

Dear Byron,

As you probably know the Cross-Community Working Group on Use of Country/Territory Names as TLDs (CCWG) has agreed on a text to be sent to the GAC Sub-group on Geographic Names as an answer on their request for input from the community.

<http://gns0.icann.org/en/correspondence/lange-et-al-to-gac-02dec14-en.pdf>

As co-chair representing the ccNSO I kindly ask the non-objection of the ccNSO Council for the CCWG to submit this letter. The co-chair representing the GNSO, Heather Forrest, has sent the same request to the GNSO Council. The letter is hereby enclosed.

At the same time I would ask the ccNSO to consider if it will gain the cause also to submit the input from the ccNSO in addition to this joint input from the CCWG. If I have understood Bart correctly the Council has already adopted this but not sent it. The deadline for the GAC is 31 December, so there will be time to do this later, especially if the GNSO Council make their own statement.

## **Input from ccNSO Council to the GAC document on The protection of geographic names in the new gTLD process, V3 – August 29 2014**

(adopted per email vote: 12 November, no comments received)

See: <http://ccnso.icann.org/about/council/decisions.html>

We refer to the above document and to the presentation of the document by Olga Cavalli at the joint ccNSO/GAC meeting in Los Angeles. We also refer to the meeting of the Cross-Community Working Group on Use of Country/Territory Names as TLDs, where Olga Cavalli attended.

In the meeting we underlined that the scope of the Cross-Community WG only comprises country and territory names as TLDs – not other geographical names, whereas the GAC WG treats geographical names as a whole. This difference is essential.

It is also of importance to remind the GAC that country and territory names has a special protection in the Applicant Guidebook (hereafter ABG), paragraph 2.2.1.4.1 on Treatment of Country or Territory Names: “Applications for strings that are country or territory names will not be approved, as they are not available under the New gTLD Program in this application round.” 2.2.1.4.1 also listed up which strings should be considered to be a country or territory name.

A footnote to 2.2.1.4.1 stated that Country and territory names should be excluded from the process based on advice from the Governmental Advisory Committee providing interpretations of Principle 2.2 of the GAC Principles regarding New gTLDs to indicate that strings which are a meaningful representation or abbreviation of a country or territory name should be handled through the forthcoming ccPDP, and other geographic strings could be allowed in the gTLD space if in agreement with the relevant government or public authority.

ccNSO were also concerned about the use of country or territory names as TLDs and underlined this both orally in meetings and in writing. As a result the Non-PDP Study Group on Use of Names for Countries and Territories was established.

<http://ccnso.icann.org/workinggroups/unctwg.htm>

The Study Group delivered their Final Report in July 2013. The recommendations were as follows:

“It is recommended that the ccNSO Council establish a cross community working group to:

- Further review the current status of representations of country and territory names, as they exist under current ICANN policies, guidelines and procedures;
- Provide advice regarding the feasibility of developing a consistent and uniform definitional framework that could be applicable across the respective SO’s and AC’s; and
- Should such a framework be deemed feasible, provide detailed advice as to the content of the framework.

The GNSO, ALAC and GAC should be invited to participate in such a WG. In light of the need for further work on the treatment of country and territory names, the complexity of the issue at hand and the aforementioned inconsistencies between various ICANN policies, it is also recommended that the ccNSO Council request that the ICANN Board extend the current rule in the new gTLD Applicant Guidebook regarding the exclusion of all country and territory names in all languages for consecutive rounds of new gTLD applications until such a time when the work of the cross community working group has been concluded.”

As you know, the Cross Community Working Group is already established and has started their work. As for the advice to the ICANN Board on extension of the current rule, the letter from ccNSO Council to ICANN Board will be sent if needed; if no progress is made in the Working Group.

In the GAC paper on The Protection of Geographic Names in the new gTLD process, all versions of geographical names are treated alike, including country and territory names. The AGB establishes in paragraph 2.2.1.4.2 what a geographical name in the new gTLD process is:

- Capital city names
- City names where applicants declare that they intend to use the gTLD for purposes associated with the city name
- Sub-national place names listed in the ISO 3166-1
- Regional names appearing on the list of UNESCO regions
- Regional names on the UN's "Composition of macro geographical (continental) regions, geographical sub-regions, selected economic and other groupings"

An application for these names as strings must be accompanied by documentation of support or non-objection from the relevant governments or public authorities, and hereby complies with the GAC principles regarding new gTLDs of 2007, which demands agreement with the relevant governments or public authorities to be used.

For these names the AGB establishes that "In the event of any doubt, it is in the applicant's interest to consult with relevant governments and public authorities and enlist their support or non-objection prior to submission of the application, in order to preclude possible objections and pre-address any ambiguities concerning the string and applicable requirements."

The ccNSO considers this a sensible solution.

We agree with the GAC that the definitions in 2.2.1.4.2 do not cover all the possible geo names in the world.

However, we sincerely doubt it will be possible to make lists to cover them all. That does not prevent that it is a good idea that the enlisting should be considered as a general reference for applicant and not as a strict and only criteria to determine whether a name is geographic or not. Also the government should keep the right to oppose the delegation of a TLD – even if it is not included in the list – on the basis of its sensitivity to national interests.

In our view it will avoid time-consuming discussions and disagreement if ICANN and Governments encourage the applicant to get in touch with

related local governments to try to reach agreement in advance. Public interest should have priority.

As for suggested changes in the AGB proposed by the GAC, we are of the opinion that as long as the work in the Cross-Community Working Group on Use of Country/Territory Names as TLDs has not been concluded, it is premature to include country and territory names in paragraph 2.2.1.4. We still do not know which result the working group will end up with concerning country and territory names. If the recommendation from this group is available before next rounds open, we will know whether the protection is in accordance with the GAC view.

However, if the result of the Working Group is not ready, and ICANN Board does not agree to extend the protection for the next round, we agree that the GAC suggestion is the best possible solution.

It will, however, be unfortunate if the recommendation from the Working Group and that from the GAC is inconsistent.

We therefore advise the GAC to keep close contact with the Working Group to coordinate the work.

We would like to remind the GAC that the problem visualized in the report from the Study Group, page 30, and showing inconsistencies creating user confusion.

<http://ccnso.icann.org/workinggroups/unct-final-02jul13-en.pdf>

Allowing country and territory names as TLDs at all will result in some being ccTLDs in the future, others gTLDs, see the table at page 30. This will also create competition on an unfair level.

