP on the Introduction of New Generic Top-Level Domains Final Report (2007)** - included language from the Reserved Names Working Group analysis on geographic names:

*Final Report Recommendation 5: Strings must not be a Reserved Word.*

- **The Applicant Guidebook** incorporated Recommendation 5 of the PDP Final Report and the supporting RN-WG analysis, providing the top-level reserved names, string composition for ASCII and IDN strings, and geographic names requirements.
- The Applicant Guidebook went through a series of comment periods and revisions. Ultimately, the ICANN Board, at the urging of the ccNSO and GAC, directed staff to exclude country and territory names from delegation in version four of the Draft Applicant Guidebook.
- The GNSO has not developed any additional policy recommendations. Inconsistency remains between GNSO policy and the 2012 AGB.

# Background

## 2012 round applications:

- 66 self-identified as geographic names pursuant to AGB Section 2.2.1.4.3
- Geo Names Panel determined 6 of these did not fit geo names criteria: VEGAS, ZULU, RYUKYU, SCOT, IST, FRL
- 3 applicants did not self-identify but met AGB criteria: TATA, BAR, TUI
- Of the 63, 56 had acceptable documentation of support or non-objection from the relevant applicable governmental authority
- Of those, 54 have been delegated
  
- Strings subject of one or more GAC Early Warnings that mentioned concerns related to the geographic nature of the string: ROMA, AFRICA, SWISS, PERSIANGULF, PATAGONIA, CAPITAL, CITY, TOWN, VIN, YUN, 广州 [GUANGZHOU], SHANGRILA, 香格里拉 [SHANGRILA], 深圳 [SHENZHEN], ZULU, AMAZON, DELTA, INDIANS

# Next Steps

- Share additional materials with participants:
  - Transcripts, including translations in the UN languages
  - Supplemental materials provided by presenters
  - Questions from the webinar that were not answered due to time constraints, along with responses from presenters
- Announce details about the ICANN59 Sessions, including structure and anticipated outcomes

Forgot to RSVP for the webinar? Please email to [Geo-Names-Session@icann.org](mailto:Geo-Names-Session@icann.org) so we can send you a follow-up materials and information about next steps.

# Ground Rules

- Please be mindful of ICANN Standards of Behavior:  
<https://www.icann.org/resources/pages/expected-standards-2016-06-28-en>.
- Questions will only be addressed during the Q & A portion at the end of the webinar
- Participants may ask clarifying questions in two ways:
  - Type the question into the chat, starting and ending your question with <QUESTION>
  - Activate your microphone during the Q & A portion of the webinar and raise your hand in the Adobe Connect room to speak
- If there is not enough time to address all clarifying questions during the webinar, any remaining questions will be posted with responses from the presenters on the wiki following the webinar



# INTERNATIONAL LAW ON GEOGRAPHIC NAMES: CONTEXT FOR ICANN POLICY-MAKING

**GNSO SUBSEQUENT PROCEDURES PDP WEBINAR  
GEOGRAPHIC NAMES**

**25 APRIL 2015**

**Associate Professor Dr Heather Ann Forrest  
University of Tasmania, Australia**

# Do governments have sovereign rights in geographic names?

**ANSWER: NO.**

- There is no connection between sovereignty and country (or other geographic) names.
- International law requires countries to prevent some sovereign symbols being registered as trademarks; country names are not included.
- Even if country names were included, this would only prevent their use as trademarks, and would not stop their use as domain names or TLD strings.

# Do others (i.e., other than government) have rights in geographic names?

**ANSWER: YES.**

- International trademark law gives others rights.
- Unfair competition law prevents “unfair” or “dishonest” uses. Not all use by someone other than government is “unfair” or “dishonest” (see UDRP decisions).
- International law protecting geographical indications (GIs) gives others rights, but the actual form of protection is relevant to the DNS in only 28 countries.

# What does this mean for DNS policy?

- International law does not give governments the right to reserve or restrict geographic names in the DNS simply because that use is by someone other than government.
  - International law does not give GI holders the right to reserve or restrict geographic names in the DNS simply because that use is by someone other than the GI holder.
- **NO EXCLUSIVE RESERVATION**
    - **NO PRIORITY**
  - **NO REFUSAL BECAUSE USER IS NOT GOVERNMENT OR GI HOLDER**

# Webinar on Geographic Names at the Top Level

Presentation by the GAC WG Protection of  
Geographic Names in new gTLDs

25 April 2017

# GAC Durban Communique (July 2013)

## *“Refine the rules for next gTLD round”*

For geographic names which are NOT in the AGB 2012 lists

*“The GAC recommends that ICANN collaborate with the GAC in refining, for future rounds, the Applicant Guidebook with regard to the protection of terms with national, cultural, geographic, and religious significance, in accordance with the 2007 GAC Principles on New gTLDs.” Durban Communique, IV (7).*

# Working Group Objectives (from the WG's Draft Terms of Reference)

- The objective of the GAC Working Group to Examine the Protection of Geographic Names in any Future Expansion of gTLDs is to review and consider any necessary improvements to the existing protections by:
  - Developing practical options that are aimed at improving protection of geographic names during any future expansion of gTLDs.
  - Developing practical suggestions and rules to lower uncertainties both for the governments, communities and also for the applicants, once using a geographic or community name.
  - Developing best practice rules to avoid misuse of geographic and community names as new gTLDs and at the same time lowering uncertainties for the applicants, trademarks and the business involved.
  - To ensure the involvement of local community, Government and other relevant stakeholders in the initial stage to avoid future risks and delays for such new gTLDs applications.

# “Proposal under discussion on a future agreed framework for terms with geographic significance”

The GAC Working Group is discussing a draft proposal to create a future agreed framework for terms with geographic significance. At ICANN58 in Copenhagen, the Working Group decided that the proposal could not be the basis of Working Group consensus, but governments would seek to potentially revise the proposal to achieve consensus. The proposal, as initially circulated, included the following elements:

- *A repository of terms with Geographic significance to be maintained by ICANN.*
- *Governments, public authorities add relevant lists and/or terms to the repository.*
- *Effective public consultation requirement: opportunity to raise any concerns about any such strings.*
- *Contact obligation: In case of a match or a confusingly similar name, applicant would be obliged to contact the relevant government, public authority , etc.*
- *No objection requirement: Applicant would be required to obtain a non-objection statement from the respective community and government*
- *Dispute resolution process in cases that a non-objection is not obtained.*
- *Documentation obligation.*



# Divergent Views on the Draft Proposal

## AGAINST

- Any given string may have multiple legitimate uses and meanings, including without geographic significance
- Ex-post solutions are always preferential
- Suggests that there is a de facto legal right to certain terms
- Harm to legitimate commerce
- Impractical and overly burdensome to applicants
- Unclear legal status of such repository

## IN FAVOR

- Important to avoid future complexities and litigation
- Repository based on the existing reliable resources and gradually be further filled-in on concrete standardized parameters so that it may be considered as one of most authentic and useful resources, including UN / WIPO Sources.
- Work based on the experience of the past and trying to limit the damages.
- Repository is good, as long as it promotes an inclusive participation.
- The repository provides the applicant with a “bona fide” protection and sufficient guarantee to proceed

# *Comments?*

## *Interested in our work?*

### *Want to review our documents?*

- Participate in the WG and GAC plenary sessions in ICANN meetings (they are open!)
- Review all the documents produced by members of the WG on the GAC website:
  - GAC WG Draft ToR (<https://gacweb.icann.org/pages/viewpage.action?pageId=43713215>)
  - About Public Interest (<https://goo.gl/EXh9Qx>)
  - Protection of GEO names background document (it was open to public comments)
    - Public Comment Summary (<https://gacweb.icann.org/display/gacweb/Summary+of+community+input>)
  - Presentations

Do not see them on the ICANN Website? Send an email to:

[gacsec@gac.icann.org](mailto:gacsec@gac.icann.org)

Many thanks!!      Muchas gracias!!

# Treatment of Country / Territory Names & ISO 3166 Alpha-3 codes as gTLD strings in subsequent rounds

2017-04-25 ICANN Geographic Names Webinar  
Alexander Schubert (.berlin / .usa)

# A path to make Country / Territory Names & ISO 3166 Alpha-3 codes eligible as gTLDs

- AGB 2.2.1.4.1 declared Territory and Alpha-3 codes ineligible
- The entire provision 2.2.1.4.1 should be deleted from the AGB
- Amend AGB 2.2.1.4.2 §3 so it includes all:
  - Country & Territory names listed in ISO 3166 (in all languages)
  - The codes listed in ISO 3166 Alpha-3
  - Result: Requirement of „Letter of Non-Objection“ from Government
  - Optionally: „Letter of Non-Objection“ by Relevant GAC member
  - Optionally: „Letter of Non-Objection“ by Relevant ccTLD manager

# Two letter TLD labels/ Postel's 1994 RFC 1591

- The entire namespace of 2 character labels shall be reserved for the ccNSO.
  - Including labels „reserved for public use“: e.g. „aa“, „zz“ (think 192.168.X.X)
  - Including labels otherwise ineligible for territories: e.g. „m3“, „f1“
- Assignment of two letter labels as gTLD would harm the current order
  - Two letter = ccTLD
  - 3 and more letters = gTLD
- For the same reason never shall any label exceeding 2 characters be assigned as ccTLD.

# ICANN Webinar on Geographic Names

April 25, 2017

## The view of Marques

Flip Petillion

MARQUES

# Why does this matter to MARQUES?

- MARQUES is the European Association representing brand owners
- Some examples of European marks which share geographic and cultural meanings:
  - AMSTERDAM (beverages), ALPS (electronics), AVON (cosmetics), DANISH (meat), IBERIA (airline), LONDON (tobacco), LYON (tobacco), MILAN (pharmaceuticals), MUNSTER (bedding), PARIS (bicycles), RHINE (construction), ST. IVES (soap), TIROL (furniture), WACHOVIA [“die Wachau” in German](finance), WATERFORD (furniture) and ZURICH (insurance), DODGE (motor vehicles), HERMÈS (luxury goods), LANCASTER (fashion), NOKIA (communications), OLYMPUS (cameras) and VIKING (cruises)

# How to treat geographic names at the top level ?

- Some new gTLD applicants met all the requirements in the Applicant Guidebook but still received government objections
- New gTLD applicants, including many trademark owners, need a predictable, fair, and consistent application process which conforms with applicable principles of law
- All nations must act in this process in accordance with the international agreements to which they are signatories and to respect globally recognised legal principles



# How to treat geographic names at the top level ?

- There are thousands of trademarks including geographic terms
- Trademark owners have long-established national and international rights to use their trademarks
- Nation states do not possess a priori or even exclusive rights to geographic terms
- Trademarks and geographic terms may co-exist, but not to the detriment of trademark owners' rights
- Trademark owners' rights cannot be restricted in violation of existing principles of law



geoTLD.group

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# **Geographic Names**

Experience and Proposals



# Round 1 - geoTLD Experience

- Definition of a geographic TLD was limiting
  - bcn, eus, frl, gal, ist, irish, ryukyu, ruhr, scot, swiss, vegas, zulu  
where all excluded as geographic names
- Government Letter of Support
  - difficult to obtain but appropriate level of geographic credentials



# Next Round - Proposal 1

## **geoTLD.group's own definition**

- Based on a geographic name, identifier or indication
- Used to indicate or identify as a geographic, linguistic or cultural origin
- Documented government support or non-objection



## Next Round - Proposal 2

### **Waiver on geographic name limitations**

- Provided an appropriate level of Government Support any geographic name should be acceptable



# Next Round - Proposal 3

## Priority to geoTLDs

- In case of contention, Geographic TLDs should have a priority
  - No Auctions – because Governments are unlikely to be able to participate
  - Government Support – as proof of benefit to the greater good



# Next Round - Proposal 4

## Fair warning

- All applicants should acknowledge geographic “T&Cs”
  - Applicants must check their applied-for string(s) for potential geographic conflicts
  - All lists in the Applicant Guidebook apply (2.2.1.4 Geographic Names Review)
  - Best practice suggests prior communication with relevant authority(ies)



# Geographic Terms at the Top Level

25 April 2017





## Use of Geographic Terms at the Top Level

### BRG Position

The BRG does not support any restrictions to the use of geographic terms at the top level for applicants that hold a matching trademark, whereby the use of the TLD is to identify the brand and not to represent the geographic term, and where there is no conflict with national or international law.



## Rationale

### Use of Geographic Terms at the Top Level

1. A trademark-branded top level domain (dotBrand) enables a trusted space, protecting consumers from many of the problems that exist across open registries.
2. Many terms have more than one meaning/use – context is key.
3. Some branded terms may also have a geographically-related context. There is no justification for a geographical-related use at the top level taking priority over a brand-related use.



## Examples

**EARTH** can be geographic (the third planet from the sun), generic (soil and dirt) or a trademark (Earth for amusement park services, US registration 3339608). These uses all co-exist because they are used in different ways and have different meanings.

Other trademarks may coincide with geographic terms, but there is no relationship between the geographic term and the origin of the goods. For example **CLEVELAND** golf clubs which are made in the US State of California (by a company started by Roger Cleveland in 1979) have no relationship to the city of Cleveland in the US State of Ohio. In fact, the city was founded by Moses Cleveland, so the geo term is derived from a person's surname.



## Rationale (cont.)

### Use of Geographic Terms at the Top Level

4. There is no evidence to suggest that the use of a geographic term at the top level by a trademark owner creates any risk or confusion to users. Indeed, by creating a trusted Brand TLD space, where registrants are limited to the brand owner and closely related parties vetted by the brand owner, the context of the use makes such confusion extremely unlikely.



## Rationale (cont.)

### Use of Geographic Terms at the Top Level

5. There is no sovereign or other ownership right of governments in country or territory names, including ISO 3166-1 codes:
  - There is no legal basis for government veto power on allocation of these codes as gTLDs.
  - Restrictions to use geographic terms at the top level should, therefore, be minimal.
  - Restrictions must be clear, with reference to defined lists, providing predictability.
  - Two-character restrictions are already applied at the top level, due to a longstanding practice, for country codes corresponding to the ISO-3166. These are premium online real estate are reserved for or used by the applicable country/government.



## Rationale (cont.)

### Use of Geographic Terms at the Top Level

6. Protective measures still remain - vetting and objection processes through the application process as well as post-delegation objections. Contractual obligations and applicable national/international laws also remain in force.



## Use of Geographic Terms at the Top Level

### BRG Position

The BRG does not support any restrictions to the use of geographic terms at the top level for applicants that hold a matching trademark, whereby the use of the TLD is to identify the brand and not to represent the geographic term, and where there is no conflict with national or international law.

#### Brand Registry Group

Email: [info@brandregistrygroup.org](mailto:info@brandregistrygroup.org)

Website: [www.brandregistrygroup.org](http://www.brandregistrygroup.org)



Council of European National  
Top-Level Domain Registries



# CENTR position UCTN Top Level

Peter Van Roste

[peter@centr.org](mailto:peter@centr.org)

Webinar Subsequent Procedures - Geographic Names

25 April 2017



# CENTR MEMBERS



**Council of European National  
Top-Level Domain Registries**

**53**  
FULL  
MEMBERS

**9**  
ASSOCIATE  
MEMBERS

**12**  
OBSERVERS



**+73M +1,300**

REGISTERED  
DOMAINS

EMPLOYEES  
(1-140 PER  
REGISTRY)



**50%**

REGISTERED  
ccTLDs  
WORLDWIDE

**80%**

OF REGISTRIES ARE  
NON-FOR-PROFIT  
ORGANISATIONS

AfTLD	APTLD	EuroISPA	EU Commission	ICANN	ISC
ISOC	LACTLD	Netnod	NLnet Labs	OARC	RIPE NCC



## 2 letter top level domains

**CENTR position:** *status quo*

- Only ISO 3166-1 alpha 2 codes
- Used as ccTLDs
- Basis: RFC 1591
- Two letter currently not in ISO list should be reserved for future countries (e.g. .ss)



# Use of country and territory names as TLDs

## CENTR position:

- Agree with CWG UCTN interim report: “Future policy development work must facilitate an **all-inclusive dialogue** to ensure that all members of the community have the opportunity to participate. Again, we believe that this is the only way to determine whether a harmonized framework is truly achievable.”
- The restrictions on using geographic terms in the 2012 AGB generally worked well and should not be changed for future rounds unless there is strong cross community consensus.
- **If ISO 3166-1 alpha 3 codes are allocated**, the minimum level of protection should be the **same as currently defined** under the current gTLD round in the AGB paragraph 2.2.1.4.2.



Thank you

[peter@centr.org](mailto:peter@centr.org)

# The Public Interest and City-TLDs

By Thomas Lowenhaupt  
Connecting.nyc  
April 25, 2017

1. More than  $\frac{1}{2}$  the world's population live in cities
2. → 75% by 2050
3. Needs are complex and vast:  
management, resources,  
tech...


# Invasions







SUSAN WATTS/NEW YORK DAILY NEWS ARCHIVE VIA GETTY IMAGES



**I'm Vint**

**Bob here.**



SUSAN WATTS/NEW YORK DAILY NEWS ARCHIVE VIA GETTY IMAGES



SUSAN WATTS/NEW YORK DAILY NEWS ARCHIVE VIA GETTY IMAGES

# EU Regional Social Progress Index

Score/value Rank

66.85 153/272

# Région de Bruxelles Capitale / Brussels

GDP PPP per capita (2011)

€55,600 3/272

# Hoofdstedelijk Gewest



	Score/value	Rank		Score/value	Rank		Score/value	Rank			
<b>Basic Human Needs</b>	<b>74.73</b>	<b>182</b>	●	<b>Foundations of Wellbeing</b>	<b>56.48</b>	<b>212</b>	●	<b>Opportunity</b>	<b>70.04</b>	<b>68</b>	●
<b>Nutrition and Basic Medical Care</b>	<b>80.47</b>	<b>197</b>	●	<b>Access to Basic Knowledge</b>	<b>60.52</b>	<b>221</b>	●	<b>Personal Rights</b>	<b>53.27</b>	<b>80</b>	●
Mortality rate before age 65	0.13	119	●	Secondary enrolment rate	0.92	177	●	Trust in the political system	45.94	129	●
Infant mortality	3.10	91	●	Lower secondary completion only	32.27	202	●	Trust in the legal system	37.36	78	●
Unmet medical needs	3.42	207	●	Early school leaving	18.90	225	●	Trust in the police	67.45	91	○
Insufficient food	12.54	209	●	<b>Access to Information and Communications</b>	<b>68.76</b>	<b>118</b>	○	Quality and accountability of government services	0.74	43	●
<b>Water and Sanitation</b>	<b>86.02</b>	<b>143</b>	●	<b>Health and Wellness</b>	<b>66.63</b>	<b>204</b>	●	<b>Personal Freedom and Choice</b>	<b>70.90</b>	<b>144</b>	●
Satisfaction with water quality*		227	●	Life expectancy	80.45	167	●	Freedom over life choices*		102	●
Lack of toilet in dwelling	3.03	221	●	General health status	72.84	91	●	Teenage pregnancy	1.19	162	●
Uncollected sewage	0.00	1	●	Premature deaths from cancer	86.10	167	●	Young people not in education, employment or training	18.90	227	●
Sewage treatment	78.00	125	●	Premature deaths from heart disease	39.40	119	●	Corruption	0.75	102	●
<b>Shelter</b>	<b>65.05</b>	<b>169</b>	●	Unmet dental needs	4.50	149	●	<b>Tolerance and Inclusion</b>	<b>70.42</b>	<b>154</b>	●
Burdensome cost of housing	54.28	230	●	<b>Environmental Quality</b>	<b>33.94</b>	<b>245</b>	●	Impartiality of government services	-0.36	188	●
Satisfaction with housing	43.34	97	●	Satisfaction with air quality*		258	●	Tolerance for immigrants*		110	●
Overcrowding	8.37	155	●	Air pollution-pm10	25.96	214	●	Tolerance for minorities*		154	●
Lack of adequate heating	16.39	230	●	Air pollution-pm2.5	18.63	214	●	Attitudes toward people with disabilities	7.60	128	●
<b>Personal Safety</b>	<b>68.38</b>	<b>239</b>	●	Air pollution-ozone	104.57	78	●	Tolerance for homosexuals*		96	●
Homicide rate	3.35	259	●	Pollution, grime or other environmental problems	28.36	269	●	Gender gap	-9.87	118	○
Safety at night*		226	●	Protected land (Natura 2000)	14.10	167	●	Community safety net*		199	●
Traffic deaths	24.78	24	●				<b>Access to Advanced Education</b>	<b>87.70</b>	<b>35</b>	●	
							Tertiary education attainment	42.20	1	●	
							Tertiary enrolment	0.09	1	●	
							Lifelong learning	9.60	119	●	

● Underperforming ○ Less than one point under neutral ● Neutral ○ Less than one point over neutral ● Overperforming

Strengths and weaknesses are relative to 15 regions of similar GDP per capita: Hamburg; Luxembourg; Bratislava Region; Île de France; Groningen; Prague; Stockholm; Vienna; Upper Bavaria; North Eastern Scotland; Darmstadt; Utrecht; Helsinki; Bremen; Capital Region of Denmark

\*Raw data cannot be shown for Gallup indicators

1. User Friendly

2. Identity ~ Trust

3. Service delivery

4. Infrastructure: Resource ID

5. Anti-Disintermediation

**Top 5**

**D**

# Step #1- Engage The Populace in Application Development Toward Multistakeholder Governance of City-TLDs

- City Administration
- Individual Internet Users
- Business
- Academia
- ...

**Informed  
Consent**

## The Public Interest

- **Transparency:** bringing visibility to the management and operation of the service
- **Effectiveness and Efficiency:** enabling optimal use of resources for the delivery of services
- **Participation:** empowering citizens to legally control the service delivery to their advantage
- **Equity:** providing to citizens the service on an equal basis
- **Rule of Law:** ensuring that the laws and regulations governing the service are applied in an impartial way
- **Accountability:** creating standards against which the individuals providing the service and the service delivery can be held accountable
- **Responsiveness:** serving all citizens in a consistent and predictable way
- **Consensus Orientation:** proceeding with the management and operation of the service within overall principles of consensus decision making among stakeholders, and, in the instance of GC-TLDs, collaborating with residents, local government, and other organizations.



# **INTERNATIONAL TRADEMARK ASSOCIATION**

## **Joint Statements of Internet and Geographic Indications Committees on Geographic Names in the Domain Name System (DNS)**

ICANN Webinar on Geographic Names  
Subsequent Procedures Policy Development Working Group  
April 25, 2017

# **International Trademark Association**

## **Statement on Geographic Names in the Domain Name System**

The International Trademark Association (INTA) is increasingly concerned about the development of a reserved names list and a government objection mechanism/consent requirement with regard to the use of geographic names at both the top and second levels of the Domain Name System (DNS).

# **International Trademark Association**

## **Statement on Geographic Names in the Domain Name System**

### **(cont.)**

Any objection to the use of a geographic term that is determined to be of either national, cultural, geographic or religious significance to a particular country or region has no legal basis, whether under agreed principles of international law or national sovereignty. The express recognition of private legal ownership rights in trademarks, trade names and geographical indications by sovereign states and by international treaties contradicts any governmental claim to exclusive rights in geographic domain names. No interpretation of the public interest as it relates to ICANN policy justifies disregard for the established international legal framework as it applies to trade marks and geographical indications of origin. In particular, such an approach is inconsistent with the legal obligations of the 176 member states of the Paris Convention under Article 6 quinquies and in this regard would not be upheld by the national courts of those countries.

# **International Trademark Association**

## **Statement on Geographic Names in the Domain Name System**

### **(cont.)**

A thorough analysis of international law and legal principles on this issue must be undertaken and must be given proper deference in relation to the proposal from the Governmental Advisory Committee (GAC) Working Group to Examine the Protection of Geographic Names in any Future Expansion of gTLDs for a reserved names list or government objection mechanism/consent requirement.

## **Protection of Geo-names under International Law**

- **Geo-names, names which have some geographical significance, are not protected or protectable per se under international law unless they fit into a specific legal category of protection, e.g., trademark law, geographical indications (GIs) , etc.**
- **Despite assertions of various governmental sources, the mere statement that a term is “owned” by a country or region does not establish legal rights in a geoname.**
- **Determining whether a geo-name is legally protectable or not depends, in part, on how the term is used. The same term can have different functions. A good example is the term SWISS.**

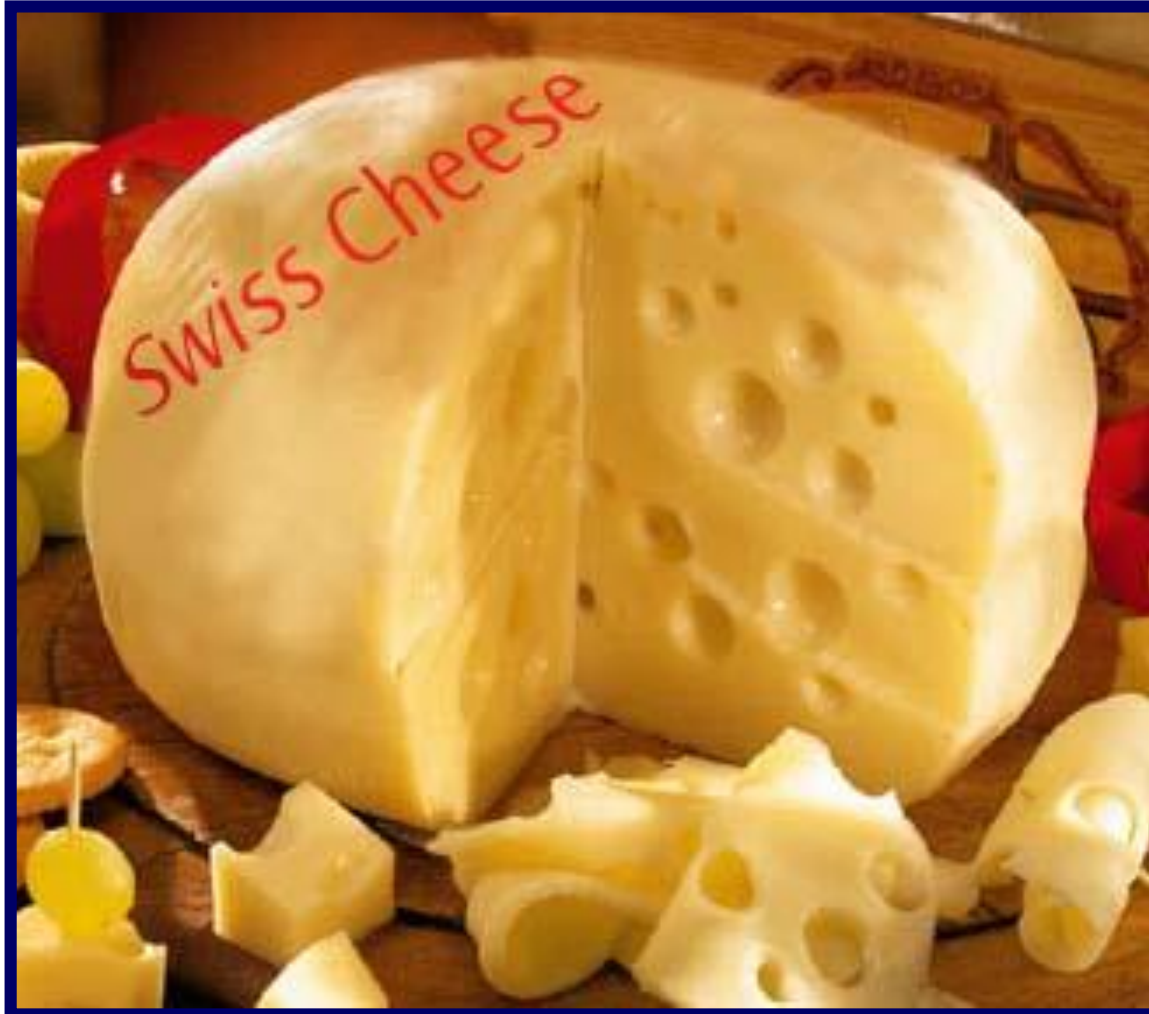
## **SWISS watches**

**(here SWISS is a Geographical Indication “GI”  
since it indicates origin in Switzerland)**



## **SWISS *cheese***

**(here SWISS is Generic for a type of cheese,  
although in some countries it is a GI)**



**SWISS *airlines***  
(here **SWISS** is a Trademark for an airline  
company)





# Geonames ≠ GIs

- Despite popular belief, geo-names are not GIs. GIs have a very specific meaning in the WTO TRIPS Agreement, namely:

“Geographical indications are, for the purposes of this Agreement, indications which identify a good as originating in the territory of a Member, or a region or locality in that territory, where a given quality, reputation or other characteristic of the good is essentially attributable to its geographical origin.”

TRIPS 22 (emphasis added)

- GIs are a *very small subset* of all geo-names.

## How does this relate to domain names?

- In order for a geo-name or even a GI to be included in the TMCH, it must be protected under the legal framework of *trademark law* (as a certification mark or a collective mark) and registered as such.
- In order to object to a proposed geo-name gTLD, therefore, recognizable, verifiable, legal rights should be submitted, as in done with trademarks, such objection not being based on an open ended list of every term which may have a geographical significance with no possibility to verify or challenge such claims. To give geo-names which are not legally protected such rights would create uncertainty and confusion in the domain name space.

# Proposal: Public Interest Commitment against the Confusing Use of Geographic Protected Terms (GeoPIC)

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## Applicable Terms:

- Only applicable to geographic and territorial terms protected under national legislation (“Geographic Protected Terms”).

## Purpose:

- To address the governmental concern that an applied-for string at the top level which is identical to a Geographic Protected Term might be used in a manner:
  - that falsely suggests to the public that a connection exists between the TLD or its Operator and the Geographic Protected Term, and/or
  - that is otherwise of a nature as to mislead the public as to the existence of a connection between the TLD or its Operator and the Geographic Protected Term.

# Proposed Procedure:

- I. Applicant applies for a TLD containing a Geographic Protected Term
- II. Timely objection to the TLD Application is received by ICANN from the GAC
  - Working options for what constitutes a “GAC Objection”:
    - GAC Consensus Advice
    - Objection from **five** or more GAC members
    - Objection from **three** or more GAC members
- III. the TLD Applicant agrees to a Public Interest Commitment (PIC) that requires:
  - that the TLD Applicant not use TLD in a manner that falsely suggests to the public that a connection exists between the TLD or its Operator and the Geographic Protected Term (“GeoPIC”).
- IV. GeoPIC will be included in the TLD Applicant’s Registry Agreement, should such Agreement be executed by ICANN. This GeoPIC shall be enforced in the same manner and process currently contained in the Registry Agreement for other PICs.
  - PICS are enforced through:
    - Complaints to ICANN Contractual Compliance which may result in ICANN Compliance Action
    - Formal PICDRP complaints to the PICDRP Standing Panel which can make a formal ruling of compliance or non-compliance

## **Benefits:**

- Generally, does not require large additional expenditures of time or money from any party to implement
- Does not require the development and maintenance of a repository
- Does not create any new legal rights
- Offers some predictability for TLD Applicants while respecting individual government's concerns
- Is consistent with “permissionless” evolution of the internet
- Contains a familiar enforcement mechanism