
ICANN Transcription

New gTLD Subsequent Procedures Working Group Sub Team – Work Track 5 - Geographic Names at the Top Level

Wednesday 19 June 2019 at 0500 UTC

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ANDREA GLANDON: Good morning, good afternoon, and good evening. Welcome to the New gTLD Subsequent Procedures Sub Team Track 5 Geographic Names at the Top Level call held on Wednesday, 19 June 2019, at 05:00 UTC.

Note: The following is the output resulting from transcribing an audio file into a word/text document. Although the transcription is largely accurate, in some cases may be incomplete or inaccurate due to inaudible passages and grammatical corrections. It is posted as an aid to the original audio file, but should not be treated as an authoritative record.

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

OLGA CAVALLI: I think we have Barrack in the bridge.

ANDREA GLANDON: Oh, yes, you're correct. Barrack is on the audio only. Thank you. I'll turn it over to you now, Olga. Please begin.

OLGA CAVALLI: Thank you very much, Andrea. Good morning, good afternoon, and good evening, everyone. My Olga Cavalli. I'm here in very late Tuesday/early Wednesday 2:00 AM here in a very cold winter night, but nice to be at home and quiet to attend and chair this call with all of you.

I have my dear co-leads with me today, Javier Rua and Annebeth Lange. I don't think – ah, Martin is here. Okay, we are all here. Thank you for joining us and thank you, staff, for always being so helpful with us in this Work Track 5 team.

So first of all, let me show you the agenda. You can see it on the screen. I won't go in details to read it. Please let me know if there

are any comments or references to the agenda. I see none. Okay, thank you for that.

Let me ask you if there are any updates of the statements of interest. I hear none and I see no hands in the list of participants.

So let's review briefly the process that we are going through in this Work Track 5. Remember that the Work Track 5 issued the Supplemental Initial Report in December, and there were many comments received. The report contains 13 preliminary recommendations and 11 questions and 38 proposals.

The staff and the co-leads, we have been working on these comments and we have produced several documents. The idea of this part of the comments and calls that we are having is review if all the comments are considered, if they are okay. It's not an assessment of consensus but a revision of the different summaries and documents that we are preparing for the group.

We have proposed the 13 preliminary recommendations contained in the Supplemental Initial Report. These should serve as a baseline for this next phase of deliberation. As I said, we are not seeking consensus, but we are just reviewing all the documents. And the idea is to reach agreement on these recommendations and then send them to the working group for consideration and form a consensus call.

So that's it. Just a brief reminder of the stage of our work now. Any comments to that? Any hands up? I see none.

Okay, let's move on. The next point in the agenda is there is an interesting document, the Recommendations Review Status

Tracking Document. You can see it on the screen. It was sent jointly with the agenda on Monday. That document summarizes the different recommendations. There are two columns at the right side. There's a discussion and which meeting is being discussed. And then in the right, right column you have another one which is the status of the discussion. If it's completed, if it's still under revision, in which meeting it was reviewed.

So this is an ongoing document. It's not finished yet. And it intends to capture the different comments and discussions that we are having in all the calls. We shared it with you so maybe you can also review it as we go. And I would like to ask you if there are any comments or if we have missed anything relevant in this summary of the documents that we sent to you. And it's shown in the screen.

The idea is to go in details about other issues, but I would like to have a sense from you if you think this document is missing something important or if you have any question about it. I see no hands. Please, co-leads, if you want to add something at any point, just let me know.

KAVOUSS ARASTEH: Hello, Olga. I am on audio bridge only. Thank you.

OLGA CAVALLI: Oh, yes. Thank you, Kavouss, for letting us know. I see you here, and Andrea will know that. Thanks to you for joining us.

Okay, so let's move on to the next agenda item which is where we left in the last call which is Recommendation 11. If you go to the longer document which is shared as a Google Doc document, it was shared in the agenda as a link, we are in Page – well, in my print version, it's Page 15 at the bottom of the page. But I don't know if in the screen it shows differently.

But let me go to the general reference of the recommendation. It's Recommendation 11. It's Geographic Terms That Require Letters of Support/Non-Objection Dependent Upon Intended Usage. That's Recommendation 11, as I said. It's shown in the screen. As a reference, I will read the general part of it:

“Applications for these strings must be accompanied by documentation of support or non-objection from the relevant governments or public authorities:

An application for a city name, where the applicant declares that it intends to use the gTLD for purposes associated with the city name. An application for a city name will be subject to the geographic names requirements (i.e., will require documentation of support or 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 (b) The applied-for string is a city name as listed on official city documents.”

There's a link to the summary of comments received, and then there are comments received of nonsupport. The recommendation from dotBERLIN, Hamburg Top-Level Domain, geo TLD Group, so on.

The United States has a new idea. Require a letter of support or nonobjection only when it is clear from the applicant the purpose of the string would create a false or deceptive association with the government or the public authority.

The BRG believes this requirement should not be obligatory but optional to the applicant.

There are some variants of the recommendation.

There are some other comments about lack of legal basis and lack of rationale for protections from different members of the community.

Registry Stakeholder Group, there is no legal basis.

INTA, there is no established law.

BRG, excessive and unwarranted rights to governments and local authorities.

NSCG, they expressed divergence as multiple cities could have the same name and share common names and ICANN could be in an awkward position to decide that governments should not have priority rights to non-capital cities.

So this is what was reviewed in the last call, and it's a general summary up to what was reviewed in the last call, what was said.

So we will start from the sentence that says, "Do not require letter of support/non-objection if applicant has TM rights and use TLD for Brand purposes." So this is another comment.

So any comments up to now? I have just summarized what we have been reviewing, and I will start with new parts of the document we have not reviewed yet. Any comments? Let me check the chat. That's the link to the document there. Thank you for that.

Okay I see no reactions, so let's start reviewing the parts that we haven't seen in detail from now on. So that's Page 16: "Do not require letter of support/non-objection if applicant has TM rights and use TLD for Brand purposes." Let's see the reactions to that.

INTA/BRG/IPC, they propose a new idea: "Even if a gTLD corresponds to a city name and will be associated with that city, that does not necessarily mean it is a cause for any concern. Many companies are named after cities and have their head office in that city so that a gTLD for the company name would be 'associated' with the city. INTA recommends this requirement be modified so that letters of support or non-objection will not be required where the applicant has trademark rights in the gTLD string and will use the TLD for purposes associated with the Brand."

Reliance on curative mechanism, comments to that.

United States proposed a new idea and said, "a curative mechanism (in the form of public interest commitments) that would ensure that the gTLD would not be used in a way that would falsely create a connection with a city governmental authority."

NCSG, a new idea as well. “If at a later stage it appears that a name is misused, there are curative rights mechanisms available to file an objection,” among other comments.

And then another part, “Require letter of support/non-objection independent from intended-use.” Let’s have our comments. I will try to summarize them.

Registry Stakeholder Group, they have a divergence. “Some members support the proposed preliminary recommendations and would prefer that letters of support or non-objection in Recommendations 10-13 are required ‘independent from the intended use.’”

ALAC also expressed divergence. “Some support for the suggestion that all applications for city names be subject to the requirement for letters of support or non-objection from the relevant government or public authority irrespective of intended use statements submitted by applicants.”

Javier?

JAVIER RUA-JOVET: There is a comment by Katrin in the chat.

OLGA CAVALLI: Okay, Katrin. I will read the comment, Katrin. “Can we clarify how the INTA proposal should work in case there is a second application for the name being the city itself?” I’m not sure if I fully capture the comment, but thank you, Steve, for including it there. I

don't know if someone wants to comment on that. I cannot react to that so quickly, but any comments from co-leads or other members in the group?

ANNEBETH LANGE: I think that we should ask if there is anyone here from INTA. And if not, we have to ask them if they could clarify.

OLGA CAVALLI: Thank you. Well, that was my request for comment. So, Katrin, thank you for that.

MARTIN SUTTON: Olga?

OLGA CAVALLI: Yes?

MARTIN SUTTON: Morning and evening, everyone. I just caught on to the last bit there. I think it's a good question because this could be repeated in other sections. Bearing in mind that what we're normally referencing here in all of the recommendations that we've got so far is either a preventative mechanism or a restrictive mechanism. As we get through to these kinds of recommendations, it does raise the question – and I don't think we have had many discussions on this.

I do recall quite a few as we went through the Work Track 5 meetings about does one take precedence. So if there is a contested name whereby one could be for a generic purpose because the city name bears the same resemblance or has several meanings including a generic term or it could be a brand term as highlighted here from INTA, what happens if there's a contest? So you've got multiple applications for the same string. Is there a way that there should be a priority applied to any of these, or do we rely on what is already in the guidebook by way of managing those situations?

Some of those will be where applicants might decide to pull out and get a refund because they don't want to pursue it any further if it's in contest. They don't want the aggro, so they bail out. They might want to have discussions between the two applications or more. Both parties might want to have a discussion to see if there is any way to cooperate. Ultimately, there is a sequence of options that they can go through until at the end if they remain willing to put forward their application, it would go into an auction as the last option to resolve a contention set.

So I'm hoping that covers the response, but at this stage there is no prioritization given to any of those I think with the exception of community-backed applications would have a priority.

OLGA CAVALLI:

Martin, there is a comment from Justin in the chat. She says, "You mean way of existing private resolution of contention sets or an auction as mechanism of last resort?"

MARTIN SUTTON: That sounds a far better way of putting it. It's just a bit early here, so I'm just getting my brain-to-mouth instructions into gear. So exactly right. There are a number of ways that contested strings could be resolved, but there is a last resort which goes to auction within the current guidebook process. So pending any other changes, I think that there is only the community applicant that could have a priority in the sense of resolving it before it goes to an auction as last resort.

KAVOUSS ARASTEH: Olga, I have a comment please. I have a comment. Thank you.

OLGA CAVALLI: Okay, Kavouss, hold on a second. I want to read what Annebeth included in the chat. "So the question for INTA will be if they have a new suggestion for solution?" This is a question from Annebeth. Kavouss, the floor is yours. Welcome.

KAVOUSS ARASTEH: Yes, good morning, good afternoon, everybody. The issue of the auction as a last resort is subject to very substantive discussion and also disagreement in the subsequent procedures, so we should be mindful of that. I'll give a small example. [inaudible], a small enterprise, asked for an application, and some time later another one comes with much higher revenue and so on. And finally, it goes to the auction. The second one wins. We know the

history that has happened in ICANN. I don't think that we should rely on this auction if there are conditions to be met.

OLGA CAVALLI:

Thank you, Kavouss. There are other comments in the chat. Let me check. Justine says, "Subject to any changes to [inaudible] deliberations an auctions charge request, etc." Thank you for that.

Okay, so we have comments to the INTA/BRG/IPC new idea proposed and text. We were in the section that starts with "Require letter of support/non-objection independent from intended-use." I will recap from there.

Registry Stakeholder Group has divergence, as I said. "Some members support the proposed preliminary recommendations and would prefer that letters of support or non-objection in Recommendations 10-13 are required 'independent from the intended use' and are of the opinion that this adds to the clarity and predictability of the application process."

The ALAC expressed divergence. "Some support for the suggestion that all applications for city names be subject to the requirement for letters of support or non-objection from the relevant government or public authority irrespective of intended use statements submitted by applicants."

Communications and Information Technology Commission (CITC), they expressed divergence. "Since it is a city name a government support is necessary thus the text starting with 'if: (a) it is ' till the end shall be removed."

Georgia shows divergence. “Documentation support or non-objection form from the relevant governments or public authorities must be required if the applicant will use the TLD for any purposes and not only for the purposes associated with the city name.”

Tom Dale shows divergence. “Not supported. The ‘intended use’ provision is inconsistent with the unique nature of geo TLDs and is open to gaming.”

“In response to question e9, agreement from some respondents (e.g., Government of Spain, Swiss Federal Institute of Intellectual Property, SWITCH, Icelandic Ministry for Foreign Affairs, German GAC, etc.)” I’m not sure what the “etc.” means. If it means that other members of the community have the same. Maybe we can clarify that in the document.

Any comments up to now? I see no hands up. Let’s check the chat. Jorge. Bienvenidos, Jorge. Okay, let’s go on.

Then we have Proposal 21. It’s a different proposal. “Always require a letter of support or non-objection from the relevant governments or public authorities for non-capital city names regardless of intended use.” It’s a different combination of support and opposition.

Then “Related proposals that received a combination of support and opposition.” Let me check on the screen.

Proposal 23. Proposal to “develop a list of large cities around the world and require that applicants obtain letters of support or non-objection from the relevant governments or public authorities for strings on this list, regardless of the way the applicant intends to

use the string. The list of large cities could be developed based on one of the following standards or a combination of these standards.” And there is a proposal of options.

Then Proposal 24. “Each country decides what it considers to be a city within its own country based on national laws and policies. If the country determines that a place fits in the ‘city’ category, the applicant must obtain support/non-objection from the government. A variant on the above proposal proposes that each country designates a set number of cities that they consider to be particularly significant. City names on the resulting list are subject to support/non-objection by the relevant governments or public authorities.”

Comments to that or reactions? Let me check the chat. We have no comments. There are no hands up. I see no hands. There is a comment in the chat from Justine. “With regards to the portion on reliance on curative mechanisms, I would express a personal concern [on the standing] to file objections.” Noted, Justine. Thank you for that. Any other comments? Hands up. Martin, please go ahead.

MARTIN SUTTON:

Hi, Olga. Sorry, I’m going to just backtrack a little bit if you don’t mind. [inaudible] the comments. Annebeth was suggestion that we revert back to INTA asking for a suggestion on how to consider if there was a contested string as per Katrin’s question. I’m kind of thinking that if we’re exploring this as a particular specific preliminary recommendation, the point is probably relevant to

other preliminary recommendations and is a topic that doesn't emerge from any other sections that we've gone through so far.

So I'm just wondering whether – I think we've got a parking lot section at the end of the document – whether we move that particular point from Katrin to the parking lot to come back to as a wider discussion within the group so we don't lose sight of the actual topic that we're covering at this stage but bear in mind that could have a wider impact when we come to that specific question.

So my thoughts there are it doesn't need to be a question back to INTA because they're not actually the ones that raised that point or question. It was Katrin in connection with the comment that INTA had made. But perhaps we look at that more broadly amongst Work Track 5 members to discuss. [inaudible].

OLGA CAVALLI:

Thank you, Martin. I think it's a good idea. You have support in the chat from Justine and Annebeth. I think it's a good idea. Jorge is asking what we are talking about. It's shown now on the screen, Jorge. It's part of the document about what if a city itself applies for the TLD and there are other applicants that also apply for that string that may be also a brand or a generic name? So if there would be a preference or a specific priority for the government or not or auctions. There were several comments made. Justine reacts and says, "Jorge, Katrin's question was what happens if" it's what I said.

So the comments from Katrin are captured by Steve in the document, as you can see on the screen. Martin is proposing to have this to be reviewed as the parking lot and we go in deep in next stages. I think it's a good idea, and there is support in the chat for that. So I don't know if you have any other question, Jorge. Please react in the chat or let us know if you want to talk. Jorge asks, "What were the rules in 2012?" If someone can help me with that.

MARTIN SUTTON:

Hi, Olga. I'm happy to jump in. I was busy typing something, so I'll cancel that out and just speak to that point. Jorge, I don't think there were any particular rules specific to the geographic terms that were listed. Any prioritization was limited between it being a community application could take priority if there was a contested string versus anything else. So the options then are typically for applicants to reconsider. So they might want to decide to withdraw and not go through any particular engagement and pursue it any further. They can then claim a refund. It could well be that they talk to each other and applicants could look at cooperation and....

OLGA CAVALLI:

There is some noise and it's kind of disturbing.

MARTIN SUTTON:

I think we've blocked it out. Okay, so where was I? So there could be cooperation, and we've seen that in some situations where I think two companies managed to work out a cooperation agreement that they could use it together. That was in a

geographic related one. Beyond all of that if there is no agreement, if there is no differentiation between community and regular, then it could go to the auction method as a last resort. So I hope that captures it. And if anybody else has anything to add to clarify, that would be helpful.

OLGA CAVALLI: Thank you, Martin. There is a comment in the chat from Annebeth. “Jorge, so the question is if there should be any changes to this or not.” Oh, comments are many.

MARTIN SUTTON: What we were just saying earlier – sorry to interrupt – is that this particular question that has emerged from Katrin is something that could be not just limited to city names. It could be as we go further on to our discussions and cover non-AGB items plus anything else preceding this I suppose as well is that is probably a topic where should there be any prioritization, should there be any weight given to particular applications that end up in a contested situation.

So the suggestion that I was making is that if we can extract that out because we could still focus on the preliminary recommendation here and the conversations that we want to have around that, but take this particular topic, put it into a parking lot to come back to so that the group can discuss that more fully across whichever sections are relevant for applicants. So that was [inaudible].

OLGA CAVALLI: Thank you, Martin. We have a hand from Steve. Steve, the floor is yours.

STEVE CHAN: Thank you, Olga. I just wanted to add one little bit to what Martin said about string contention resolution. And it's actually specific to geographic names. In that case, if there are two or more applications for a geographic name, in that instance auction would not proceed. The two applications would essentially be suspended pending resolution by the applicants. So again, if all of the applicants in the contention set are for geographic names, there would not be an auction of last resort. Thanks.

OLGA CAVALLI: Thank you very much, Steve, for that. Other comments in the chat, support for parking it. Okay, a hand from Martin. Martin, yes?

MARTIN SUTTON: Steve, I just wonder if you could just clarify that because what we're saying in this particular case and some others if it's the use case. So if it's not intended to be used as a geographic term, it has other meanings and other uses, is that – from what you just articulated it was if both applications were for a geographic term. Whereas, I think what we always come back to is the fact that a geographic term has multiple meanings, and if the application isn't intended to be used as a geographic reference, then I'm assuming that doesn't count it in the situation that you've just quoted. I wonder if you could clarify.

STEVE CHAN: Sure. Thanks, Martin. I think in providing that clarification, maybe I muddied the waters a little bit. Indeed, as you said, if it was two geographic terms, it would not go to auction. But in your example, if one was for a generic term or a brand name and then the other application in the contention set was for a geographic name, that would in the 2012 rounds be allowed to proceed to auction. Hopefully, that clarifies things. Thanks.

OLGA CAVALLI: Martin, any further comments?

MARTIN SUTTON: Thanks, Olga. Steve, that's really helpful. I think that speaks directly to this particular scenario then. In the question that Katrin posed if the situation occurred that Steve just described, it could go to auction as a last resort. So that's helpful. Thank you.

OLGA CAVALLI: There are some comments in the chat that I will read from Katrin. "Thanks, Steve. I think this only applies to two geo applications, not one brand and one geo applicant." Jorge says, "But the intended use only applies to city names." And Justine Chew reacts, "And it boils down to whether a string is considered as a geo name string." Steve, can you put in the chat what you just said please? Maybe you can add that, Steve.

Jorge, the floor is yours. Bienvenidos.

JORGE CANCIO: Hello, everybody. Do you hear me okay?

OLGA CAVALLI: Yes, very good.

JORGE CANCIO: Hello. Thank you for all the discussion, and apologies again for coming in late. It's a bit early in the morning, and we had to prepare breakfast for the kids.

Now I'm here, and just to be clear at least in my mind what we are discussing here is that in the case of an application for a city name, there might be at the same time a geo name application let's say because the intended use – and I'm talking under 2012 rules – because the use is intended to be geographic and under the 2012 rules we could have an application not intended for geo use.

There in that context, I see the proposal by Katrin to have a discussion on what the [conflict rules] should be because probably an auction of last resort is not a good idea. But for all the other geo names, if we consider the 2012 rules, we have those which are directly excluded from the applications which are the country names and variations, and then we have those which only can be geo names. So there you will only have let's say the rule that you have to come with a letter of nonobjection.

And if there are various of those, as Steve pointed out in the chat, for instance, you have gotten two applications for the capital city of Madrid and both have received the letter of nonobjection, then you don't have really this auction of last resort as a rule. But the applicants should get to an agreement. And if there is no agreement, they don't proceed. So just to be clear that under 2012, this gap that Katrin was mentioning only refers to the city names.

But I take the point from Martin in the sense that this gap would probably also apply to non-AGB terms because there we don't have still any decision on what regime to apply. So I guess it would be useful to put into that so-called parking lot both the conflict rule for city names under the intended use rule if that is what is decided in the end and the non-AGB terms. So I hope that this is what we were discussing. Thank you.

OLGA CAVALLI:

Thank you very much, Jorge. Martin, the floor is yours.

MARTIN SUTTON:

Thank you, Olga. Thank you, Jorge. That was my intention was that it seems to be that we've got some other areas that we're going to be talking about non-AGB specifically that could be relevant to this conversation. So that was why I was suggesting it. Personally, I don't mind. So if Work Track 5 members want to cover that off now and further elaborate, then we can do so. So it is a suggestion out there. It seems to me that could be a very good topic perhaps to explore whilst we're in Marrakech at a face-

to-face meeting. So we do have flexibility in the agenda to pick out particular topics that we feel would be good to go through, so this may lend itself to something like that and give us a chance to at least think about it over the next few days before we meet up at ICANN 65. But as I say, I'm very open to discussing it now amongst Work Track 5. So don't let me stop that if that is the desire. Thanks, Olga.

OLGA CAVALLI:

Thanks, Martin. I agree with you. It's a very good point for discussing in Marrakech. And also agree with Jorge and also support from Annebeth. "It could be a very interesting discussion," as Annebeth writes in the chat, "to find better solutions both for city names and non-AGB terms." So we are in agreement with that, and I think it's good to discuss further.

Any other comments about this issue? No more hands up. No more comments. Okay, thank you for the good exchange of ideas and comments. So the parking lot has been captured by Steve. Thank you for that. On the screen you can see that and have that in mind. And we can review that in Marrakech and further on.

So if there are no more comments about this document, let's go to the agenda, and I think the next issue is languages. We had a quite interesting discussion in the last week call. What I did is cut-and-paste all the comments and I reheard again the last call so I could capture all the comments about this. So I will read my notes, and we have the document on the screen.

From the previous call, the general text about languages. “An application for any string that is a representation in any language of the capital city name of any country or territory listed in the ISO 3166-1 standard.” There was general acceptance and nonobjection towards refining the language – this is what we are trying to do – to reflect more relevance and practical applicability. At this stage the group considered the following option to be a suitable base for further discussion.

I will read all the different options that were discussed. The first one was, first, the official language of the country, territory, or capital city and, second, translations of the country, territory, capital city in United Nations languages.

Then the comments received in the e-mail list of Work Track 5 and in the call. I captured Kavouss’ comments about contacting experts on this issue. For example, experts from the European Union. That is an organization that manages several languages all the time.

Katrin made a comment on behalf of the geo TLD group, and I will read the text that she shared. “While we are still of the opinion that the name of a capital city shall be protected in any language, we are willing to reconsider our [position] to achieve consensus and could support the amendment to, first, the official language of the country, territory, capital city and, second, translation of the country, territory, capital city in United Nations languages with the following addition. Number three, transliterations into ACSII and conversions to DNS labels. Otherwise, capital cities such as [inaudible] or [inaudible] would not be able to be protected with [inaudible]. They are [reading] without the special characters. This

is a very limited edition and can be clearly defined and identical to the way ICANN proceeds with the Red Cross and IOC names list.” That name list was referred by Martin in the call, and I didn’t find it as well.

There are comments from Jorge as well, Jorge Cancio. He said that many countries do not have official languages. He would favor in a spirit of consensus and subject to that spirit being shared by all a solution that would afford protection to all official and relevant. So he includes the concept of relevant national, regional, and community languages besides the United Nations languages. That’s a comment from Jorge.

Then there were comments from [inaudible] ccNSO, CENTR, [inaudible]. It’s a new idea. They suggest a [inaudible] process like objection procedure for commonly used languages in the country in question.

Then we had comments from Jaap. He said that there is no standard at all, so we should be careful of how things are transliterated.

So this is what I could find about languages in the e-mail list and in the last call. It’s an important issue, especially considering that there are some countries that have many official and non-official languages, but all are relevant for the people that live in those cities and countries.

So any comments? Any reactions to the languages issue and how can we refine? Because this is the idea. Refining the text. No

reactions? “Happy Father’s Day” it says here. Happy Father’s Day to all, yes, of course. “No breakfast for kids,” says Javier.

Susan, welcome, and the floor is yours.

SUSAN PAYNE:

Hi, thank you. In terms of the relevant languages concept, this is perhaps something useful to try to explore further. I would really like to understand what Jorge is intending to cover by that term. Because at the moment to me the term “relevant languages” is really unclear. It may be that my interpretation of it I think could be very different to Jorge’s. So it would be good to understand that.

The reason I say this is just because if you think about where I live in London, for example – and I know that London is already a TLD, so this is an academic example and also a capital – but you could probably find a small group or even a fairly large group of people in London who speak many of the thousands of languages in the world. To what extent are we supposed to consider all of those to be relevant? To my mind they’re not. There is an official language in the U.K. and that is English, and there are the UN languages. So in the context of London, the notion of UN languages and the official language of the country works okay.

I understand what Jorge is saying that some countries don’t have an official language, but “relevant” seems to me to be too unclear and too imprecise. So I would like to understand what it is he is thinking that would cover, and then perhaps we can try to explore that concept further. Thanks.

OLGA CAVALLI: Thanks to you, Susan. Before seeing if Jorge wants to react to that, I don't want to put him on the spot, there is a comment from Jaap in the chat. He said, "I said that there is no single standard for transliteration." Thank you for that, Jaap. Honestly, I couldn't capture very well your comment in the last call. I reheard it, but thank you for the clarification. Jorge, the floor is yours.

JORGE CANCIO: Hello. Do you hear me okay?

OLGA CAVALLI: Yes, very well.

JORGE CANCIO: Okay. Thank you so much for giving me the floor. The first thing to say about this languages question is that it is not a new issue. So the issues report covers it at some length, and we had I think lengthy discussions both in calls, I don't know whether there were any face-to-face meetings, in e-mail exchanges. So that's not really nothing new.

The second thing is that in the public comment period, there were many, many, many contributions coming from all stakeholder groups asking first why do we need to change this. Because in the 2012 round we had all languages. And proposing things similar or the same as I mentioned in the last e-mail exchange. So this is not my idea. Let's say this is a long discussion. That's the first thing. The first big idea.

The second big idea is that I still stand with my question I put many months ago which is in 2012 we had any language. What was the [factual] experience with this rule? What happened? What are the facts? What were the problems? What problem are we trying to solve? I see nothing in the documentation that has been circulated about any problems, any conflicts, any doubts. I haven't seen either what was the practice of the geo names panel we had in 2012. So it's a bit of a theoretic discussion. So that was my second point.

My third point is if we are going to try to find a compromise in this question, and this compromise of course would be related to the willingness of others to find compromise. For instance, in non-AGB terms, we would need to really try to come up with a solution that is acceptable to all. And to all, I mean not only those who have the time to follow these discussions after more than one year, but all those who have been making inputs before the preliminary, the initial report, and in the public comment period.

One basic issue is that many countries don't have official languages. So to start with, the U.S. as far as I know has no official language, but there are many languages spoken there. But maybe the U.S. colleagues don't have such a strong view on this. I don't know. But the same happens to many other countries, and to restrict it to official languages is a recipe for problems. Because, for instance, community languages or regional languages or even national languages might be languages from minorities which have not been recognized by the central government or by the fed government. Or there might be conflicts, or they may have

minority rights in their regions, but they have no recognition as official languages of the country, and so on and so forth.

So this is a really political issue we shouldn't treat lightly. And the proposal I circulated in the list is just coming from this public comment period. And it was supported by the European Broadcasting Union, by France, by Germany, by [inaudible], by Peru, by Portugal, by [inaudible] Swiss Federal Institute of Intellectual Property, and many other stakeholders. So this is really a serious issue.

And if in the policy, because here we are talking about policy, we should be wide enough not to if we are pursuing this compromise solution, we should be wide enough to cover all relevant languages so that no community feels discriminated against or treated differently just because their language is not recognized as an official language in the respective country.

And I know it isn't easy. But as I said before, the situation we are coming from is that any language is protected. So if we are going down this path, the burden of proof should be I think on those who want the [restriction] of this rule.

And finally, to say that as I mentioned this is a policy issue and we need guidance for ICANN org in then developing the applicant guidebook. And I can very well imagine that in that work of writing that applicant guidebook which is a very detailed document they may make some research consistent with this guidance.

And, for instance, in the case of capital city names, analyze the limited number of capital cities we have in the world which is about

200 and see what are the relevant languages there and make an analysis. Something which is based on facts and on statistics. Something that could even be circulated to the GAC for asking reactions from the GAC members and to those countries which are not in the GAC and so on and so forth. But I see that more as an implementation task, an implementation of the policy into the applicant guidebook. It's not something we can decide now on the spot. At least I don't feel prepared to do that.

And, well, I'll leave it by that. I hope that with this explanation, the political sensitivity of this topic is clear. Thank you.

OLGA CAVALLI:

Thank you, Jorge. There are two comments related with your comments. First I will read Justine's comment. She supports you. She says, "Plus, if we are in support of the principle of broad accessibility to underserved communities, then their languages should matter." And then there's a question from Katrin to you, "Maybe you have examples of geo names where this would apply." Then we have Susan. You want to react to that, Jorge?

KAVOUSS ARASTEH:

Olga, I have a comment also.

OLGA CAVALLI:

Okay. So I have Jorge if he wants to comment, Susan, and Kavouss in the list.

KAVOUSS ARASTEH: Can I express my comment?

OLGA CAVALLI: I have Susan first and then I will give the floor to you, Kavouss.

KAVOUSS ARASTEH: Thank you.

OLGA CAVALLI: Jorge, do you want to react, or I should go on with Susan? I think Jorge is on mute. Susan, the floor is yours.

SUSAN PAYNE: Thank you, Jorge, for that extremely detailed explanation. I think you talked initially about where is the problem, where has been the issue in the first round. We did have [conversations] about that as well during the course of this Work Track. I think that the problem that we're trying to solve is if perhaps the one that we [inaudible] we haven't seen in practice but I think [inaudible] in relation to any application that is currently on the books or any TLD registrations. Because we provide it for any language in the world, and during the course of our discussions, we've established that there are thousands of them. And to be honest, I don't think anyone knows whether any of the current applications would have been in breach of that, probably including the geographic names panel. Seems to me to be really quite a high possibility, and so there's that lack of certainty that we've all identified about whether someone makes an application and then later discovers, either

during the application or later, even after they've been granted that they were in breach of the rules because of some tiny language somewhere in the world that's got no relevance to the country in question for whom you're proposing to operate as a gTLD.

So I think that's why we're trying to find a better and more practical, more reasonable and more balanced solution.

Having said that, I think your conversations about relevant languages were very interesting, your comment. All I would say is that you appear to be talking about fixing a problem which in the countries in question haven't been prepared to do, talked at length about languages which perhaps a section of the community speak but which haven't been recognized by the local or national government, and therefore it's very political and these people are underrepresented. But frankly, I can't understand why we here are supposed to be representing people where in their own country, their language is not considered to be relevant. It may be relevant to those people, a small group who speak that language, but here we're talking about adopting the same standard as the countries in question. And in terms of ICANN going off and investigating and identifying what's relevant, well, how really are they supposed to do that? Again, you mentioned going to the GAC and asking them, but the GAC in question are the ones who are going to be the local and national government representatives of the countries who haven't recognized these languages.

So I think you're asking for ICANN to do a fairly difficult, and as you say, extremely political task, and one in which the countries in question appear unwilling to do. So this just seems incredibly unreasonable, and disproportionate to me.

OLGA CAVALLI: Thank you, Susan. I have Kavouss in the queue. Kavouss, the floor is yours.

KAVOUSS ARASTEH: Yes. The issue of language is one of the most sensitive issues I have ever encountered. At every conference meeting of governments, UN I go, when it comes to language, it is the most delicate issues that we discuss. I think it is not up to us to say what language is relevant and what language is not relevant. It is purely directly to the government to discuss, because it is national policy of the governments [inaudible] not any individual private sector saying that this language should be or this language [inaudible]. I wholeheartedly support what Jorge mentioned. It is a very deep analysis required in this regard, and the [inaudible] will be required to reflect on that and provide its answer to the situation. Having a list of capitals, 200 or 190, I don't know, and [inaudible] languages, and protecting all languages, it is important to protect all languages which are defined and specified by each individual government so on and so forth that in my capital city, this is the official language and [want it protected.] I don't think that this is an issue give it to the minority view in the ICANN [inaudible] of the culture of the people, of the history of the people, and the demands and the needs of the people. Language is a way of communication. Right to communicate is one of the basic rights, and we should not deprive anybody from that right. Agree with Jorge that we need a very detailed analysis of that. Thank you.

OLGA CAVALLI: Thank you, Kavouss. I also agree this is a very important issue for communities, for cities, for countries, for the people that live there. So yes, it's important to go on talking. Any other comments, reactions to this important issue? Martin, go ahead, please.

MARTIN SUTTON: Thank you, Olga. I'm just trying to appreciate the comments from Kavouss and Jorge and Susan and trying to work through something that would be suitable for the Work Track 5 to consider. I just wondered from Jorge and Kavouss' perspective, with your examples or understanding that this is a very complex and highly politicized issue, is there any other areas within the technology and Internet space where this kind of issue of languages has materialized and where there is a blanket protection applied or a sort of restrictive level applied where we could leverage perhaps some ideas?

So I think from Susan's perspective there it's still very difficult when there's 6500 languages, and potentially more to emerge in future or change. So, how do we manage that in a practical way and apply it in a practical way where it is relevant to top-level domains?

So just interested. Is there anything we can perhaps think about leveraging and understanding as to how it's treated in other – whether it's technical environments or something else that we could try and work through with a potential idea for applying it to this specific issue. Thanks.

OLGA CAVALLI: Thank you, Martin. Before giving the floor to Annebeth, let me read a comment in the chat. Sophie says, what if we require letters of support, nonobjection in the languages that the government publishes official translations of laws in the languages the government operates in? And Jaap says, "I'm not aware of any language protection mechanisms for identifier."

Annebeth, the floor is yours.

ANNEBETH LANGE: Thank you. This is really interesting questions to discuss, and important, because it's a lot of countries in the world that don't know that ICANN exists at all and what we are doing. So it's easy to say that the UN languages are protected and they are the main languages in the world, but on the other hand, it's a lot of countries that have important languages for them, and the problem here is, how can we do this in a practical way? So I understand clearly the problem Susan raises as well, but Jorge has important input here, and we have a kind of responsibility for those not knowing what we are doing.

So if we can find a way, even if we can say that combining the curative and objective procedure for those languages not covered, it's difficult because a lot of countries don't know that we exist, and they won't find out before it's too late.

So I see the practical solutions that it's difficult to find, all languages, we know it's a lot of languages in the world, but I think Jorge also has as point when he's saying, what was the problems

last time? So we have to find a way to solve this, and it's more discussion needed for sure. Thank you so much.

OLGA CAVALLI: Thank you, Annebeth. Jorge, you want to comment?

JORGE CANCIO: Yes, very quickly, I think that – well, I won't repeat myself, but I still haven't seen any facts on the table why this was a problem. But again, in the spirit of compromise, if we want to go to a more restricted definition, we have to be broad at least in the policy and leave something to the development of the applicant guidebook. And then when this rule is applied in the application process itself, I think it would be very helpful to have this advisory geo names panel we have been discussing before, which would allow prospective applicants to go under confidentiality to that advisory panel and ask, “Hey, this name, does it fit into any relevant national, regional or community translation of a capital city name?” And the panel would be at least equipped to do that with the research done ICANN Org, which I was mentioning before, and if the advice from the panel was that this doesn't fit into any such translation, I think that the applicant guidebook could provide for, let's say, a rule that the applicant has made his or her due diligence in this respect, so that what helped to give them more certainty in these kinds of rules as with [non-AGB] terms as we have discussed and proposed before.

So I feel that I'm making many specific proposals, and that we should avoid making this false dichotomy between official

languages, which is supposedly a very defined set of names, and the 6500 languages which are spoken in the world, because what I'm talking about is much more restricted set. But something at the policy level, I don't think we can absolutely define and put in a limited list, but something that we have to complement with research work and with good advisory panel. Thank you.

OLGA CAVALLI: Thank you very much, Jorge. There are some support for comments made by Annebeth in the chat. I also think that she articulated very well. Any other comments, hands up?

KAVOUSS ARASTEH: Hello, do you hear me?

OLGA CAVALLI: Yes, Kavouss, go ahead. The floor is yours.

KAVOUSS ARASTEH: Yes, I think this issue that [inaudible] already discussed and I again confirm that this is a very sensitive issue, I am not in favor of leaving the language issues to the authority of the advisory panel. I am not in favor of that. I was in favor of the previous proposal of Jorge that ICANN provide a substantial information document about the languages, then asking the capitals of the countries what is the language of the capital, and then [inaudible] language we should put official language. We don't have UN language. We

have UN official language. And that is totally political. It does not have any other orientations or [inaudible] than political.

There are other organizations like [inaudible] or European Union, they have 27 or 28 languages, all of these documents are in those languages. So it's no problem to get information, but I am not in favor of advisory panel to decide the language of a particular country or particular capital city. This is very sensitive, and it depends who would be the member of [the advisory] panel. If there is no wider representation protecting the interest of the country, that advisory panel may not deliberately, but intendedly decide on something which does not reflect reality.

And I told last time in response to my dear friend, Martin, that should we find no solution, the status quo prevails. Thank you.

OLGA CAVALLI:

Thank you, Kavouss. Steve, your hand is up. Floor is yours.

STEVE CHAN:

Thank you, Olga. I'll admit I'm a little hesitant to raise my hand because I'm going to make somewhat of a suggestion, so hopefully you'll indulge me in that. I'm also hesitant because I'm [about to reference Wikipedia.]

So on Wikipedia, there is a list of countries, and for each one of the countries, it also notes the official languages, regional language, minority language, national language, and widely spoken.

So I note this not because I suggest by any means that Wikipedia is an authoritative source, but I do bring it up just from the perspective that it seems that this would indicate that it is possible in some way to create some level of finite list. So maybe if you do do that, if you put structures into place, you put rules in place, limitations like the suggestions from Sophie where it's maybe translations of official documents, for minority languages maybe it's percentage of the population that speaks that language, or whatever the criteria might be, to the extent you can actually create limitations and rules and put those into place, the fact that there is a list in Wikipedia is at least some level of indication that a finite list could be in the realm of possibility. This is I guess the suggestion [we'd put] forth. Thanks.

OLGA CAVALLI:

Thank you, Steve. I do think that Wikipedia is a fantastic source of [general] information, so I do agree that it's a good reference and very useful, as Jorge says in the chat.

And there is a link in the chat from Steve about what he has referred about languages in Wikipedia. Any other comments? Javier, your hand is up. Go ahead. The floor is yours.

JAVIER RUA JOVET:

Just going back a little bit to Jorge's, I think main, point, or one of his main points that have to do with actual data out there in terms of actual conflicts or problems that the current policy or the current wording of the policy has caused in the past, maybe I would ask Steve, staff, do we have any data of actual problems being

caused by the open language that's currently enforced, or this discussion is completely preventative based on potential issues that have not surfaced?

OLGA CAVALLI:

Any reactions to that? Or we can have that in mind for further investigation. Comments? I see no hands. Any other comments about this very important issue? Jorge supports Javier in his question. And Annebeth has just shared a link, ethnologue.com. And Katrin makes the question to staff, could you please add the compromise proposal from the geo TLD as a comment to the section? Thank you, Katrin. We'll capture that. Martin, your hand is up. Go ahead.

MARTIN SUTTON:

Thanks, Olga. I think in response to Javier's question there, we've probably got, back in our archives, Work Track 5, plenty of discussions that triggered off why this needs to be explored further so we could probably refer back to those as well.

The issue of trying to find, was there any problems, is that you don't know how many applications were never made on the basis that they thought they might impede these particular rules. Even though they may have felt that they had a legitimate reason for applying for a string, you're just never going to know what you don't know. So there's no hard evidence in that respect.

So I think when you have lots of highly restrictive rules applied, you're not going to know what that prevented from happening in the first place and whether that would have been a positive

outcome or a negative outcome. So it's a difficult question, I think, to put any substantial evidence around other than it can prevent some things from happening which would have been potentially beneficial to either communities or business. Don't know.

So perhaps we could just check back through some of our previous Work Track 5 discussions early on where we raised the issue of languages. Thanks.

OLGA CAVALLI:

There's a comment from Katrin. Let me check the chat. She asks staff to add compromise proposal from the geo TLD as a comment to the section, and Steve asked Katrin what is she referring to, and there are some comments about that.

Jorge, "There could be evidence from the geo names panel and research on problems could have been done." He has raised this issue months ago.

Okay, any more comments about languages? Which is extremely important issue. No more comments. Okay. So we are ten minutes before ending our call, and the next item in the agenda is refining processes. I will ask Steve to guide us towards our next steps in Marrakech and further on. Steve, if you're so kind.

STEVE CHAN:

Sure. One second. Thanks, Olga. Trying to dig up our outline for the agenda for ICANN 65. In terms of the item that Olga just mentioned, I think it was time dependent. I think we've actually run

out of time, so I think moving to ICANN 65 would make some sense to give you all a sense of what to expect there.

So in discussions with the co-leads, I believe the expectation is that there's two sessions planned for Work Track 5, both taking place on Monday. The first session is going to be of course a little bit of background, but primarily spent around validating the progress made on the 13 preliminary recommendations, temperature taking on where things stand for those. But the other section that the co-leads have talked about spending some time on is to try to carve out and identify the open issues that still remain and that require conversation. So some of the things could be the – actually, just to take a step back, so the idea in that first session is more about the identification of open issues. It may also end up being discussion of those open issues, but it's more about trying to parse out a finite list of things that the Work Track still needs to resolve. So the idea then is to actually have the substantive discussion of those open issues in the second session, and so that's where you could talk about the translation still, you could talk about the possible alternatives to how the string contention resolution will take place that was added to our parking lot today. You could also talk about the non-AGB terms, and then just to clarify the item that was on the agenda today, that could also be on the agenda for Marrakech.

What that was is some of the more operational related, I guess, non-impactful to the scope of protection. So more along the lines of things that Jorge had mentioned today about some advisory panel that helps potential applicants make decisions. So some of those were the open issues that at least on the staff side and co-

lead side we saw as possibilities. So again, the idea is to try to identify those in the first session and then to have some substantive discussion in the second session, and probably devote, say, 25 minutes to each of three potential topics. So hopefully that's an okay high-level overview. I think that's what the co-leads are expecting for ICANN 65. Thanks.

OLGA CAVALLI: Steve, could you be so kind to remind us of the time on Monday where the sessions are in the agenda? And you have the room, some more references for those of us [inaudible]?

STEVE CHAN: Sure. I'll have to guess on the room, but the timing for it is Monday, 24 June. Session number one is from 9:00 to 10:15 local time, and then session two is from 10:30 to 12:00. And all the rest of the sessions – or sorry, for the full working group is in Orangeriaie. My educated guess is that it's likely in the same room, so for all four sessions, it's probably in Orangeriaie.

OLGA CAVALLI: Fantastic. Thank you very much for that. Any other comments? We are six minutes ahead of time. Any other comments?

MARTIN SUTTON: Hi, Olga.

OLGA CAVALLI: Yes, Martin. Go ahead.

MARTIN SUTTON: Sorry, I missed the first ten minutes, I think, of the call as I had to bail out for a short while. Can I just confirm – did we go through the tracking document to see if there were any further comments on the open items that we had had open for a couple of weeks now? [I don't think] we've had e-mail exchanges for many of those items, so I'm assuming that those were sort of closed out and we're happy that there's either nothing to change on the preliminary recommendations, or we've got discussion points that still need to be covered, because that will help us with anything that we need to include in the agenda for Marrakech.

OLGA CAVALLI: We did review it very quickly. There were no reactions, no comments. But if you want to stress any part of the document, or we can talk about this in the last minutes we have, you're welcome to go through the document.

MARTIN SUTTON: Thank you, Olga. So I think we've got these items here. Four, five, and if you go down further, six, seven. So four to seven by the looks of it. If we've had no further comments and it's been open for a couple of weeks now, I think we can close those off. I notice on eight we've got some suggestions still to backtrack to have a look at, so we leave that one open, presumably.

Nine, don't think we had anything further on that one, so presumably that can be closed. Ten is similar, I think. I don't think we've had any comments on that. And then I think 11 is what we've been carrying on with today, so I would suggest then, depending on what people are thinking here, that we could mark these on the tracking document as closed up to ten with the exception of eight, and 11 we can feed in comments and questions that we've got open and suggestions from today. If we can just scroll down a bit further.

OLGA CAVALLI:

As a reference, this document was sent with the agenda as a PDF document, there's no link for this document in the agenda.

MARTIN SUTTON:

Okay. And I think we combined 10, 12 and 13, so we've gone through those as well. So I think that those again haven't received any further comments. So we can close off those [items.] It looks like 11 remains open, which is great, so we can feed that through into Marrakech and then we start to look at the other items that are outside of the preliminary recommendations, which were mentioned by Steve earlier.

So I think that should be helpful for us in terms of using the tracking document. Any comments, fire away, but I think that that was useful just to check through.

OLGA CAVALLI: There was a question from David. He wanted to – the link to the document, as I said, it was sent as a PDF, and it's a working document, it's a live document, so there will be new versions of it. And it's a basis for the meeting in Marrakech, and there is a comment from Susan that she will make comments about item 11, so good for that. So we will wait for your comments.

Jorge says, "Documents should have a date, version number and be archived in a stable URL."

MARTIN SUTTON: Thanks, Jorge. We're working on that. We did take your comments and we want to make sure that those are embedded, so we'll do that for the next version going out and issue that. Thanks.

OLGA CAVALLI: Okay. One minute left. Any other comments? Any reactions? Cheryl says, "Just confirming all Monday sessions for Work Track 5 as well as the others in the afternoon full working group are in Orangeriaie.

Any other comments, hands up? Okay, thank you all very much for your very active participation. Such a good audience. For those of you traveling, have good and safe flights. See you in person or online in Marrakech. Have a nice rest of the day and week. Bye.

ANNEBETH LANGE: Bye. Thank you everyone.

OLGA CAVALLI: Thank you, Annebeth. Thank you, Martin.

ANNEBETH LANGE: Thank you, Olga.

OLGA CAVALLI: [inaudible]. Thank you, Javier. Ciao.

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]