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**ICANN  
Transcription  
GNSO New gTLD Subsequent Procedures PDP WG Work Track 5 (Geographic  
Names at the top-level)  
Wednesday, 14 August 2019 at 14:00 UTC**

Note: Although the transcription is largely accurate, in some cases it is incomplete or inaccurate due to inaudible passages or transcription errors. It is posted as an aid to understanding the proceedings at the meeting, but should not be treated as an authoritative record. The audio is also available at:

<https://icann.zoom.us/recording/play/s8VA4KXafOlldlLoAAPMUZUqn9DQolPGOTTp2Qyf5zuphcoegV9loG2TwpMdmjgU>

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Attendance of the call is posted on agenda wiki page:

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MICHELLE DESMYTER:

I would like to welcome everyone. Good morning, good afternoon, and good evening to all. Welcome to the New gTLD Subsequent Procedures Sub-Team Work Track 5: Geographic names at the top-level call on the 14<sup>th</sup> of August, 2019.

In the interest of time, there will be no roll call. Attendance will be taken via the Zoom room. If you happen to be only on the phone bridge today, would you please let yourself be known now?

Okay. As a reminder to all participants, if you please state your name before speaking for transcription purposes and please keep your phones

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and microphones on mute when not speaking to avoid any background noise.

With this, I will hand the meeting back over to Julie Hedlund and Martin Sutton. You may begin.

JULIE HEDLUND: Martin, over to you, please.

MARTIN SUTTON: Thank you both, and thank you all for joining so promptly so we could get off to a good start for the next 90 minutes on Work Track 5. We've circulated the agenda, and that's in front of you that have tuned into Zoom: a standard set of housekeeping requirements to start with, followed by four items that we're looking to close off discussions today, and a final review of public comments that are remaining for changes to go to protections and restrictions. Then we've got Any Other Business.

Without further ado, if I could just call for any changes to statements of interest, first of all. Raise your hand or make them known.

Okay. Seeing none and hearing none, does anybody have any item for AOB, for instance, that we need to tag onto the end so that we leave suitable time?

Okay. Hearing none, we shall proceed. I'll just switch to the slides. Thanks. Let's move down to Slide 6, I think it is. The first item here is on the discussion of languages and translations. Now, we have discussed this over a number of – sorry. Could we just go back? I think it was the

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previous page. Sorry. There we go, yeah. So we've had various discussions over a number of meetings and also on the list regarding the languages. Just as a brief reminder, these requirements for the Applicant Guidebook as it exists, where there's protection against any language for the various country and territory name sections and also for the capital city names ... So this has been discussed. I'm not going to go into detail at this stage, but just to flag that we have had – Verisign has put forward – a number of discussions. At this stage, is not apparent from the co-leads that we're getting close to a conclusion that the Work Track 5 members can support pushing forward.

Actually, if we can flip to Slide 11 here, I think that might be easier. We can play a game of Snakes and Ladders, I think, if need be. So if we want to step back, we can move back onto some of the content of these slides, which have been discussed already. If I could lead in straightaway with thoughts on where we are at this stage, does anybody think differently towards the fact that the co-leads cannot see a particular strong direction that we're taking in terms of languages, in which case the default 2012 guidebook would remain in place? I'm happy to ask for a show of hands or ticking the box. If, on that basis, you feel there is no point in further discussing this, I'd be grateful if you could go to your participants panel, where you can either raise a hand or tick the box with a green tick. We will make adjustment then on whether we need to refer back to any other discussion points or proposals that have been covered previously.

I'm not seeing any. So should I ask to ... There's one person that thinks that we've covered this to the extent that we do not need to raise any further discussions on this and that we would therefore defer to the

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Applicant Guidebook. Am I right in saying that? Or is everyone still looking for their ... okay. So we've got a few more ticks.

Okay, interesting. The rest of the group feel like we need to discuss the options for languages still. I've only had three to say, "No, we can close this off."

JULIE HEDLUND:

Martin, I'm just noting that there may be some confusion as to what you're requesting with respect to the tick marks. Susan is asking in the chat which scenario we're ticking for. I think you were asking, if people agreed there was no agreement on a path forward, then we would revert to the status quo. If you could clarify, that would be very welcome. And Christopher Wilkinson has his hand up.

MARTIN SUTTON:

Julie, you're quite right. Let me make that more clear then. As far as the co-leads have considered all of the discussions within the group, there is no path forward to suggestion that we change the Applicant Guidebook provisions' languages, in which case the show of hands or the tick of the box was to affirm that. If you didn't put a tick in the box or show your hand, then that would indicate that you wish to discuss this further and that you do think that there is a path forward that is an alternate to the Applicant Guidebook provision.

I'm seeing a few more ticks in the box now. Thank you. That was helpful to clarify. There is still quite a lot here that do believe that this needs to be discussed further then.

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JULIE HEDLUND: Martin, Christopher has his hand up and so does Heather. I think those are hands – I see Annebeth, too – not hands indicating that there needs to be further discussion necessarily but hands with perhaps clarifying questions.

MARTIN SUTTON: Okay. Christopher, please go ahead.

CHRISTOPHER WILKINSON: Good afternoon, everybody. Just a note a minor complaint about the clash between this and other calls this afternoon, which is proving to be quite inconvenient.

Martin, on the point that you have raised, I think we already have a proposal on the list to close WT5 down and refer all these matters to the PDP. The languages issue is important, but it's a minor issue among the many that are seriously in dispute on Work Track 5.

I no longer support the maintenance of Work Track 5. If you persist in going on, I should probably come onto the calls, but let us be clear. First of all, the overwhelming wildcard or indeed poison pill is this idea that, if we cannot reach agreement, we revert to the application guidebook of 2012. I'm totally opposed to that. The reason that Work Track 5 was created and organized to incorporate GAC, ccTLDs, and At-Large in a way in which GNSO has never done so before was that the application guidebook principles applied to geographic names failed in the previous round.

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I think we should have a separate call with the co-leads to try and sort this out, but I'd appreciate the poison pill of GNSO because the result has been that many of you feel that, by blocking an agreement and refusing to compromise, you'll get what you want because, at the end of the day, you'll get the 2012 application guidebook. I think that is a false situation, but I'm not going to enlarge on it any further. From my point of view, you can close this discussion and submit to the PDP a failure and we shall continue the discussion in the PDP. Thank you.

MARTIN SUTTON: Heather, please go ahead.

HEATHER FORREST: Thanks, Martin. I just wanted to ask a quick clarifying question, which is, Martin, when that slide says, "Discussion on languages and translations," is that all discussions on languages and translations? Because, as was noted in the chat, I recall the last call that you chaired, Martin, where [a poll] was put forward. You navigated the discussion. We talked about languages in relation to country names. I thought we had broad [agreement]. At least it wasn't screaming disagreement. Perhaps I've missed something. So just to clarify, it is languages in all cases or languages in some cases? Thanks, Martin.

MARTIN SUTTON: Thanks, Heather. As I recall now, last week's meeting seem to unravel that way forward. So, whilst there was some steer towards some form of agreement on languages, that seemed to come undone. At this stage,

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again, based on the discussions last week and the conversation on the list, there doesn't appear from the co-leads to be a strong way forward to determine changes that we can present to the plenary.

I'll turn it to Greg then and then Beth.

GREG SHATAN:

Hi. I had felt – maybe I'm not recalling last week's call; I may have missed it – this did seem like an area where we could have had some movement forward. In looking at the other proposals, this may be the least contentious of the bunch. I'm concerned that, if this one is dead in the water, all of them may be in terms of trying to find a way forward. That's not my desire or my goal. I don't know that the so-called poison pill is a true way that anybody is thinking – certainly not the way I'm thinking or any of the people that I know are. I'm here to try to build consensus on something we can all get behind. I think that the fact that every PDP works to the same rules [means], if you can't change it, it doesn't get changed. I don't think that is a poison pill.

In any case, I'm loathe to let this one go, but maybe we beat it to death last week and it's not resuscitatable. I'm just concerned that this is setting us on a path toward no fruitful discussions. But we shall see. Thanks.

MARTIN SUTTON:

Thanks, Greg. Just to be clear, particularly from my perspective as a co-lead – the other co-leads may chip in after this – it's not for want of trying. We've seen a lot of good ideas and discussions formulated

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through Work Track 5 from its members, including yourself and many others. So I think there is a good will to try and push something forward here. That seemed to be exhausted. As we were closing down the discussions, things reemerged and changes of minds have occurred. So there didn't seem to be enough support from Work Track 5 as a whole to push this through as a recommendation.

As stated here, this is an opportunity – really, the final opportunity, I think; otherwise, we could carry on these discussions for months on end – to see if there is a path forward. We can go back to the previous proposals if so desired. I gather from the fact that not many raised their hand of ticked box that we could go back to this and spend some time on it on this call, notwithstanding the fact that we've got other items to cover as well.

So I'd rather not debate too much now as to whether we do or don't go back. If there is a good impression from members that we can find a path forward and ideally today, then let's do it. But I just want it to be clear that there has been lots of good discussion and lots of good ideas at this stage, though. It was hard to find a path forward.

Annebeth, please go ahead.

ANNEBETH LANGE:

Thank you. First, I would like to say that I support Heather in her comment to Christopher, actually. I think it's unfair to suggest that anyone is getting what they want out of Work Track 5 or, frankly, the 2012 AGB. We worked for many years up to 2012 to try to find a compromise, and, at that time, that was the best we could manage.



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So, when we started this again and established Work Track 5, the main reasons for that was that geographic issues were discussed in all the other four work tracks – so to concentrate it in one work track for those interested. Especially in this field we made a special work track out of that. The goal is to try to find some way that was better than what we had managed to find in 2012 if we could compromise on that and find a solution that was even better.

It was not perfect in 2012, but all these months that we have been discussing these things have shown us how difficult it is to find something that all of us could go further on with.

As for the languages, as Martin says, we have been discussing this for quite some time now. We thought that the U.N. languages plus the official language and de facto language that we have been discussing for some meetings might have the possibility to go through. But the last meeting last week showed us that that was also difficult.

As for going back to that again and discussing it even once more, of course we can do that if you want to do it. I think that, Martin, when you suggested ticking and raising your hand or whatever, there's some confusion as to what you are asking for. There's quite some good comments in the chat, so perhaps we should go through them and try to find out if we should go back and discuss more and go on and leave it as it is for now. Thank you.

MARTIN SUTTON:

Thanks, Annebeth. I can rephrase the question again if we need to, but there's options in your participant panel to tick a box. Let's just do one

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final call on this. Otherwise we could waste quite a considerable amount of time.

If you believe that there is a good opportunity to make any changes to the languages provision beyond what exists in the Applicant Guidebook, please tick the box and we will go back to the proposals and see if we can find a path through that.

Jaap, it's in your participant panel box. You've got options to raise your hand or tick a box – big green, round green, tick, or a no (a red cross). [Go slow]. So you've got a few options that appear in the participant box. So in there there's a tick for yes. If I could ask anybody to do that. I see one only at this stage, which is Greg.

So I think we've exhausted this. I'm going to say that we close this off – oh, there's two. Not seeing any other support – oh. [See/say]/tick yes. Jaap, sorry .The box is called a participants panel. Or just put yes in the chat – that might be easier – if you feel this needs to be discussed further. Otherwise we will close it off.

Justine, yes, I've reversed the question to hopefully make it more simple ... okay. I see none. I'm going to close this off and we'll move onto the next item. Essentially that the recommendation that will go forward is not to change the language provision. That will go to the plenary.

If we could move onto the next discussion point, which is categories of terms not included in the Applicant Guidebook. If we go to the next slide then, again, there's been a fairly lengthy discussion throughout the term of Work Track 5 and following the initial report and all the comments received.

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Looking back at all of those discussions, again, there's no clear way forward that seems to be in agreement amongst Work Track 5 to incorporate. There has been some proposals put forward after we asked for a final call for those. Prior to the last call, there was a suggestion put forward relating to geographic names such as adjective forms of countries, such as Swiss. That was kindly put forward by Jorge and initially discussed last week. But I think it was a fairly short time period before the meeting that people had a chance to review, so more time is requested to digest and consider what was offered as a proposal there.

I think there was some conversations during the meeting that were noted down that were included on the slide here in front of you. Specifically to the proposal that was put forward, there's been some exchanges today on the list. If you have only just started the beginning of your day and need a bit of caffeine injection, I'll just run through the additional proposal suggestion in light of that previous one.

Thank you, Susan, for forwarding this on the list today. We're specifically looking at applying this to adjectival forms of country names that can be identified from the ISO 3166 list, capturing terms such as .swiss, .american, .british, etc. Since this relates only to these terms which have a close association with a country name, there is no intended use requirement. Countries who desire to be notified of applications which match such terms should identify that this is the case before the application window opens so that applications have certainty.

The practical and fair way to do this would be for countries to have this requirement to confirm and to provide relevant contact details before

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the AGB is finalized so that these details can be included in or linked [from] the AGB. Applicants for such a term will then be under an obligation to notify. That notification must happen at the latest in the period between the applications closing and Reveal Day, but an applicant may choose to notify earlier than this.

So this is adapting some of the suggestions that we're put forward last week. Let me stop on that one first and just see if there's any questions that have arisen that need to be covered off before I move to a variant on that proposal, which Jorge also added to the list. This gives an opportunity for those who've only just had sight of this, just to make sure that they understand it. Or I'll offer the floor to Susan if you'd like to elaborate any further and clarify.

Not seeing any. A message from Katrin. "Just for clarification, this proposal of Jorge's only refer to countries, not regions/cities. Is that correct?" I think that is correct from the proposal from Susan and, I think, the original discussion last week. I think the next variation that Jorge has put forward differs from that. That I was holding on. But certainly the one that we're looking at at this stage from Susan is relating to countries.

JULIE HEDLUND: Martin, Susan has her hang up.

MARTIN SUTTON: Great. Thank you. Go ahead, please, Susan.

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SUSAN PAYNE:

Thanks, Martin. Hi, everyone. Apologies if you asked me to speak. I missed that. I thought I'd just, since we're having a pause, as you said, give a brief explanation. I did try to give a reasoning in my e-mail that I sent around, but I do recognize that, because it went today during obviously my morning, for some people, as Martin said, it's during your night or before your day has started.

Really I was trying to reflect on some of the [concepts] that Jorge was seeking to address [inaudible] concerned that I couldn't feel comfortable with it going as far as he was suggesting, particularly the concept of it being any geographic term and this notion of a modicum of diligence. These all introduce an enormous amount, to my mind, of uncertainty in terms of what is covered and what isn't and in terms of what would happen if an applicant thinks they've exercised a modicum of diligence but someone else, quite reasonably because this is a very subjective test, might feel differently. Where does that leave the application?

Whilst I recognize that Jorge also proposed a geographic names panel, obviously we know from the last round we did have a geo names panel, but it had a very specific remit. It was tasked with basically looking at the rules of what geographic names were afforded protection that are set out in effectively the lists in the Applicant Guidebook and saying, does this fall within the lists or not? Yes/no? If it does, does it fall within the list of things that are prohibited? Yes/no? Does it fall within the list of terms that need some sort of documentary support? If it's yes, then is the documentary support there, and is it from the right person? Yes/no? Those are all very objective tests that the geo name panel was given,

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and this proposal would see that panel having a very different rule and a very different remit and an enormous amount of subjectivity applied.

So, when we're talking about trying to deliver something which gives more certainty to everyone, I just didn't feel that it did it. But I did want to, as I said, reflect on some of the concerns that have been raised. Jorge in particular had raised the example of adjectival forms of the country name. It seemed to me that that is something which can be relatively defined because you're referencing it to the actual name of the country and we know what those different country names are.

So it felt to me like that wasn't a reasonable compromise, and consequently that was what I was proposing. To go back to the questions that Katrin has been asking in the e-mail over the last hour or so, yes, my proposal was limited to that. I wasn't suggesting that this went further than that and got into other types of geographic names. It was very much to that effect. Thanks.

MARTIN SUTTON:

Thank you, Susan. My impression is that this is very focused and is a stepping point before we move onto the next suggested proposal. I just wanted to see if there was – well, I see some support coming in the chat here. A couple of areas of support. Does this seem reasonable to others as a first stepping point? Or does anybody have any string objections towards this suggestion put forward?

No strong opinions either way? Susan, we got a question from Justine in the chat. "Would you consider country names and capital city names,

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given that these are more concrete?” I’m not certain how that translates in terms of, I suppose, [Londoner].

SUSAN PAYNE: Martin, could I reply?

MARTIN SUTTON: “Londonish.” Yes, please go ahead.

SUSAN PAYNE: I’m not sure I entirely understand the question. Just in terms of the country names, I’m not suggesting that we remove the protection for country names that’s already in existence. The 2012 Applicant Guidebook already has a complete prohibition on the country names. I’m not suggesting that we somehow take this away. So I may be misunderstanding the question.

MARTIN SUTTON: I think so. If I can refer you to the chat, it’s things like Parisian, Londoner, or, as Paul prefers, Londonish. So it’s extending it beyond Swiss/American/British to things like New Yorker and Londoner. So that’s where it’s looking at.

Yes, true. Thanks, Paul. So New Yorker would be [inaudible]. So a bit of hesitation in terms of beyond the language/territory. Hopefully that responds to your questions there.

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Dev, just to be aware that there's always opportunities for objections. This is trying to say what may be prevented from being applied for or requires – sorry. These are notifications. So there are still options for other factors like objection processes to take over at a later stage.

We're going into specifics here at this stage. I'm just wondering, in principle, is there any strong objection or strong support that we could move forward with this and then flesh out a bit more detail and where ...

ANNEBETH LANGE: Martin, Jorge has his hand up. So perhaps you should give him the floor.

MARTIN SUTTON: Sorry. I've not got the panel in the right place. Please go ahead, Jorge.

JORGE CANCIO: Hello? Hello? Do you hear me okay?

ANNEBETH LANGE: We hear you.

MARTIN SUTTON: Loud and clear. Thanks, Jorge. Go ahead.



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JORGE CANCIO:

Hello, everybody. Let me first of all thank Susan and also the others who, last week and also on the list, have been showing a very constructive spirit. I would like to introduce the variation which you see now on the slide on screen. Basically it's a consolidation or a synthesis between what the spirit of my initial proposal was, which was initially discussed last week, and the proposal made by Susan.

First of all, it's very important to bear in mind that this relates to terms beyond the AGB categories. So we are not talking about capital cities. We are not talking about country names as such. We are not talking about sub-national divisions and so on and so forth.

The second important point is that the only requirement we are talking about here is about contact or notification requirements to the relevant public authority before the application is made. So there's no non-objection provision. As you may remember, this is already a long way from the initial positions, be it mine or from many other stakeholders.

As to the proposal from Susan and her criticisms to my initial proposal, let me sum up what the variant takes over from her proposal. First, she criticized the open concept of geo names or of terms with geographic significance. I think that has some value, some merit. So, in this variant, there is no open concept of geographic name as such.

She also criticized the idea of a modicum of diligence, so this disappears also. She didn't agree with the role given to the advisory geo names panel. It doesn't appear also in this variant, so it has been eliminated. She proposed basically that we have a list – a closed list of terms that the applicants can look into and know, "Here on these terms we need to

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contact the relevant authority.” She also provided in her proposal the idea that the interested country has to notify its desire, its wish, to be notified about applications relating to the names included in the list and that the interested country has to provide relevant contact details for that contact to happen.

So that’s all included in this variant. Of course, the English can be improved, so I hope you don’t stumble on anything that is just wording. Of course, the big difference is what is in that list of names and where we want this contact to happen.

I think, of course, adjective versions of country names, such as Swiss, are very relevant. In our case and the case of Switzerland, we had the experience in 2012 that there were applicants on .swiss. This was beyond the Applicant Guidebook. But, because we are very much engaged into the process of ICANN and we have a good relationship with stakeholders, we could deal with that application in a way that didn’t create for anyone.

But this is only a very small subset of names that we have seen in the 2012 round that may be conflictual or complicated. We have .amazon and .patagonia – so many examples we have seen during the discussions in Work Track 5 during the last year and some months.

So how do we, on one side, have a list which is closed? As Susan and others coming from the domain industry or from the IP world are proposing, how do we have a closed list on one side? And how do we avoid that we have too-restricted lists, such as adjectival forms of

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county names, leaving out many names that may be very important to some countries.

The proposal I make in this variation is that we give GAC members and other U.N. member states – because, as you know, there are about 20 or 25 member states who are not at the same time GAC members – a deadline of 12 months to notify ICANN about geographic names beyond the AGB that are very important to them and where they want to have this contact requirement in forthcoming rounds.

With this, we would really defer to the different countries. Some countries may notify nothing. Other countries – as I would guess Switzerland – would notify very few terms which are important to us and where we have a legal basis for their protection against monopolization. Other countries may notify more things. This wouldn't create a requirement of non-objection if, as I said at the beginning. It would only create this contact requirement.

With this, I think that we could be squaring the circle of this discussion and at least have a compromise where we all are more or less similarly unhappy or happy.

I'll leave it at that. I've seen many comments on the list. I don't know if you want me afterwards to answer any one of those comments. I'll be available for that. Thank you.

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MARTIN SUTTON: Thank you, Jorge. I'll quickly run through these, but if anybody's got any follow-on questions to check, please put your hand up and I can quickly run through some of the comments if needed.

Annebeth, I see your hand is up. Please, you go ahead and I'll check through the comments.

ANNEBETH LANGE: Thank you. I think there's quite a lot of sensible input in the chat. Since we have some members not seeing the chat and are only on the phone, it might be worthwhile reading them. Do you want to do it, Martin, or should I [inaudible]?

MARTIN SUTTON: I'm just resetting it back before the chat moves again.

ANNEBETH LANGE: Okay, fine.

MARTIN SUTTON: I think if I go back to 3:35 P.M. in the chat, if you're in there – if not and you're just on the phone – Paul states, "Susan's proposal is a long way from the AGB guidebook. That doesn't require anything like this. I think Susan's position is a good compromised position." Robin says, "Restricting words with geographic meaning is just too broad. It unfairly subjugates other legitimate interests to GAC. Not going to fly." Heather

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states, “Surely we can come to agreement on national adjectives at least, even if not at all for the others. Isn’t this compromise?”

I’ll come back to that in a minute and focus on that a little bit further. Some plus-ones here and there. From Katrin, “We might be able to support the proposal from Jorge, but I’ll have to consult with the geo-TLD group, as this only had been presented today.” That’s fine. I think, from Work Track 5 members, though, to have some opinions, particularly if there’s an indication of support or objection, would be useful to flag now. From Yrjo, “Jorge’s proposal has the merit of recognizing that one size does not all fit all and that not all governments care about geo-names within their borders. Some do and even have legal basis.” A plus-one from Katrin to that.

Paul says, “Susan’s proposal for a notice process for the adjectival forms of national names is a reasonable compromise. An all-or-nothing approach from the restricted geographic terms crowd would be really disappointing since there is no stomach for the extremely broad category of affected terms that Jorge is suggesting.” A couple of plus-ones to that comment from Susan. “I don’t think I can support the extension of what Jorge is proposing but I’ve not be able to consider it in detail. I’m concerned this is too wide. The terms are being self-identified rather than being an independent list.” From Jorge to Paul, “It means allowing GAC-U.N. members 12 months to add geo-names where a contact is required. No non-objection requirement.”

So those are the points there. Just to have this point, I had hoped actually not to step forward to this next page just yet because I was wanting to gauge whether at least a step forward was being made in

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terms of the other proposal, which was focused on the adjectival terms as a steppingstone. If that was possible, then we'd move onto seeing where we can expand out into other options as presented by Jorge. But we seem to have jumped a bit further on.

Let me go back.

ALEXANDER SCHUBERT: There's a hand up.

MARTIN SUTTON: Oh, sorry, Alexander. Sorry.

ALEXANDER SCHUBERT: Hi. I very much support the proposal that we just heard. In order to make it even simpler for the applicants so they don't have to try to contact the government and then they have to prove that they really did contact the government and all kinds of stuff that could go wrong, the list would be probably wrong – the list of names that have to be contacted – but the amount of cases where notification is necessary will be probably super short; I would assume under ten instances.

So, as we know that it's probably just really a few cases where governments have to be notified, why not letting ICANN notify those governments? Then everyone can be sure that the thing worked in the right way. The applicants have no obligations, and it's also very easy to formulate it in the AGB because we don't have to create rules around:

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do you have to send a notified letter, how do you improve what was in that notified letter, and so on and so forth. Thank you.

MARTIN SUTTON:

Thanks, Alexander. Any responses? Questions? I'm not hearing any. I can see a fair bit in the chat, but ... Can I just go back, first of all? Can we just go one back on the slides there? Because the last one there ... We've got a lot of conversations going on still but no speakers. So just going back to this one as a steppingstone, is this something that Work Track 5 members could see support for across the group? As a recommendation at least, as a starting point, could this be agreed to with the group before we move onto the next slide again? Can I hear any comments, support otherwise, or any strong objections from Work Track 5 members?

Is it just me on the call? Paul, this goes back to Proposal 1, which is Susan's proposal on the adjectival forms. That's now in front of us on the slide deck. This is the steppingstone before we go back to Jorge's revised proposal. I'm just trying to see, as this has more limited focus/scope, if this is acceptable for the group to at least start with here.

Yeah. Thanks, Paul. I can see some in the chat, but I'm just trying to revisit this now just as a point now that says, to the wider audience – and before we refer back to Jorge's latest proposal, can I just check for Work Track 5 members that may not have voiced any opinions so far? Is this acceptable? Please put into the chat or raise your hand just to respond to the that.

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Reading the chat there, thanks for the input on that. We'll move onto Jorge's proposal in a second. But just as a steppingstone, I want to just gauge whether this has got legs to run with before we move to Jorge's one.

I'm not seeing strong objections to what has been suggested by Susan. Great. All right. So I think that's a good step forward. We'll use that as a basis to carry on the discussion here. If we can move to the next slide.

JULIE HEDLUND: Martin, there's a hand – oh, I'm sorry. The hand is down. Never mind.

MARTIN SUTTON: It's back up again. Nick, please go ahead.

NICK WENBAN-SMITH: Just to check my understanding of this, is this then the adjectival form of a country name from the list? So that would include [inaudible] the United Kingdom because I see the United Kingdom is officially the United Kingdom of Great Britain and Northern Ireland. So the sub-division or sub-national names, like Wales and England wouldn't be encountered. So Irish would be protected, but Welsh, for example, and Scottish wouldn't.

Secondly, is this in all languages of the world still? Because this is the area of nit-picky detail where it's helpful to be super-precise. From my memory, if we're not going to make any changes to the languages section, then that bites on all of this action. Or are we being more



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specific than that? Just a point of clarification because it's the sort of detail that people get bogged down. And we have been bogged down in it in previous calls. So just a question.

MARTIN SUTTON:

Good point, Nick. I think it's an in-principal basis at this stage. If that has got legs on it – I can see that the intention here from most is that they could run with something like that. But we'd need to go back and then iron out detail. So let's hold onto those points and carry on that discussion shortly.

Before we do that, perhaps if I could just take us back to Jorge's suggestion just to gauge where we are with that because then will then focus our time, I think, as a group on what we think is going to be workable and can be moved forward, given the lengthy conversations that we've had on this wider topic overall. So now we've got the latest proposal from Jorge that we described earlier. I just want to, again, get a good gauge as to how Work Track 5 members feel towards this proposal and whether we've got the option to really delve into this one as well.

I've got Jeff's hand up in the meantime. Please either put your comments in response to that in the chat box or raise your hand to speak. Go ahead, please, Jeff.

JEFF NEUMAN:

A couple things. Thanks. On drawing on what Jorge said, there were a couple things he said that weren't reflected in the proposal. I just want

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to make sure that they're elements. Jorge said that the other terms with geographic meaning had to have some basis in law or had to be protected by law. I don't know. If that's what's intended, I think that's very important words that would need to be put in there. So, as Jorge said, if the country protects a couple things by law, that's one thing. But it's not as open-ended as any terms that the country thinks has geographic meaning. So I just want to clarify that that protected-by-law is an actual element.

The other is just to confirm that this is only for a notice requirement. This is not for consent. This is not for mandatory meetings with the government. It's just a notice requirement. If that's the case, then we could put that in the language as well. So I understood what Jorge said and want to make sure that that's reflected in the proposal. Thanks.

MARTIN SUTTON: Thanks, Jeff. Perhaps, Jorge, if you're able to respond to that. There's nobody else in the queue. So please go ahead.

JORGE CANCIO: Hello? Do you hear me okay?

MARTIN SUTTON: Yes, indeed.

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JORGE CANCIO:

Hello. On Jeff's questions, on the last one, this is only a notification or a contact obligation requirement. I think that Alexander and others may have ideas on how to ease it up as much as possible so that it's not a burden to prove that you really sent that e-mail or that you sent that communication to the corresponding authority.

On the requirement of being based on law, I mentioned this as an example for Switzerland because, as I said, this is only a contact provisions. So whatever happens after that contact is up to the parties. If it would help to agree on this proposal, this means the possibility of giving GAC members and other U.N. member states the possibility to file in such names that we provide for a requirement for that filing and that the reasons in law or in public policy are an obligation for the member states to be able to file that name. I wouldn't mind. So this wouldn't be a problem for me.

MARTIN SUTTON:

Thanks, Jorge. Just following on to some of the chats here, perhaps if I could ask if you could just consider Nick's question – what happens as a consequence of the notification? – so that we could gain some clarification there for those on the call.

JORGE CANCIO:

What happens? Nothing really happens. It's a requirement. It would be a requirement under the Applicant Guidebook, so you have to demonstrate that you have made that contact or at least that you have tried to contact. As I said before, Alexander and others and of course

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ICANN org may come up with very useful ideas so that this provision is now a real burden.

What happens in practice is that the relevant authority is on notice, so there's a possibility for that authority to engage with the applicant. I think this early contact would [inaudible] separations where the applicant has already filed his or her application and the public authority is now on notice, which really leads to misunderstandings and to conflicts.

So really this is to put people on notice and to have the relevant authorities being part of the process.

MARTIN SUTTON:

Thank you, Jorge. Alexander, you've got your hand raised. Please go ahead.

ALEXANDER SCHUBERT:

Especially we have to consider that the rules we are creating are not just for the next round. There will be a round after the next round. After a few rounds or maybe just one other round there will be an ongoing application process. As long as we have rounds and there's one batch of names, governments could come through those lists of applied-for names and could try to find if there's something they don't like. But once we go into live application models and people can apply at any time, then you cannot rely on governments sitting there and watching ICANN's website day and night. There has to be a method for how governments are notified.

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For the big governments that are well-represented in GAC and have an overhead that is concerned about ICANN, it's easy. But there are so many governments that just don't have the manpower to watch the ICANN circus day and night. So they can create the list one time and they can rest assured they get informed if there's an application that is concerning their potential rights. Finished.

MARTIN SUTTON:

Thanks, Alexander. I'm trying to capture stuff that's in the chat, if anybody wants to proceed. I've got Jorge and then Nick. Jorge, please go ahead.

Oh, old hand. Okay. Nick?

NICK WENBAN-SMITH:

Hi there. I'm just getting my head around the proposal on the table and trying to tease out some of the detail really because I'm quite sympathetic to the issues of national protection of names where they exist. We don't actually, to my knowledge, have legal protection for certain geographic names in the U.K. So this is something I'm just trying to get my head around. But as I understand it, if there is national legislation protecting a certain term, which is considered to be geographic – that could already be quite a problematic distinction, but let's put that to one side then – then there's a 12-month period from the publication of the Applicant Guidebook for that to be sent through and then for that to put on a list so that people can see it.

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Supposing there's a dispute about whether something is actually nationally protected or whether it is actually geographic in character, then where does this lead us? Because I just want to make sure we're not making it worse than the current situation. But in principle, it's a notification requirement, which would then perhaps lend itself to some sort of mediation procedure to prevent or head off the situations we saw in some of the previous examples. That'd would be actually quite desirable.

So I just want to try to work out whether that is understood properly and whether that's how it would likely go because the difficulty with a mediated procedure is that you need both parties to engage in it. If one party, either the government or the applicant, doesn't want to engage very far, then you just get to another impasse. Does that actually move us any further forward? I suppose that is my question.

MARTIN SUTTON:

Thanks, Nick. Then we've got Alexander.

ALEXANDER SCHUBERT:

You always have to look at who gets [re]protected. I think, when it comes, for example, to city names, it's not so much the national government that wants to be protected. It's the community of the people who live in that city. So, if there is an example for .shanghai, I don't think that the national government necessarily freaks out too much. It's 24 million people who live in that city and who might want to identify themselves with the TLD.

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If someone is going to apply for that city, no one in that city will necessarily know because it's not that the Shanghai-ans are sitting in the Internet and watching the application process. So someone should notify so that they can say, "Wait. Why is there a shoe-brand Shanghai trying to snap up our city name? We don't want that. We want to apply in the next round. So I don't think that is so much about national interests but the interests of the people who are living in that geo-community. Someone has to notify them and warn them so they can speak up. Finished.

MARTIN SUTTON:

Thanks, Alexander. Nick, is that an old hand? I assume it is, but feel free to step in – okay. Thank you.

So my rough assessment – Annebeth, please chip in here with what you're seeing and viewing through the chat and the discussions – is that we've got some pretty good support, I think, for the proposal that was put forward by Susan, the caveat being there that that's more in principle and needs to be thought through in terms of specific detail elements, as Nick raised. So there were some good questions there.

My interpretation of the chat and conversations with regards to the revised proposal that's in front of here is not so strong in that it's something that the Work Track 5 could, at this point in time, move forward with.

Annebeth, is that your view? Or have you got any thoughts on this and how we may proceed on this particular topic?

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Great. Please go ahead, Annebeth.

ANNEBETH LANGE: Can you hear me now?

MARTIN SUTTON: I can.

ANNEBETH LANGE: I agree with your view, Martin. I'm trying to read the things in the chat. From what I've heard, it seems like the members can go for Susan's suggestion at least as a first step to move away from where we were before. But we have to think through the different options here and, as it has been raised, the language question. That has to be gone through. It's still a little too vague. So I think we have to really understand what we are doing when we open up.

Also, Jorge's suggestion I don't think we should put away just yet. We should discuss. Perhaps, as Jorge said, he has some problems with the language to really get forward what he wants. So I don't think we should throw it away but give it another thought, perhaps, and take it forward again to next again. But at least we have moved on step forward from where we were before we started this discussion. Thank you.



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MARTIN SUTTON:

Thanks, Annebeth, and thank you all for the discussion on this. This has been really helpful. I know timelines tend to force these out, which is great in some respect, but we've also got limited time going forward to expand on this again. What I am seeing is that perhaps, at least as a starting point, we've got the proposal from Susan that seems to be well-supported and could move forward subject to further detailed discussion.

With Jorge's proposal, if there's something in between that we can work towards, specifically highlighting target lists, for instance, and ways that that could move forward, I think that leaves it open for this week to exchange on the list.

So I think, as an action, what else could be doing between Proposal 1 of Susan's and this latest proposal in front of you that could help the group come to a suitable conclusion and an acceptable proposal to put forward to the plenary group.

So I think we'll close that particular discussion now. I think we've raised a lot of questions. We've been able to hear some of the responses and ideas at this stage. I think a bit more thought through this would be good and helpful, and I'd welcome you to keep going on this item until we meet again next week. Thank you.

Let's move on to the next one, which related to – have I moved on too fast? – changes to string contention resolution. If we move down to the next slide, this explains really the method for the current guidebook and string contentions relating to those where the contention set is between the same geographic name. I won't read all the details. You've

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got the information there, so let's not waste our time on that. We've already gone through that.

If we move to the next slide just to highlight the status, we had discussions there on that the rules could be revisited by the Work Track 5 members, so there were suggestions towards that. We put a final call for proposals, and one was received. The opportunity here is just to discuss pros and cons. Again, last week it was thought that there needed to be a bit more time during the course of the week for people to consider and propose any questions.

Moving onto the next slide, this is the proposal. It's stretched over the next couple of slides. This is saying that, if any application for a string representing a geo-name is in a contention set with applications for identical strings that have not been identified as geographical names, the string contention would be resolved using the string contention's procedures described following. So these are revised.

The next slide, please, is to say that we'll update it to Case A, in case there is contention for a string where one application intends to use the string as a non-capital city name or designated the TLD to targeting it to a geographic meaning. Preference should be given to the applicant who will use the TLD for geographic purposes if the applicant for the geo-TLD is based in a country where national law gives precedent to city and/or regional names. The rationale for this was that it would be reflecting national law in countries like Switzerland and Germany, where, for example, city names have more rights than holders of the same name.

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In addition, Item B here is, if there is more than one applicant for an identical string representing a geographic name and the applicants have requisite government approvals, the applicant with the larger number of inhabitants will prevail over the smaller one. As the criteria size has been used in the [SEP] criteria, it is apparently a well-accepted criteria. The rationale for this would reflect the current rule of the Applicant Guidebook. The capital city has priority over a smaller city.

I know that there some early discussions on the call last week and were exchanged on e-mail, but this is an opportunity to see if there is any potential for carrying forward this or a variant of the proposal. So we just need to determine within the group if there is that path forward or whether we fall back on the Applicant Guidebook as is.

I shall open this up to the list. We have Alexander. Please go ahead.

ALEXANDER SCHUBERT: Just 20 seconds. I very much welcome the first portion, but I would add that it should not just be the jurisdiction where the applicant is sitting. But of course the targeted geo-name has to be in the same jurisdiction. So it cannot be that a German applicant is targeting an American name. Maybe in the United States there's no such right. So the applicant has to sit in the jurisdiction, and the targeted geo-place has to be in the same jurisdiction. Finished.

MARTIN SUTTON: Thank you, Alexander. Has anybody else got any thoughts, comments, or questions regarding the suggestions here? In particular, is there – can

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we just move the slide back up, actually, just for the content and [inaudible]? I think that would helpful. Thank you.

These were circulated on the list and were discussed briefly on the last call. I just want to make sure that there's opportunities to at least follow through after people have had time to consider.

I've got Paul and then Christopher. Paul, please go ahead.

PAUL MCGRADY:

Thanks. I know that there's been a lot of people pushing back on this proposal on the list. I've really given it some thought. My primary concern with this is that, essentially, yes, there are various folks that would lose out under this proposal, but the primary people who will lose out here is the folks who want to file community-based applications because, with the way this was written, it would jump ahead of anybody else that was in the queue. So I'm opposed to it for that reason and other reason, which I don't think I could go into.

I think I would just highlight that, that what we're talking about is creating a class of super-applications for folks who want to be in the geographic names business. I think that we've all worked really, really hard in the Applicant Guidebook to create a community-based application program that made sense. It was imperfect. It rolled out imperfectly. There have been bumps along the way. Essentially, to do away with it by allowing a leapfrog of these terms that are given specific rights I think, for me at least, is a non-starter. Thank you.

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MARTIN SUTTON: Thanks, Paul. We'll move to Christopher.

Christopher, please go ahead.

CHRISTOPHER WILKINSON: I beg your pardon. A couple of small points. First of all, I don't understand the interrelationship between this provision and the community applications for which I generally would have considerable sympathy. So I feel I have to look into that more closely. So I'm not saying one thing or the other about the community applications at this point.

My main point is quite political. All this insistence on the legal protection in certain countries I agree, from one point of view, guarantees the rights of geographical names in certain countries. Germany and Switzerland have been regularly cited. But the main effect of ICANN insisting on only protecting names that are legally protected in national laws [inaudible] over the next few years we will have a drip, drip, drip. We will have a slow wave of active parliament or government legislation protecting their names. You ask for it and you'll get it.

My personal point of view is that, if the inhabitants of a certain town are protected in one national legislation and suddenly discover this is in another national legislation, they're not protected. This kind of discrimination on ICANN's part will be misunderstood and it will not be helpful. And it will be temporary. If people start being injured—

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MARTIN SUTTON: We're on a timer, Christopher, so if I can [inaudible] back in the queue. There's—

CHRISTOPHER WILKINSON: I have an issue with the timer. First of all, I can't read it, and, secondly, it takes far too much space on the screen. But the staff know about that. Thank you.

MARTIN SUTTON: Greg, please go ahead.

GREG SHATAN: Thank you. ICANN is not in the business of enforcing national laws and particularly not in the business of enforcing national laws on an extraterritorial basis. If there are laws that apply to Germany and Switzerland, those are laws that apply in Germany and Switzerland. If an applicant from the U.S. wants to apply for [.lucerne], that is not a Swiss law issue for that applicant. The peanut gallery is commenting? Okay, thanks. In any case, that is beyond what we should be dealing with.

We need to think about this a little more broadly. If we are going to say that every law of every country applies to ICANN's policies, that's not merely a geographic names issue. We need to start bringing in the free speech laws of North Korea and the anti-homosexuality laws in a number of African countries. The list would go on and on. Local laws just cannot be applied on a global basis and cannot be applied to those who are outside of those jurisdictions. The fragmentation that would result

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from such an action would be really, really troubling. It really goes against the basic DNA of ICANN and what we do. Thank you.

MARTIN SUTTON: Thanks, Greg. Dev Anand, please go ahead.

DEV ANAND TEELUCKSINGH: Thank you. I just want to get some clarification on what's under B: if there's more than one applicant for an identical string representing a geographic name. Does that mean that, if there is an application for a string that's a name of a city and it's similar to an application of a country name, they're both considered geographic names? And, if the city has a higher population, it would prevail over the country name? That's my question because that's how I interpret it. I'm wondering if that is the intent.

I guess, coming from a small island/developing state, I might have concerns with that. That's it.

MARTIN SUTTON: Thanks, Dev Anand. Perhaps if [inaudible] to respond to that, please raise your hand and we'll pick that up as a point of clarification.

Meanwhile, I've got Jeff in the queue. Please go ahead.

JEFF NEUMAN: Thanks. In 2007/2008, there was an explicit decision by the GNSO to put a priority for communities because of the way that there had only been

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a few examples of communities at that point in time and because that was a value judgement based on a number of issues and presentations at the time. It was made back in 2007/2007 for a number of reasons.

But what we don't have here is a rationale as to why there's a proposal to put geographic uses of names ahead of every other type of use. That's the part that I'm struggling with at this point. We're not just talking about protection here. The other things that we were talking about before everything dealing with priority was, how do we protect the national sovereignty or how do we protect citizens? It was all in terms of protections, which is one thing. But here we're taking about an affirmative preference for a type of TLD, and I think that goes against ICANN's complete nature at this point in its existence to prefer one type of content or another type of content.

So I would think there needs to be a strong case made as to why geographic names should have priority over, let's say, a brand use of the name. To use an example that was pointed out, I think, earlier in the call, let's say – I know it's not protected at this point – NewYorker was for whatever reason not protected. Let's say someone wanted to apply for NewYorker as a geographic name, but then the magazine wanted to apply for NewYorker as a brand name. I'm just not sure anybody has made a case as to why the geographic name should have more value or priority over any other use of the name. So we're talking about a proposal without talking about the case for why something deserves priority. Thanks.



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MARTIN SUTTON: Again, I'm not clear on [inaudible] strong direction here [inaudible] chat – hello?

NKEM NWEKE: Hello, [inaudible]?

MARTIN SUTTON: Yeah?

NKEM NWEKE: Please, I couldn't follow what the last speaker said. I don't understand the direction [inaudible] into. Can someone explain?

MARTIN SUTTON: We're coming up to the close of the call. This will be available as a recording and put out on the list. So if I can ask you to follow it up there because we need to close this off in a few minutes. I was just rounding this off by saying that there's not clear direction for this particular proposal through the conversations here today and that have been shared on the list.

Similar to the last section, though, if there is any final revisions based on any comments today, Katrin, that you'd like to put forward on the list, I think that might be something that we can roll over to the next call, along with the rolled over item that we spoke about earlier, and assess it on that call. Thanks, Katrin, for your comment there.

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I'm conscious that we're coming up to time, so I think that we will stop there for the day. Well done. I think there's been some very healthy discussions and comments throughout the chat and on the call. So well done for that.

Before I close, is there any other business? If I could go to Annebeth first and then anybody else is there's any other business to cover before we close.

ANNEBETH LANGE:

I don't have anything under Any Other Business, but I just wanted to get the attention on the next thing on the agenda that we didn't have time to discuss today. We have input from Sophie Hey about the non-capital city names. Just read this and think about it and use the list until the next meeting so that we come back to that again in a week. Thank you for a really good discussion today.

MARTIN SUTTON:

Thanks, Annebeth. Anybody else before we close?

I'm hearing none, so those that need a caffeine fix or are going to wind down for the day, enjoy the rest of it. Thanks so much for joining us today. We look forward to continued discussions across the list and at next week's call. Thank you. Bye for now

**[END OF TRANSCRIPTION]**