
ICANN Transcription
GNSO New gTLD Subsequent Procedures PDP WG Work Track 5 (Geographic Names at the top-level)
Wednesday, 04 September 2019 at 20:00 UTC

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ANDREA GLANDON: Good morning, good afternoon and good evening. Welcome to the New gTLD Subsequent Procedures PDP Work Track 5 call, held on Wednesday 4th September 2019 at 20:00 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? I know that we do have Jeff only on audio, and Vernatius as well. 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 Javier Rúa-Jovet. Please begin.

JAVIER RÚA-JOVET: Thank you, Andrea. Welcome to all, again. I'll be co-Chairing this call today. I'm joined here by my co-leads, Annebeth Lange and Martin Sutton, Annebeth from ccNSO and Martin from GNSO. I don't see Olga today. Also, PDP co-chairs; Jeff is around and Cheryl is around. Welcome to all.

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Today, we have an agenda that you've seen, take a look at it. First, welcoming. Any SOIs anybody wants to disclose right now? Updates? Hearing none. Today, we're still in the topics of additional categories of non-AGB terms, trying to close up this subject. Of course, also the topic of the closure of noncapital city names. We're trying to see if we get closure here, and maybe some agreements in some of these topics that are left.

On your screen, if you have your computer, you can see the current status of this discussion. I'm going to just read through this. The Work Track has extensively discussed whether there should be provisions in the Applicant Guidebook to protect and restrict additional categories of terms not included in the 2012 Applicant Guidebook. There has been traffic on the list regarding proposals that would require applicants to provide early notice to governments, public authorities, when the applicants apply for specific strings.

There are two core proposals. Under one of the proposals, proposal one, the strings triggering this requirement would include point one: terms with geographic meaning identified by GAC member states or the UN member states to the ICANN organization, that are protected by national law, as well as exact matches of adjectival forms of country names as set out in the ISO 3166-1 list, in the official languages, or language, of the country in question.

Under the other proposal, proposal two: the list should be limited to the exact matches of adjectival forms of country names as set out in the ISO 3166-1 list, in the official language or languages of the country in question. There is also the possibility of a proposal 1.5 in which early notice to governments is required for adjectival forms of

country names, and there is an optional best practice for other strings, specified above. There are a few slides in this presentation today going into the weeds, into the details of each of these two proposals, and the details within the details of each of the proposals.

Maybe if we can jump right now, quickly, to the first pros and cons slide, and then maybe we go back as needed to explain the different proposals? I just want to, if the Work Track allows, make sure we generally stand, and we understand the pros and cons of the proposals that have been discussed in the different media, the e-mail, etc.

Pros and cons raised on proposal two. Remember, proposal two is that the list should be limited to exact matches of adjectival forms of country names as set out in ISO 3166-1. There does not appear to be any significant opposition to a contact obligation for adjectival forms of country names. The main question appears to be whether there should be additional rules, or best practices, for other types of strings. Before going into the pros and cons, I just want to know from members here on the call and the computer whether we're on the same page, and I think we are, that there does not appear to be any significant opposition, or I haven't seen opposition, to a contact obligation for adjectival forms of country names. Anybody want to comment on that, or agree with my appreciation, or the leader's appreciation, that there is no significant opposition to a contact obligation for adjectival forms of country names?

MARTIN SUTTON:

We've got Paul in the queue, Javier.

JAVIER RÚA-JOVET: Go ahead, Paul.

PAUL MCGRADY: Thanks. I'm in transit today, so it's going to be difficult for me to watch chat and all that. I'm in transit, so I'm not able to read, unfortunately, what's up here very closely on my phone, and also while trying to drive.

When you say that there's no objection to a contact obligation, I think there was strong objection to a contact obligation. There was, in all the proposals that came in reaction to Jorge's initial proposal, a suggestion that for the adjectival forms of country names, on a limited list that's already identifiable now, that the various interested governments could let ICANN Org know, and then ICANN Org would be under an obligation to make that contact. To say that there was no objection to a contact obligation on behalf of applicants is not accurate. Maybe that's what you meant, or maybe it's not what you meant, but I wanted to make sure that we captured that, and that silence wasn't assent on that if you meant it was an applicant obligation. Thanks.

JAVIER RÚA-JOVET: Thank you. Are you saying, Paul, that there is opposition to an obligation for applicants to contact countries in regards to adjectival forms of country names applications?

PAUL MCGRADY:

Yes, I think that's been pretty clear all along these last two or three weeks. The counterproposal to what Jorge suggested was that, to the extent that governments wanted to make ICANN Org aware of a desire to be informed of applications for adjectival forms of country names that were on the identifiable World Bank list now, that that obligation would fall to ICANN Org, and would not fall to applicants. There's too much peril. What if an applicant doesn't write to the right party? What if he doesn't chase them enough? On an on.

We're trying to take out of this process surprises and unpredictability. The way to do that is, if we adopt the adjectival forms of country names off the World Bank list, as a further concession, in addition to all the concessions already contained in the 2012 Applicant Guidebook on this issue, if we have yet another concession by saying yes to adjectival forms of country names, then the obligation to inform these governments needs to fall to ICANN Org, and we do not need to bake this in and make it another applicant obligation.

JAVIER RÚA-JOVET:

Understood. If I hear you correctly, Paul, there seems to be ... And any Work Track member, and also you Paul, can correct me on this. There might be some agreement on the idea that adjectival forms of country names might have ... There might be some innovation in terms of the adjectival forms of country names, but there is concern regarding an applicant obligation to contact. It should be more of an ICANN Org obligation, not an applicant obligation. Correct?

PAUL MCGRADY:

I think that's right. I think that there is ... I've sensed in the last few calls, at least, that this additional concession made by people who think the Applicant 2012 Guidebook already went too far on this issue and gave too many concessions to governments in this space, so this additional concession as a means of finding some way forward that might satisfy governments ... That there is agreement that, if that would satisfy governments, then the people seem to be willing to do that as a way to find some sort of consensus out of this process. I don't think that there's consensus. There's no consensus that people think this is necessary or good. It's just a way to try to meet the government colleagues halfway on something, here. Baked into that was the idea that ICANN Org would be responsible for any notifications, that the applicants wouldn't be, which I think is fair. Thanks.

JAVIER RÚA-JOVET:

Thank you. Following this discussion, there's a slide on the screen I'm just going to go over, which goes into the weeds of this, on this proposal two. "Notification to national governments," it says. "As soon as possible after, but never before, the close of an application window, but no later than one month after the close, ICANN Org should reveal relevant applied-for terms and applicant contact information to those national governments who provided contact information." It seems that this slide basically captures the idea that it will be an ICANN Org obligation if we were to go forward with this adjectival forms contact obligation.

Again, just to ask the Work Track out there. The idea that there might not be major disagreement, at least, on a new rule regarding adjectival forms of country names, and an ICANN Org obligation to

basically be the party that reveals these applied-for terms to the interested countries.

ANNEBETH LANGE: Javier?

JAVIER RÚA-JOVET: Go ahead.

ANNEBETH LANGE: Some hands up, there. I saw that [Jorge] had his hand up, but he removed it again. He has a comment in the chat. Then, you have Susan Anthony and Robin Gross.

JAVIER RÚA-JOVET: Okay. Susan, go ahead, please.

SUSAN ANTHONY: Yes. I appreciate everyone's efforts to try to find [some kind of] compromise, but on behalf of the United States Patent Trademark Office and the US Government, we remain very concerned that even this compromise could be a slippery slope, because above all, in our view, a geo-term or a geo-name is such only if the applicant proposes to use the gTLD in that geographic sense, to refer to the place, the peoples, or the languages, etc. I just want to [inaudible] are concerned that this [could be] a slippery slope we're creating here, and we just don't know how many more slopes we're going to be facing.

JAVIER RÚA-JOVET: Thank you. Is it your position that you would oppose any possible compromise in terms of adjectival forms of country names because it's not technically a geographic term? Okay, who's got a hand up?

SUSAN ANTHONY: I apologize.

JAVIER RÚA-JOVET: Susan, go ahead.

SUSAN ANTHONY: Yes. I couldn't say that we would oppose any and every compromise, that we just do remain concerned that for any geo-term or geo-name really has to be considered within the context of the intended use of the applicant, and if the applicant does not intend to use a term that corresponds to that geo-term or geo-name in a way that is primarily associated with, for lack of a better phrase, then it isn't a geo-term or a geo-name requiring further steps of any kind.

JAVIER RÚA-JOVET: Thank you for your comment. Robin, then Jorge, then Greg, please. Go ahead.

ROBIN GROSS: Can you hear me?

JAVIER RÚA-JOVET: Yes, we can.

ROBIN GROSS: Okay, great. Yes, I'd also like to register my opposition to this proposal, largely on the same grounds that Susan just mentioned. Basically, my concern has to do with the chilling effect on speech, that encouraging via a notification, incentivizing via a notification, governments to potentially get involved and try to stop applications because they don't like a word being used. I'm concerned about the chilling effects by this proposal. I think that what was in the Applicant Guidebook already went way too far. The idea that now we're going to be piling on to that with more additional rules and processes that will have the impact of chilling speech in the TLD space, I'm going to be opposed to that. Thank you.

JAVIER RÚA-JOVET: Thank you, Robin. Greg, please? No, Jorge's before Greg. Jorge, go ahead.

JORGE CANCIO: Hello, do you hear me okay?

JAVIER RÚA-JOVET: Perfect.

JORGE CANCIO: Hello. I just want to go back to what we were discussing specifically, and if I misunderstood, please correct me, Javier. I think that we were discussing the proposal on adjectival forms of country names, is this correct?

JAVIER RÚA-JOVET: Correct.

JORGE CANCIO: Okay. If we are discussing just that proposal, as I've said, I think online and also in previous calls, it's a step in the right direction, but it's not enough to solve the problems detected in the 2012 round. I wouldn't oppose it. As to the concern expressed by Paul and others on who is doing, performing, implementing this contact, I think that in the last proposal, at least, that I sent out on this piece, it was stated clearly that this contact can be performed by the applicant himself or herself, or by ICANN Org, and the decision is up to the applicant. Sometimes the applicant may wish to do it by him or herself, sometimes they may choose to delegate this to ICANN Org. I'll leave it by that, for the moment. Thank you.

JAVIER RÚA-JOVET: Thank you for that, Jorge. Greg, go ahead.

GREG SHATAN: Just to clarify, we're speaking at this point only about the adjectival forms, and not about the other terms.

JAVIER RÚA-JOVET: Yes.

GREG SHATAN: I'll restrict my remarks. I can see some decent reason to extend to the adjectival forms. I'm much more concerned about the contact obligation, which I think opens up a whole different can of worms. It seems odd that the contact obligation would only be for the adjectival forms, and not for every other form. As Jorge himself indicated, this is one small step forward but doesn't go far enough to solve the problems he believes occurred, in the way he believes they should be solved. This is Susan's slippery slope already being indicated.

Generally speaking, I think the problem with the contact is that it assumes that there may be some right that is being asserted, or could be asserted, by the governments, not the cause of the contact but that it somehow enables that to happen, which is the chilling effect in practice. Therefore, my problem isn't with the adjectival form, but it's really with the addition of this contact obligation, thereby opening the door to some undefined form of objection process, or barrier process, that seems to be the other half of this that we just aren't seeing yet. Thanks.

JAVIER RÚA-JOVET: Greg, granted, adjectival forms is not the issue. It's how to implement any rule around adjectival forms. How would you approach it? Is the idea that this could be an ICANN Org-only obligation amenable, or is it something that ... What would be your approach? It seems to me that this very limited concept of adjectival

forms is the only place that at least I see some common ground. In some ways you yourself, Greg, exemplify it in what you say. You see some merit to the idea of protecting these adjectives, like .canadian, or something like that. How would you go about implementing this norm, or this new type of extra process in the AGB?

GREG SHATAN:

To be clear, I think the process is the problem. I wouldn't implement it. If we want to add another list of geographic names to the country names and the other names that we've got lists of that are already getting preferential treatment, then we can add this one, but it shouldn't be a block, and it shouldn't be considered a geographic use, as Susan indicated. It's not being used in a geographic way.

The whole contact concept concerns me, and the idea that it's attached only to the adjectival form seems to me to be bizarre, and at the same time ripe for contact and notification on everything to come next, which I really find quite distressing. Thanks.

JAVIER RÚA-JOVET:

Thank you. I wonder if we could go to the actual text of Susan's proposal? I don't know if staff can pull that up, or if that's difficult right now? Emily, maybe? Oh, I see. Proposal two, 1/2. Proposal, there should be an early reveal process which is an opportunity for national governments to receive early notification about particular applications so that they can take whatever steps they wish to take.

Affected strings: exact matches of adjectival forms of country names as set out in ISO 3166-1, in the official language of the

country in question, shall be subject to the early-reveal process described below. The adjectival forms of country names shall be found in the World Bank list. Purpose: the purpose of the early-reveal process is to provide early notice to relevant national governments regarding new gTLD applications for exact matches to adjectival forms of country names found on the World Bank list. Notification by national governments: interested national governments must provide relevant contact details to ICANN at least three months in advance of the opening of each application window. Any comments regarding this text, in the spirit of trying to move forward? Yes, who was that, sorry?

PAUL MCGRADY: This is Paul, can I get back in the queue? I'm sorry, the Zoom room kicked me out.

JAVIER RÚA-JOVET: Yes, go ahead. Robin, is that an old hand?

ROBIN GROSS: No, it's a new hand, but I'll wait for Paul.

JAVIER RÚA-JOVET: Paul, go ahead.

PAUL MCGRADY: I just wanted to react to some of what has been said. I too am concerned about the slippery slope. The reason why the adjectival

forms proposal ... It only was put forward to try to reach some middle ground. I hear Susan, and I completely understand and hear Robin, and I completely understand. Frankly, after our last call, where at the very end folks were trying to find ways to put the additional terms list on some sort of life support to keep it alive, I really feel that there is a very strong possibility of a slippery slope, here.

I still think that the very limited adjectival form early reveal, where ICANN is the sole person with an obligation to notify, while even more compromise on top of the 2012 AGB compromises. If it gets us there, great. If it doesn't get us there, and we are just going to put the other proposal, the Jorge proposal, that there's no agreement on; if we're going to find a way to put that on life support and bring that up in the plenary, then we can just mark all this, "no agreement," and that way everything's brought up in the plenary. We can just say we didn't agree and we can hash it out there.

I want to make it clear that what I'm not interested in is trying to find a way for the adjectival-only forms, where ICANN is the sole notifier, and we put the other stuff on life support, and that stuff gets the second bite of the apple. Either we can come to some kind of agreement amongst us in this Work Track, or we can't. Living to fight another day isn't trying to get some kind of agreement. That's one.

Statement number two is, to respond to Jorge, where the applicant can do it or they can designate ICANN to do it. The more complexity we build into this machine, the more likely something will go wrong. What if we have an applicant that fails to check the correct box instructing ICANN to inform the government? The applicant doesn't

know, he didn't click the correct box. This is a 500-page Applicant Guidebook, which is bonkers to begin with. Does that give some sort of right to cancel the application, or bounce it out or whatever? And then we have to build a system of what happens then.

If we're going to go down this path to [inaudible] concessions on this point, beyond what's already been given up in the Applicant Guidebook in 2012, whatever we do has to be simple. Whenever we have toggle switches and multiple-choice questions, and all this other stuff, the more complex it gets. I would very gently and generally resist Jorge's proposal for option one or option two. I really think if we're going to do it, ICANN Org needs to be the notifier. Thanks.

JAVIER RÚA-JOVET: Thank you, Paul. Robin, go ahead, please.

ROBIN GROSS: Thanks. Yes, I also wanted to register my opposition to the early-reveal process for governments, proposal two here. Again, I'm concerned that we're putting one stakeholder interest to the front of the line, ahead of all of the other stakeholder interests, and we're here specifically because there are lots of different and competing and conflictive legitimate interests to use words. For us to just say, "Well, we're going to take one of those interests and put it to the front of the line and get the first bite of the apple," it just seems to me to be entirely contrary to the multi-stakeholder process, and so-called equal footing. I remain opposed to this proposal. Thanks.

JAVIER RÚA-JOVET: Thank you, Robin. I see a comment by Jorge there, in the chat, replying to Paul in regards to if it's an applicant or an ICANN Org obligation, or both, or just one. Jorge says, "Fair point on complexity, from Paul. However, the applicant should be free to contact him/herself, but we don't need to say this explicitly." I guess what Jorge's saying, I don't want to mischaracterize him, is this is an option, it's not an obligation.

The conundrum here, I think, at least on my part, is that the only world here where there seems to be an equal level of discontent on both sides of the aisle, so to speak, is this proposal on adjectival forms, and perhaps an ICANN obligation to implement. I think that if we don't get that agreement here, it will be hard to get agreement anywhere. Any other comments on the text on the screen, or the current discussions? Annebeth, Martin?

MARTIN SUTTON: Hi, Javier. I thought I put my hand up. I was just going to reinforce some of the message that you communicated, in terms of what happens next. Ideally, from a Work Track 5 point of view, we should be looking to deliver recommendations and any changes that we think are suitable to the Working Group, and not expect everything to be undone again and create more debates within the Working Group, but explain what we have had as debates, what those outcomes have been. If there are cases, like the languages, we spent a lot of time on that, but, unfortunately, at the end of that there was nothing that we could put forward as an agreed change from the Work Track. That will go forward as, "We've discussed this, this is the output."

We don't intend to regurgitate lots of those discussions in the working group. What we should be looking to do is to deliver either recommendations to make some changes or recommendations not to make changes, and stand by those as a work track when we push that forward into the working group for their deliberation. Ideally, they will do a check of what we've done but, where they see that we've worked hard throughout the last couple of years to thrash these points of view out, it's not really a strong opportunity to undo everything the work track has come up with.

Just to bear that in mind as we go through these discussions, to close off these two points today. That is the intention, that we will be closing these points off, and we need to make sure that we either come to a decision to do something, or we come to a decision not to do something, by the time we wrap up the call. Thanks, Javier.

JAVIER RÚA-JOVET: Thank you for capturing my thoughts better than me. If we can go to the topic closure slide on this? This slide basically says the proposals that are out there. I'm just going to go ... The only one we've really talked about is the one that I see some inkling of possibility of getting something ... Go ahead.

MARTIN SUTTON: Sorry to interrupt you. I just wanted to point out that Dev Anand has his hand up.

JAVIER RÚA-JOVET: Okay, let's go. Dev, please go ahead, sorry.

DEV ANAND TEELUCKSINGH: Thank you, are you hearing me?

JAVIER RÚA-JOVET: Yes.

DEV ANAND TEELUCKSINGH: Okay, thank you. Perhaps this is a silly question, but I guess I'll just ask it. Given that the concern is raised regarding the early notice portion of the thing, if the early portion aspect is removed, and essentially the notification happens to governments when the application list is publicly revealed, would that make it acceptable? And if the issue was, the reason for the early notification was so that governments could have time to analyze and decide whether they want to raise concerns, whatever, that type of thing, then would it, therefore ... How should I put it? There would be extra time allowed for an objection process by governments? I'm just showing it out there as an idea.

JAVIER RÚA-JOVET: Thank you, Dev. Anybody want to comment on Dev's comment? Alexander?

PAUL MCGRADY: Can I get in the queue?

JAVIER RÚA -JOVET: Yes, right after Alexander. Alexander, go ahead.

ALEXANDER SCHUBERT: Can you hear me?

JAVIER RÚA-JOVET: Yes, perfectly.

ALEXANDER SCHUBERT: Okay, great. In comment to that remark just now, early notification means, anyway, after the window has closed, just as early as possible, maybe before the reveal. I think no one objects to an early notification after the window has closed. The problem is that those who are opposing the measure don't like the general principle that one constituency, in this case the government, and by extension the people who are living in cities, get a fair warning.

The big brands, in fact all brands, have stacks of people sitting there doing nothing else than protecting the brand. Brands will be always warned; they have their people there, well paid. We have them here in the call, whereas cities have absolutely no one. They don't even know that the program is existing. Okay, that's how it is.

The group of strings we're looking at, the adjectival forms of country names, that's such a small group. Whether we protect them or not, that's a tenth of a percent of the names that we should protect. I'm at a point where I say if we have to discuss so much about just the small group, then let's not protect anything. I'm finished.

JAVIER RÚA-JOVET: Thank you, Alexander. Paul, please?

PAUL MCGRADY: Maybe somebody else can respond to the initial part of the question, which was, “Does simply making it a reveal-only do it?” I think the concern that Robin, for example, was raising, was more about the chilling effect of having a list in the first place. I’ll let Robin respond to that if she wants to. I wanted to respond to the idea of even more time for governments to object. That’s exactly the kind of slippery slope stuff, here, that the anti-slippery slope crowd is worried about. I just wanted to say, yes, no stomach for that. That’s exactly what we’re all worried about happening, which is additional rights tacked onto this. Thanks.

JAVIER RÚA-JOVET: Thank you, Paul. This is where we are, the ... I see a hand by Nkem, go ahead.

NKEM NWEKE: Hello, chair. Can you hear me?

JAVIER RÚA-JOVET: Perfectly, go ahead.

NKEM NWEKE: Alright. I think I'm on the same page with the speaker before the last. Like he rightly pointed out, I think it's a good one. Cities are not represented here. And like he said, we have brands, even in the

meeting, who all do everything to protect what they think will add something to the brand they're representing. I think we've been going over this over and over again, and I'm happy that we're closing off today, but I just want to state here that I'm in support of this new proposal. Thank you.

JAVIER RÚA-JOVET: Nkem, I'm sorry. You're in support of which proposal?

NKEM NWEKE: This new proposal.

JAVIER RÚA-JOVET: The proposal by Dev, the last proposal?

NKEM NWEKE: Yes, the last proposal. Thank you.

JAVIER RÚA-JOVET: Thank you. This is where we are. It seems to me, and co-leads can also chime in, that there is no great unsolvable disagreement on the idea that adjectival forms of country names, as per the ISO list and the World Bank list, could have some sort of innovation around them here in the rules. There seems to be objection in some quarters regarding an applicant's obligation to do anything to notify, but that there might be room for, somehow, ICANN Org implementing a process regarding adjectival forms.

If we can't find an agreement on this very small type of norm here, as the slide says simply, the 2012 AGB will prevail. I wonder if we want, as a work track, to deliver something interesting that might solve ... Even though it's a minute, in some quarters, number of things. That's a good thing also, perhaps. It's a very specific set of names. Anybody want to take a turn on this before we just move on? There's some discussion in the chat. Yes, it seems to be restating different angles that have been mentioned here. Co-leads, Annebeth, Martin: should we move ahead, or should we ... Maybe also general co-chairs can chime in on process? We seem to be a bit stuck, here.

MARTIN SUTTON:

Javier, I think you're right. It's similar to how the discussions went with the languages, where we came up ... I applaud everybody for generating some good ideas, some options, and those have been discussed, amended, tweaked, and I think that's really appreciative. I think I'm struggling here, like you, Javier, to find a way forward on any of these that could progress to the group accepting them and putting them forward to the plenary. I would suggest, unless the miracle suddenly occurs in the next five minutes, that we close this off as unfortunately [inaudible].

JAVIER RÚA-JOVET:

Annebeth has her hand up, so that could be the miracle we're waiting for. Annebeth, go ahead.

ANNEBETH LANGE: No, I don't think so. What I wanted to say is that we, all of us and the members, have really tried for a long time now to try to find a compromise, and it's been good work from all camps, to put it that way. I think it's kind of sad that we have to move ahead. Every time we come to a new issue, we end up with AGB, as it was. At least this element that we have been discussing now, it should be able to find something that we could give a little lift to make it a little better, and at least as a kind of optional best practice so that applicants have an opportunity to know what to do to avoid potential problems.

On the other hand, we have discussed for so long now, I think that all different ideas and all different opinions have emerged. To find new angles now, it would be really difficult. Personally, I would think that it would be good for the group to be able to support at least one step forward. If we can't do that, we go back to the AGB as it was in 2012, as it says on the topic closure slide we have. Thanks.

JAVIER RÚA-JOVET: Thank you, Annebeth. Dev, please go ahead.

DEV ANAND TEELUCKSINGH: Thank you. Again, this may be a silly proposal, but I'm just trying to see if there's a way forward here. Here's the idea. I've been trying to listen to these conversations, and it seems that there's a concern that, for mostly governments, any application can potentially implicitly target entities that are considered geographic. Let me ask a question. If the reveal window where the applications, the strings, and the actual text of the PDFs of the applications are

publicly revealed, after the redactions and so forth, if the governments that can do the proper searches on the adjectival forms and so forth can do proper searches, would that make it better?

I think one of the challenges from the earlier round – again, I could be wrong – was that you had the string, and then you had to really go through a cumbersome process of clicking on a form to get the PDF, and then downloading that, reading that, and scanning it, which can be cumbersome. If the applications for the string and the relevant application form can be properly searched so that governments can search for the adjectival forms on their own, would that work? I hope people understand what I'm trying to get at. Thank you.

JAVIER RÚA-JOVET:

Thank you, Dev, you're trying to find a way forward. I'm seeing the chat. I'm actually seeing more conversation here. I think this is where we are: it seems that there might be a sense on doing something on adjectival forms, but there is still some disagreement on exactly what to do, and maybe we can ... We're closing now. I don't think there's going to be more space in the list to do more conversations.

It seemed to me, in the last call, we were closer to something than we are today. It's a bit discouraging because it seemed to me that the proposals that were the additional ones, like the 1.5, were just building upon a base that was generally consensual already. It seems that we are moving back today, towards a little bit more disagreement on this very precise adjectival forms of country

names innovation. Does anybody have a final comment, before we move on into closure of noncapital city names? Any ...

CHERYL LANGDON-ORR: We've got Jorge's hand up.

JAVIER RÚA-JOVET: Jorge, please go ahead.

JORGE CANCIO: Hello, do you hear me okay?

JAVIER RÚA-JOVET: Perfectly.

JORGE CANCIO: Hello. I think that we might be closing this discussion on wrong facts, or not an accurate basis. We've heard the problems that maybe we've heard only in writing, or in other calls, but we've heard from people from different constituencies and SOs and ACs in these discussions, that they would support at least the provisions on adjectival forms. I think that's quite a broad support coming from across the community.

Today, we are hearing, from a couple of people from very specific parts of the community, a complete, total opposition to any kind of progress on these questions. I think, on the basis of typos or misunderstandings of partial readings of the proposal, even though

the proposals have been explained time and again from proponents coming from different parts of the community.

I would urge the co-leads to look beyond the people who are just speaking up today, and to look to what's really the understanding in the wider community, and also in the public consultation, and then assess what's really the level of agreement or disagreement. Thank you.

JAVIER RÚA-JOVET: Thank you, Jorge. Cheryl, if you can jump in? I see your hand up, I think you have to go.

CHERYL LANGDON-ORR: Yes, thank you, Javier. I won't be going completely, it's just I'll be the solo Chair of another call, and so less able to be as agile in this call as I prefer to be. Ladies and gentlemen, let me say this. You have indeed put a heroic amount of effort into this, and I understand that the crestfallenness and the disappointment in some, perhaps rejoicing in others, that you are where you appear to be at this point in time.

Whilst Jeff and I, I believe, have been quite clear – and that should relax some of the fears for example that Paul expressed earlier – on that we're not going to be reopening and relitigating work as such if Work Track 2 doesn't push forward to the plenary a particular recommendation or agreement, it is, of course, perfectly possible for you to simply state where you are now to the plenary. The plenary will have exactly the same access as all of you have had, but in a consolidated, concentrated, and time-limited form, of all the

work you've done, and how far you've come in your deliberations. Whilst Jeff and I can make very clear to them that we are not going to be relitigating, they can take into consideration where you all are now.

You do need to draw a line under this because you risk falling behind. You also risk not managing to progress further because indeed, as has been pointed out, you have seen a number of people draw a firm line in the sand, and you're trying to get, if not unanimity ... And Sophie, they don't need unanimity. They certainly do not need that for any degree of consensus to be used in this process. We can have a majority interest noted, etc. You're not comfortable in calling a majority one way or the other, and so you can tell the plenary exactly that.

"Near, and yet so far," may be what you're saying, but then all that material, and where you are, and the work track leads, can present the state of play to the plenary. This is not, then, a last-ditch effort, it's not giving it more time, but it may perhaps allow you to feel a little less defeated. Who knows, there might even be a miracle occur in the limited amount of time that the plenary may or may not take on this matter.

Jeff, you're only on the phone. I'm just trying to indicate to this group that the plenary does not then need full consensus to make a recommendation, if indeed a significant majority. Anything other than a total [split or] minority felt that there was a way forward out of the work already done and deliberated here, that it could, should it wish to as a plenary, put forward that as a recommendation, but that that would not be a relitigation, it would be building on exactly what has been done and the excellent work that has been done by

all these people here. If you're still on audio, Jeff, please jump in. Now, do please excuse me. He's saying he's not in Zoom, but he agrees with me. Thank you, Jeff. I've just read that to the record. Hopefully, that will help you all as work track leads to move forward, because that's what you've got to do now. Thank you.

JAVIER RÚA-JOVET: Thank you, Cheryl. I saw Alexander's hand up, but it came down, so it seems ... Alexander, go ahead.

ALEXANDER SCHUBERT: Yes, it's up again. Since it seems pretty clear that we are not going to move forward with any of those proposals, there is of course ... Even after Work Track 5 the general problem, not so much for the next round, but especially once we have ongoing application process, that all kinds of entities, and not just governments, but also, for example, brands – essentially, a lot of people in the Internet community – will not know what kind of applications are coming out. As long as we are in big rounds, like the first round or the second round, it's such a big event, big reveal and so on and so forth, people keep track. But we're making rules here for the future.

At some point, we'll have an ongoing application process and even brands, or let's say the smaller brands that don't have such good protection by big brand protection companies, will want to know whether applications have come. A solution might be ... And the question is whether the brand defenders are opposing this as well, that at least everyone who wants, governments, private people, organizations, whoever wants, can submit themselves to a mailing

list of ICANN, and ICANN would do nothing else than whenever new applications are reviewed, inform all people on that list. “Okay, we have new applications, and those are these.”

If we had such information, kind of a such a-notification list, then governments could put their government contact on that list, and then the government contact would have to go through the list and compare it with their own internal list. For example, Switzerland. They see a Swiss city like Lausanne, and it’s for a brand, then they can prepare accordingly. This would not just profit governments, but essentially anybody who’s interested. Technical people, ISPs, brands. Who else? I'm finished.

JAVIER RÚA-JOVET: Thank you, Alexander. I think a last comment by Nkem, and then we move forward. Nkem, your hand is up?

NKEM NWEKE: Yes, please. I didn’t quite understand the point Cheryl was trying to make. Can you please highlight that?

JAVIER RÚA-JOVET: I think Cheryl generally, and I don’t want to mischaracterize here, but I think ... Oh, Jeff, go ahead. You will do better than I, definitely. Jeff, go ahead.

JEFFREY NEUMAN: Okay. Hopefully this works. I think I unmuted myself. Did that work, can you guys hear me?

JAVIER RÚA-JOVET: Perfect, yes.

JEFFREY NEUMAN: What Cheryl was saying, and I totally agree, is that the co-leads, their job is to report the activities and the findings to the full working group. Our hope initially was, and still is, that the co-leads would come to the full working group and say, “These are our recommendations, and they all have consensus within the working group, and so full working group, we’ve done our work and we’re done.”

Absent that, what Cheryl was saying is that the co-leads of this work track will report to the full working group all of the materials, a summary of the discussions to date. If they determine that, “Okay, we didn’t necessarily have consensus, but we had a majority,” or, “these types of stakeholders supported these proposals,” there is still an opportunity at the full working group level, if consensus was not found on any of the recommendations, to discuss those within the full working group under the limited timeframe that we have to discuss these issues.

It’s not our intent, as co-chairs of the full working group, to reopen everything that was discussed, and to re-discuss all the same thousands of e-mails and hundreds of hours of discussions. We’ll make an assessment as to whether we think that consensus is even going to be possible at that point in time. If we think that it’s possible but just requires a little bit more discussion, we might do that at the full Working Group. If it’s clear that different sides have drawn lines

in the sand, and it's not going to produce any kind of proposal that has a chance of getting consensus, then chances are we won't delve into that in any more details.

To sum it up, and Cheryl said it much better than I did, the full working group is not there to re-open-up issues and just discuss everything again. The full working group can be used as an opportunity to continue certain discussions, if – and I say if, and only if – it's apparent to the co-leads and the co-chairs that consensus will be possible on a particular issue. I hope that makes sense, and I'm just trying to repeat what Cheryl said.

CHERYL LANGDON-ORR: If I can jump in, Jeff, as my other call is roll-calling. Thank you for doing that, and the other thing is, of course, it is up to Jeff and I, as co-chairs of the plenary working group, to establish what is or is not consensus in all of this. As long as that's clear as well, thanks.

NKEM NWEKE: Thank you, I think that's better. I don't think there's any way we can ever get everybody to be on the same page. Hello?

CHERYL LANGDON-ORR: We don't have to.

JEFFREY NEUMAN: Right. Consensus does not mean unanimity, so it doesn't mean everyone has to be on the same page.

NKEM NWEKE: Hello?

JAVIER RÚA-JOVET: Thank you, Cheryl.

NKEM NWEKE: Yes, it doesn't mean ... Let's look at the number of support and probably those who are against. Besides, let's always remember that these things are sensitive, very sensitive.

JAVIER RÚA-JOVET: Thank you very much, Nkem. Dev, one final comment, and I guess we move forward. Dev, please go ahead.

DEV ANAND TEELUCKSINGH: Very quickly, following to what Jeff was saying, that searchability is being included. My point was more to say that you can have a list of terms and immediately search the entire database of strings and applications, the idea being that the government can have its own adjectival terms, and whatever geo-names it considers of geographic importance, to decide whether they want to protect or not. If they have that list and they wanted to search it at once, and then you get answers, maybe that might be a huge step forward. Then, you won't have the issue of who gets to decide what, and so on. That's what I was getting at.

JAVIER RÚA-JOVET: Thank you, Dev. Annebeth, please. Annebeth, your hand is up?

ANNEBETH LANGE: Can you hear me now?

JAVIER RÚA-JOVET: Yes.

ANNEBETH LANGE: Good. What about having a straw poll, “Who is opposed to adjective forms?” As has been said here, this is one call but we have had a lot of calls with different participants in different calls as well. It could be a good idea to try to find out the kind of a sentiment on what ... How strong is their position? How strong is the support for just that adjective thing?

JAVIER RÚA-JOVET: Annebeth, are you proposing doing a poll now, or doing ...?

ANNEBETH LANGE: No.

JAVIER RÚA-JOVET: Oh, I see.

ANNEBETH LANGE: We can't do it for those who are on this call. That will be impossible. We have to do it on e-mail, for example. We have tried to do that, tried

to get people to support or non-support. If we could just ask that specific question, we might have a feeling of how strong the support/opposition is.

JAVIER RÚA-JOVET:

I like the idea. Cheryl, Jeff, Martin, work track members. From my perspective, if I may, I still see a space of not-major opposition to some innovation around adjectival forms. I think there might be a discussion on how to implement it specifically. Does anybody want to comment on Annebeth's comments? Greg, go ahead.

GREG SHATAN:

I think at some point we need to do the appropriate nose-counting or straw-polling. I think the problem with this question is that it can't be answered by at least some of us in the abstract. There are too many dependencies. I think ultimately what we were trying to accomplish, and what we may have been close to, was a compromise that nobody liked, which I think, from at least some people's point of view, was that there would be an agreement to some innovation around adjectival forms, and to providing adjectival forms some form of list, but only if it went no further.

We heard from some who wanted it to go further and then heard from some who, if the others wanted to go further, weren't willing to continue to back the compromise. The compromise only works if it's a full-stop. Supporting adjectival forms in the abstract is not the question; the question is whether you'd be willing to support adjectival forms if that meant no other forms would receive further

support or action in this work track. Is that not enough, or too much? [I really] could just ask the one question.

JAVIER RÚA-JOVET:

Thank you, Greg. I think we agree that this little world that we're discussing is the possible compromise; the not-impossible compromise. It would not really be open to relitigation. With that said, I'm going to close this right now. I'm sorry, Nkem, I'm going to move forward. Sorry for that. Let's just move on to closure of noncapital cities, with the hope that maybe we can discuss amongst ourselves, co-leads, and other ways forward.

Let's go on closure of noncapital cities, please, topic two in our call today. Status: "Two proposals are currently being considered by the group. The first proposal does not seek to change the rules of the 2012 AGB. It seeks to provide clarification with respect to a particular type of string, .brands. The second proposal provides a list of city names for which a letter of support/non-objection is required if the applicant intends to use the string primarily for purposes associated with that city name." Next slide, please.

Here we focus, if you have a computer, on the blue text. Proposal one, with suggested amendment. I will read the slide. "Amend the text in AGB 2.2.1.4.2, part 2, on noncapital city names," by adding the blue text. I will mention what the blue text is as I read. Two: "An application for a city name where the applicant declares that it intends to use a gTLD for purposes associated with the city name. City names present challenges, because city names may also be generic terms or brand names. In many cases, city names are not unique. Unlike other types of geographic names, there are no

established lists that can be used as objective references in the evaluation process.”

This would be the addition, in the blue text: “However, applicants may find it useful to review the 2017 UN Demographic Yearbook, table 8, to find a list of city names with more than 100,000 inhabitants as a reference point.” It provides a URL, here. That’s the end of the addition. And then the paragraph continues. “Thus, city names are not universally protected. However, the process does provide a means for cities and applicants to work together where desired.”

Rest of slide: “An application for a city name will be subject to the geographic names requirement, i.e., will require documentation of support or non-objection from the relevant governments or public authorities if it is clear from the applicant statements within the application that the applicant will use the TLD primarily for purposes associated with the city name.”

This is the addition, now, in blue text: “For the avoidance of doubt, if an applicant declares in their application that they will, one, operate the TLD exclusively as a .brand, and two, not use a TLD primarily for purposes associated with a city sharing the same name, then this is not a use of the TLD for purposes associated with the city name.”

Then it continues. This is not an addition. “The applied-for string is a city name as listed on official city documents.” I see a hand by Alexander. Please go ahead, Alexander.

ALEXANDER SCHUBERT: Yes, hello. I have one main point, but just to quickly refer to both proposals. The first proposal was this list of city names. That's just a list of names that would exist, and applicants could look into it. It would not create any new rights, I think, for those cities. Whereas the second proposal where .brand domain names get exonerated, that's taking away from the 2012 status.

My main question I have here is, we're talking about city names all the time. Do we have any definition? If there is, for example, in the United States, a town with 500,000 people ... I don't know whether their towns have 500,000 people, but there are for sure towns with 100,000 people. There's a town with 100,000 people in the United States. Would they qualify as a city, per our policies? Would that be a city name? Or does it have to be designated as a city by the government? That's the question.

JAVIER RÚA-JOVET: Anybody want to tackle Alexander's question? I don't know.

ALEXANDER SCHUBERT: To add on, we cannot talk about city names without having an exact definition of what a city name is. We are introducing a thing called "city name," and we cannot say what it is. That doesn't work, so the first thing we need is a definition of a city name.

JAVIER RÚA-JOVET: Thank you, Alexander. Maybe let's move to the next slide? Greg, go ahead.

GREG SHATAN: Thanks, just briefly. I think I'm having déjà vu, because this is definitely not the first, or even second or third, time we've discussed this, unsuccessfully. There are exactly the issues that Alexander highlighted, that city means different things in different countries, in different times. The list that's there is merely informative. It's not actually a list of cities, it's a list of agglomerations of urban places. Even that doesn't serve ... It serves some good, but then again so does any list of cities. We've never really been able to square the circle on this. We haven't found a good answer, but we've only been at this for, what? Two years? There's still hope.

JAVIER RÚA-JOVET: Yes, thank you for that, Greg. Seeing no hands. Maybe let's just move onto the next slide, please. This slide states the rationale of proposal one: "The current AGB text states that city names present challenges because city names may also be generic terms or brand names, and in many cases city names are not unique. This language does not aim to change the position from the AGB from 2012 but merely aims to provide greater clarity and certainty for potential applicants. At the same time, it ensures that the relevant authorities are consulted when an applicant intends to use a TLD for purposes associated with a city. If a government or a local authority is concerned with an application, they are not precluded from filing an objection, as they could in 2012, or filing their own application. The current rules on resolving contention sets in AGB 2.2.1.4.4, or module 4, will not be impacted by the text. This doesn't ..."

Yes, let's keep on moving forward. Anybody with a comment so far? There's a lot of discussion in the chat. I'll just keep on going. This has to do with, I think, the things mentioned by Alexander and Greg. Proposal one; concerns, questions raised. Anybody? "Even if a .brand is using the string exclusively in association with the brand, the brand may be benefiting from an association with the place. Why should a brand automatically be exonerated from the targeting of the city? Why single out .brands in the AGB text, and provide only this type of string as an example? This category does not give applicants clear guidance, and leaves doubt whether their category of TLD application is reflected in the AGB or not." Jorge says, "Groundhog Day."

Clarification provided: "The language in proposal one does not exempt .brand applicants from the geo-panel review, create a priority for .brands, or create an opportunity for gaming, given the language in Spec 13. The language also requires applicants to explicitly state that they will use the TLD as a .brand. This text targets instances where an applicant is applying for a .brand and quite conceivably does not know about a noncapital city somewhere in the world that happens to match their brand. In many cases, the brand owner will be genuinely unaware of the existence of a city with the matching name."

Other clarification: ".brands share concerns about nefarious actors submitting an application to be paid off to withdraw an application. Further, .brand applicants share the same concern about having a connection to their brand misrepresented." No hands. I see discussion here in the chat that has to do with Groundhog Day and going over things.

ALEXANDER SCHUBERT: There's a hand.

JAVIER RÚA-JOVET: Who has a hand up? Oh, go ahead Alexander.

ALEXANDER SCHUBERT: Yes, that's me. The last two points in the clarification provided, that a brand might not know that there's a city; well, then go to Wikipedia, then you know. The last point, "Brands are concerned that someone wants to be paid off," well, how should this happen? It's the geo-panel that would look into whether there's a similarity, and then require the letter if the applicant doesn't state that they want to use it for the .brand. The brand has it in their hands. If the brand says they want to use it for their brand, then they're out of all the trouble. Those are all made up arguments that do not help to explain why we need to single out brands to have a special ruling.

JAVIER RÚA-JOVET: Thank you, Alexander. Any other comments? Yes, let's keep going through the slides. I'm not seeing a lot of interest in discussing further, here. Proposal two, with suggested amendments. Again, I will state out loud what the additions are, which are blue text on the screen. Proposal two: "City names present challenges because city names may also be generic terms or brand names, and in many cases city names are not unique." This is the addition: "However, established lists can be used as objective references in the evaluation process."

It continues. The next thing I'm going to read out is just there now. "An application for a city name will be subject to the geographic names requirement, i.e., will require a document of support/non-objection from the relevant governments or public authorities if, (a), it is clear from applicant statements within the application that the applicant will use the TLD primarily for purposes associated with the city name, and," in blue text as an addition, "(b), the applied-for string is a city name as listed on official city documents." I'm going to read, now, the addition. "The new numeration, or (ii); the applied-for string is a noncapital city name as defined pursuant to applicable national legislation or as listed in the US Stats URL."

Any comments over what I just said, just read? I think there's major agreement in the chat to reserve .groundhog for the community. Alexander, is that an old hand?

ALEXANDER SCHUBERT: No, that's a new hand. Could you go back to the stuff that you just read? (b)(ii) is obviously just a subset of (b)(i), because if a city has city documents, and it's named there, then all of the cities on the list that is mentioned are a subset of (b)(i). Those are not additional cities, this is just kind of a subset of a city. For example, brands have it easier to find out, "Oh, there's a city," and they're not surprised. The main remark I want to make here is we are opening up, here, that someone could ... The question, rather, is if a city has, let's say, 50 inhabitants, we treat it as a city? Other cities will have millions of people, so you could get in there with a very small city.

My suggestion would be that there has to be a minimum amount of people in that city. There's a lot of cities that have 50 or 100 people. That's a little bit too much. My suggestion would be that we have a population cut-off, within at least, maybe, 15,000 people. If there are not 15,000 people living in that city, then this requirement should not be there.

JAVIER RÚA-JOVET:

Thank you, Alexander. Any other comments? Comments to Alexander? Hear none, let's keep on moving forward. Okay, it says proposal two, slide 2/2. This is in blue text. Rationale: "This list contains capital cities and cities with 100,000 or more inhabitants, and is thus very limited in nature. It would give applicants clear guidance, and leaves no doubt whether their 'category of TLD application is reflecting in the AGB or not'. If a .brand applies and meets the exception under (a), it has no further obligation. The same goes for any other category of TLD applications. The rule applicable to capital city names remains per the preceding section, 2.2.1.4.2-1."

This seems to mention Alexander's concern on the city size/city population level. Any comments on what I just said/read? Annebeth, please go ahead.

ANNEBETH LANGE:

Hi. Just one small question, here. It should depend, perhaps, on the size of the country. Small countries have important cities with less than 100,000 people, but big countries have a lot of cities more than a 100,000. We have to be a little careful.

JAVIER RÚA-JOVET: Thank you for that, Annebeth. Alexander, go ahead?

ALEXANDER SCHUBERT: A short response to Annebeth. I'm quite aware of that, but what I'm afraid of is for every important city in the world you usually have some knock-off city somewhere else. People emigrated to another country, and they named their small city after the big famous city.

I'm a little bit afraid that someone wants to target a big city, they don't want to participate in the public tender to get the letter of non-objection, so they're seeking some small city somewhere in the world of some emigrants, with 50 or 100 people, or 1,000 people, then they apply for a letter of non-objection there, and they have awarded the public tender. That's why I'm saying there should be a minimum size of the city, because I don't believe that there will be ever an application for a city with, let's say, less than 10,000 people. That should almost never happen. Thank you.

JAVIER RÚA-JOVET: Okay, thank you, Alexander. Quickly, the remaining part of these slides includes the questions/concerns raised over this. It was raised that some countries defined, in their national legislation, how a city is defined, and the process should defer to that. Another one: "The list provided is not exclusive to city names, and does not distinguish which localities are cities, urban agglomerations, municipalities, or any other type of locality." Another one: "The UN demographic yearbook is not intended to provide a comprehensive list of all cities. Rather, it is part of a publication setting out global

statistics. There are limitations on how the information in the publication, including table eight, can be used. For example, the localities listed are not necessarily the actual name of the locality, as the names are not in the Roman alphabet. The names have been Romanized.”

I would add also Annebeth’s statement regarding smaller countries, island countries, etc. Let me see if there’s any hands right now. Let’s move to the next slide, please.

ANNEBETH LANGE: Javier? There’s only three minutes left, so we have to close up.

JAVIER RÚA-JOVET: Yes, got it. We’re in the last slide, here, generally, before any other business. We know where we are. I think if members find agreement, we might move forward. If not, 2012 AGB is going to be the default. I think we’re still finding any common ground, here. Any last comments on what we just went over in city names? Annebeth, Martin?

ANNEBETH LANGE: Nothing from me.

MARTIN SUTTON: Nothing to add from me, Javier. Thank you.

JAVIER RÚA-JOVET: Any work track member? Yes. There was a lot of discussion on this on the list already, as mentioned by Marita. Any other business that anybody wants to bring up before we just finish up? We have two minutes left. I see no hands.

Thank you very much to all. I think work track members are making a real effort here to get something done. I still feel that in the initial discussion on something around adjectival forms there is rough consensus to get something done there. I think I have faith that maybe we'll get something done. I hear Annebeth's suggestion of some informal measuring mechanism we could do. I think that will also be helpful, because I do feel that there is generally some consensus around some ideas, there.

Again, thank you all. I give you back, I think, one minute. If anybody has a last statement? I see none. Bye to all. I'll give one minute back to your lives. Bye-bye, people.

ANDREA GLANDON: Thank you, this concludes today's conference. Please remember to disconnect all lines, and have a wonderful rest of your day.

[END OF TRANSCRIPTION]