

# Report of Public Comments

## Interim Paper Cross-Community Working Group on Use of Names of Countries and Territories as Top Level Domains

<b>Publication Date:</b>	3 May 2017										
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Comment Open	24 February 2017										
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### Section I: General Overview and Next Steps

The Cross-Community Working Group ccNSO WG on Use of Country and Territory Names as Top-Level Domains (CWG-UCTN) sought public comments on its Interim Paper (<https://ccnso.icann.org/workinggroups/ccwg-ctn-interim-paper-09feb17-en.pdf>), specifically on its draft conclusions and recommendations:

- The group is of the view that a harmonized framework on the use of country and territory names is not feasible due to various reasons
- The CWG intends to recommend to continue work in this area, after some of the issues limiting this effort have been resolved
- Members of the CWG have varying views on structure of the new effort

The CWG has received 15 comments, which have been summarized by ICANN staff. The CWG will now review the comments and feedback received and revise its paper, including the recommendations, as deemed appropriate. The Final Paper of the CWG will then be submitted to the ccNSO and GNSO Councils for discussion, and adoption.

### Section II: Contributors

*At the time this report was prepared, a total of 15 community submissions had been posted to the Forum. The contributors, both individuals and organizations/groups, are listed below in alphabetical order, with their respective initials. To the extent that quotations are used in the foregoing narrative (Section III), such citations will reference the contributor's initials.*

#### Organizations and Groups:

Name	Submitted by	Initials
At-Large Advisory Committee	ICANN Policy Staff	ALAC
Business Constituency (BC)	Steve DelBianco	BC
Council of European National Top-Level Domain Registries	Peter van Roste	CENTR
Estonian Internet Foundation	Timo Vöhmar	EIF
GAC, Costa Rica	Noemy Coto Grijalba	GACCR
GAC, Norway	Ørnulf Storm	GACNor
GAC, Singapore	Queh Ser Pheng	GACSing
GAC, Spain	Rafael Pérez Galindo	GACSpain
GAC, Switzerland	Jorge Cancio	GACSwitz

Intellectual Property Constituency	Greg Shatan	IPC
LACTLD	Andres Plaza	LACTLD
NIC Costa Rica	Rosalía Morales	NICCR
NIC México	Manuel Haces Aviña	NICMX
Registries Stakeholder Group	Stéphane Van Gelder	RySG
Valideus Ltd	Susan Payne	VAL

Individuals:

Name	Affiliation (if provided)	Initials
None	N/A	N/A

### Section III: Summary of Comments

*General Disclaimer: This section is intended to broadly and comprehensively summarize the comments submitted to this Forum, but not to address every specific position stated by each contributor. Staff recommends that readers interested in specific aspects of any of the summarized comments, or the full context of others, refer directly to the specific contributions at the link referenced above (View Comments Submitted).*

### COMMENTS ON PROPOSED RECOMMENDATIONS

Supports closing the Cross-Community Working Group (Interim Paper Recommendation 1)

The ALAC supports Recommendations 1, 2 and 4.  
ALAC (26 April 2017)

The BC supports closing the CWG-UCTN in favor of a broader, all-inclusive policy development process, to address all issues related to the use of country and territory names (and potentially “geographic names” as that term is understood more broadly) as TLDs.  
BC (25 April 2017)

CENTR supports this recommendation. The CWG has served its purpose and has done everything reasonably possible within its mandate to find a harmonised framework for use of country and territory names as top-level domains (TLDs). However, it has failed to find a solution. The CWG should therefore be closed in accordance with its charter.  
CENTR (24 April 2017)

After approximately 4 years of work it seems clear that the CWG-UCTN will not be able to make further progress on its stated aims of providing advice regarding the feasibility of developing a consistent and uniform definitional framework that could be applicable across the respective SOs and ACs, nor to provide detailed advice as to the content of that framework. Consequently, the IPC supports the three recommendations on next steps, as follows: 1. Close this CWG in accordance with and as foreseen in the charter. . .  
IPC (21 April 2017)

We propose:

- To close the CWG-UCTN, as its purpose has been exhausted and no consensus has been reached, in line with Recommendation 1 of the conclusions (page 30).  
LACTLD (21 April 2017)

This is a topic which has had many round of discussion and historically there has never been a clear finding of consensus on the cross community position. Hence, we encourage to undertake proposed Recommendation 1, ending formally this deliberation, and close the Cross Community Working Group on this matter as proposed.  
NICMX (21 April 2017)

The RySG supports the recommendation to close the current CWG.  
RySG (21 April 2017)

We support closing the CWG-UCTN, and the recommendations 1, 2 and 4.

*VAL (21 April 2017)*

Supports consolidation of community efforts on this topic (Interim Paper Recommendation 2)

The ALAC supports Recommendations 1, 2 and 4.

*ALAC (26 April 2017)*

The BC supports closing the CWG-UCTN in favor of a broader, all-inclusive policy development process, to address all issues related to the use of country and territory names (and potentially “geographic names” as that term is understood more broadly) as TLDs.

*BC (25 April 2017)*

CENTR supports this recommendation related to geographic names at top level. A harmonised framework can only be achieved through an overarching effort across all ICANN communities. CENTR also believes it is already clear from the CWG interim report that different (albeit interrelated) policies for the various types of geographic terms will be required. Geographic names such as names of rivers, capital cities and region names are different in nature from ISO 3166-1 3-letter codes and full or abbreviated country names as listed in ISO 3166-1. One of the most essential differences is that country names (via their 2-letter equivalent) were explicitly recognised as a separate category in RFC 1591.

*CENTR (24 April 2017)*

After approximately 4 years of work it seems clear that the CWG-UCTN will not be able to make further progress on its stated aims of providing advice regarding the feasibility of developing a consistent and uniform definitional framework that could be applicable across the respective SOs and ACs, nor to provide detailed advice as to the content of that framework. Consequently, the IPC supports the three recommendations on next steps, as follows: . .

.2. Recommend that the ICANN community consolidate all policy efforts relating to geographic names (as that term has traditionally very broadly been defined in the ICANN environment to this point) to enable in-depth analyses and discussions on all aspects related to all geographic-related names. This is the only way, in our view, to determine whether a harmonized framework is truly achievable. . .

*IPC (21 April 2017)*

We believe that to obtain results and allow progress towards consensus, geographical name related efforts should be unified in a single and common discussion forum. The discussion should include all stakeholders in a broad and participatory manner. That is, the work of the ccNSO and GNSO, including both the GAC and all the stakeholders interested in this issue, should be made public.

*GACCR (20 April 2017)*

Lastly, we support the CWG-UCTN's recommendation that ICANN consolidate all policy efforts relating to geographic names to enable in-depth analysis on all aspects.

*GACSing (20 April 2017)*

Considering the complexity and sensitivity of the issues surrounding the use of geographic names, we strongly support recommendation 2, that all policy efforts relating to geographic names should be consolidated and reviewed in one place, rather than in silos.

*VAL (21 April 2017)*

Supports Interim Report Recommendation 3, Alternative A

On the question of how to organise this future work, i.e., how to effectuate recommendation 2 above, we note that the CWG-UCTN members were unable to agree and thus that three alternative suggestions are offered, all of which garnered some support within the working group. Some members of the CWG-UCTN appear to favour the convening of a further cross-community working group (CCWG). This is not an acceptable solution since a CCWG has no authority under the Bylaws to develop policy, and the GNSO is specifically tasked under the Bylaws with developing policy on gTLDs.

The only one of the proposed alternatives that is consistent with ICANN's Bylaws and recognises the GNSO's role in policy development work for gTLDs is Alternative A: Future work should take place with the authority of a policy development process under ICANN's Bylaws, with a clearly drafted Charter or scope of work that sets out how conclusions and recommendations will inform that policy development process. This addresses a key deficiency of this CWG, as it has not been made clear how the group's work can or will be incorporated in policy-making pursuant to ICANN's Bylaws.

*IPC (21 April 2017)*

Regarding recommendation 3, we believe that each of alternatives A, B and C have some scope for ambiguity and

differences of interpretation depending on one's viewpoint. This appears to be a result of the difficulty in reaching a consensus position and the attempts, albeit unsuccessful, to find a form of compromise language which all working group participants could support. Of the three, we would favour alternative A, in the form as it is set out in the Executive Summary, namely:

"Future work should take place with the authority of a policy development process under ICANN's Bylaws, with a clearly drafted Charter or scope of work that sets out how conclusions and recommendations will inform that policy development process. This addresses a key deficiency of this CWG, as it has not been made clear how the group's work can or will be incorporated in policy-making pursuant to ICANN's Bylaws."

*VAL (21 April 2017)*

#### Supports Interim Report Recommendation 3, Alternative C

With regard to Recommendation 3, the ALAC supports option 3(c). Any work going forward must be both inclusive and will require a process which accommodates both the ccNSO Policy Development Process (PDP) as well as the GNSO PDP governed by the ICANN Bylaws Appendix A coupled with the GNSO PDP Manual. Whether this will include a CWG or some other form of group(s) will need to be decided jointly by the ccNSO and the GNSO prior to work proceeding.

*ALAC (26 April 2017)*

#### Requests clarification of Recommendation 3

The recommendation set out in the interim report poses three options, and CENTR notes that the CWG could not reach a consensus for any of the options, although there appears to be a small majority supporting alternative C. Unfortunately, CENTR did not find this recommendation or any of the alternatives as set out above clear enough or easy to understand. In CENTR's view, the essence of the point intended to be made is covered/duplicated in recommendation 4 (see below).

*CENTR (24 April 2017)*

#### Supports inclusive dialogue (Recommendation 4)

The ALAC supports Recommendations 1, 2 and 4.

*ALAC (26 April 2017)*

The BC supports closing the CWG-UCTN in favor of a broader, all-inclusive policy development process, to address all issues related to the use of country and territory names (and potentially "geographic names" as that term is understood more broadly) as TLDs.

*BC (25 April 2017)*

CENTR strongly supports this recommendation. CENTR believes that a stable and harmonised framework can only be achieved through a multi-stakeholder approach. In CENTR's view, in relation to geographic terms at the top level, an essential precondition to any change to the rules agreed upon in the Applicant Guidebook (AGB) for use in subsequent rounds is the support of all stakeholders in the ICANN community. If the different stakeholder groups, not least the existing ccTLDs, their respective governments and national internet communities, are not effectively brought into the process together with its outcomes, there is a substantial risk that we will all end up with disputes and other legal processes delaying the opening of a new round of gTLDs. This is in nobody's interest and risks bringing the ICANN processes and communities into disrepute.

*CENTR (24 April 2017)*

After approximately 4 years of work it seems clear that the CWG-UCTN will not be able to make further progress on its stated aims of providing advice regarding the feasibility of developing a consistent and uniform definitional framework that could be applicable across the respective SOs and ACs, nor to provide detailed advice as to the content of that framework. Consequently, the IPC supports the three recommendations on next steps, as follows: . .

.3. Recommend that future policy development work must facilitate an all-inclusive dialogue to ensure that all members of the community have the opportunity to participate. Again, we believe that this is the only way to determine whether a harmonized framework is truly achievable.

*IPC (21 April 2017)*

If for any case, this discussion is prolonged within the ICANN community, we strongly believe that all SO and AC's need to be included, informed and participate in the discussion.

*NICCR (21 April 2017)*

We support closing the CWG-UCTN, and the recommendations 1, 2 and 4.

*VAL (21 April 2017)*

Supports future work through the Subsequent Procedures Policy Development Process Working Group

The BC would prefer to proceed through a GNSO PDP, as this process is well defined in the ICANN Bylaws, and we reiterate that although this process is managed by the GNSO, it is completely open to participation by any stakeholders regardless of affiliation (including members of the ccTLD community (i.e. the ccNSO) and the GAC). The BC specifically supports this conversation continuing in the New gTLD Subsequent Procedures Working Group, as this policy development process has the mandate to address the issues of geographic names at the top level.  
*BC (25 April 2017)*

In meeting the recommendations of Alternative A, matters relating to all geographic names at the Top Level should be dealt with under the auspices of the existing GNSO PDP on New gTLD Subsequent Procedures. These issues are already, and quite properly, within the scope of the charter of the Subsequent Procedures PDP. Participation in GNSO PDPs is not limited to members of the GNSO. Participants from all parts of the community are welcome to join a PDP working group and indeed the Subsequent Procedures PDP working group already does include participants who associate with the GAC, ALAC and ccNSO. To the extent that nonGNSO members who are only concerned about this specific issue may be concerned about joining the Subsequent Procedures PDP because of its wide scope of work, this could readily be addressed by creating an additional work track.  
*IPC (21 April 2017)*

With regard to the question what approach further work should take, the RySG is concerned that further work on geographic names should not delay the preparations of the next and subsequent rounds. The New gTLD Subsequent Procedures PDP is the appropriate mechanism to consider and provide (a) policy recommendation(s) related to the replacement of Section 2.2.1.4.1 of the 2012 Applicant Guidebook that made country and territory names and 3166 Alpha 3 codes "ineligible" for the 2012 round. The New gTLD Subsequent Procedures PDP is already underway and these issues already fall within the scope of its Charter. All members of the community are eligible to participate in the Subsequent Procedures PDP working group, however we believe that there would be merit in convening a separate work track so that those who may have an interest only in this issue, and not in the wider scope of the work of the PDP, may participate more conveniently.

We recognize the interest of the ccNSO and the GAC in this matter and we encourage their participation in the Subsequent Procedures PDP WG. We believe this approach to be aligned with each of the alternative recommendations (Alternatives A, B and C) proposed by the CWG.  
*RySG (21 April 2017)*

We also strongly support that this consolidated discussion should take place within the Subsequent Procedures PDP. The treatment of geographic names in the widest sense at the top level is already within the scope of the charter for this PDP and the PDP working group is already actively engaged in its deliberations on other policy issues. Members of the ccNSO, GAC and ALAC are encouraged to participate in GNSO PDPs, and some already do participate in Subsequent Procedures. In recognition that some have expressed concerns about the extensive number of topics being dealt with by the Subsequent Procedures PDP, we would support the creation of a working track to focus specifically on geographic names issues, if considered appropriate.  
*VAL (21 April 2017)*

Supports future work through a Cross-Community Working Party

Norway has the view that any further discussions on country or territory names, including meaningful representations and abbreviation as TLDs should be a community wide process in form of a cross-community working party where at least the ccNSO and the GAC, apart from interested parties from the GNSO, would need to participate.  
*GACNor (19 April 2017)*

Supports future work through a cross-community process led by the ccNSO

Consistent with the Nairobi GAC Communiqué, discussions on country and territory names as TLDs should be held under a particular cross-community process lead by the ccNSO where interested parties such as the GAC and the GNSO can take part.

Module 2 Section 2.2.1.4.1 of the 2012 Applicant Guidebook should in the meantime be respected.

Even if it is not within the scope of this group, we wish to highlight that protections for country and territory names called for by the GAC Principles on new gTLDs should also apply to the second level, as provided for in Module 5 of the Applicant Guidebook and Specification 5 of the Registry Agreement.  
*GACSpain (24 April 2017)*

Supports future work through the ccNSO or a Cross-Community Working Party

The discussion on the use of country and territory names as TLDs -and geographical names in general- have been very controversial in the community in the past.

In this context, we consider that the rules contained in the current applicant guidebook, in particular in section 2.2.1.4.1, which are a result of long discussions crosscommunity efforts, should be recognized as a compromise and a baseline for the future treatment of country and territory names as new TLDs.

Accordingly, we consider that the main forum for discussions on country or territory names as TLDs should be the ccNSO and/or a specific community wide process, in form of a cross-community working party where at least the CCNSO and the GAC, apart from interested parties from the GNSO, would need to participate.

While these discussions take place the relevant provisions from the 2012 Applicant Guidebook on the matter, especially Section 2.2.1.4.1, should remain in place.  
*GACSwitz (24 April 2017)*

#### Supports future work through a ccNSO PDP

If a PDP process is advised at any time, this process needs to happen within the ccNSO and include other groups, particularly the GAC. In any case, it should never solely take place within the gNSO due to the sensitivity of the issue at hand and the direct impact on the ccNSO and GAC in particular.  
*NICCR (21 April 2017)*

#### Supports future work through the ccNSO and GAC

Representation on the DNS is a matter of national interest, and any process that might implicate the use country name or the country-code on the Internet shall be addressed by the local multistakeholder community represented on ICANN by the ccTLD and the Government. On this behalf formal and direct efforts of contact shall be made directly to both parties on any case potentially involving our country name.  
*NICMX (21 April 2017)*

#### Supports future work that formally includes ccTLDs and the ccNSO

We propose:

- To formally include, if there are subsequent rounds of discussion on this topic, the participation of the ccTLDs community and the ccNSO.  
*LACTLD (21 April 2017)*

#### Supports future work on procedure to guarantee protection of country and territory names

The debate should be clearly in line with ICANN policy development process. It is our belief that this is a situation calling for a long-term, uniform, applicable and effective solution. In other words, the discussion, at this point, should not revolve around defining which domains (three letters, currencies, geographical areas, etc.), should be included and which should not, but, rather around establishing a procedure guarantying that country and territory names are always protected as part of the TLD.

The addition of new domains using a country name at the top level creates confusion, and due to the little value this adds, it is better to avoid this. We also recommend continuing to protect country and territory geographical names due to aspects related to self-determination of peoples, sovereignty sensitivity, indigenous culture and no confusion for the end user.  
*GACCR (20 April 2017) [Translated from Spanish](#)*

## **OTHER COMMENTS**

### **Two-Letter Names**

#### Supports continuing to reserve 2-letter domains for ccTLDs

CENTR strongly supports this preliminary recommendation [from the CWG]. This policy has provided a stable and predictable framework based on RFC 1591. A general restriction on assigning 2-letter codes that are not on the ISO 3166-1 Alpha-2 list avoids the difficulties that would arise in the event of a name change or future addition to the ISO 3166-1 Alpha- 2 list. In CENTR's view, it quite rightly removes ICANN from political discussions on what is and what is

not a country.  
*CENTR (24 April 2017)*

The Government of Costa Rica believes it is essential that two characters be maintained as the official identifier for countries. This rule has already been established in RFC 1591, and no grounds for changing this identification mechanism are found in the documentation provided. Any two-letter string, regardless it is currently in use, should be reserved. As specified on page 20 of the document submitted for consultation, we support the continued protection of these domains in the future round of generic domains. ICANN should not take upon itself the process of determining which is country and which is not, but it should adhere to the provisions set forth in ISO 3166 [Specifically ISO3166-Part1].

*GACCR (20 April 2017) [Translated from Spanish](#)*

The discussion on the use of geographical names, including meaningful representations and abbreviations, have shown to be very controversial in the Community discussions. In this context, the current applicant guidebook section 2.2.1.4.1 is a result of long discussions and should be recognized as a compromise and a baseline for the future treatment of country and territory names as new gTLDs.

*GACNor (19 April 2017)*

Singapore supports the CWG-UCTN's recommendation that ICANN's existing policy of reserving "two-letter representations of country and territory names in the ISO 3166-1 alpha2-standard" for ccTLDs should be maintained.

*GACSing (20 April 2017)*

In this context, we consider that the rules contained in the current applicant guidebook, in particular in section 2.2.1.4.1, which are a result of long discussions crosscommunity efforts, should be recognized as a compromise and a baseline for the future treatment of country and territory names as new TLDs.

*GACSwitz (24 April 2017)*

International law does not confer exclusivity upon governments relating to the use of geographic names in the DNS, trademark law, or any other context. Instead, international law expressly rejects government exclusivity by requiring the recognition of private parties' rights in trademarks and service marks, and geographical indications. International and national law recognize the ability of any term, including terms such as 2-letter codes, that in certain contexts may have geographical significance, to serve as trademarks, and by extension serve the public interest functions of trademarks as new gTLDs. Numerous national and international companies use, and have acquired registered protection for, 2-letter words or acronyms as their trademarks. Examples would include GE (General Electric), BA (British Airways), and VW (Volkswagen). In many contexts, the primary significance of these terms will be their significance as trademarks and not any geographical significance.

Consequently, there is no right under international law which would grant priority for the use of 2-letter codes as country code TLDs over any other rights in the same term, such as the rights of trademark owners to operate a Brand gTLD.

Notwithstanding the lack of a legal basis for affording primacy over the use of 2-letter codes to ccTLD operators and governments, the conclusion of the CWG-UCTN is that these terms should be reserved for use exclusively as ccTLDs. Members of the GNSO, including some IPC members, participated in the working group and supported this recommendation, notwithstanding the potential for conflict with existing trademark rights.

This demonstrates a clear willingness to compromise on the part of the GNSO. This conclusion by the CWG-UCTN has been reached on the basis of the longstanding practice, adopted from the DNS' inception and arising from RFC 1591, of using 2-letters exclusively to denote ccTLDs. RFC1591 acknowledges that "IANA is not in the business of deciding what is and what is not a country", and that use of the ISO 3166-1 provides an external standard for determining which terms should be included on the list. The IPC's support of this recommendation is on the basis of this reasoning. The IPC would not support any restriction based on claims to sovereignty or other like rights to country codes, due to the lack of legal basis for such rights. Further, although the Interim Paper refers in section 5.1.5 to various potential disadvantages of altering the current policy, including alleged confusion with the ccTLDs if some 2-letter terms were released for use as gTLDs, the CWG-UCTN has no data which supports such a claim of actual or likely confusion. Consequently the IPC would not support any restriction based on claims of such confusion, and recommends that section 5.1.5 be amended to make it clear that the advantages and disadvantages referred to are merely a summary of the various competing views advanced within the working group and not (incorrectly) stated as "outcome[s] of the debate."

*IPC (21 April 2017)*

Considering:

- The existence of the ISO3166 list, as well as the identification of countries on the Internet through a 2-character ccTLD, and consequently the historical protection of country names in the DNS given the

importance of the intangible value of these; Together with the fulfillment of the community orientation that guides its operation.

- The possible confusion with existing and widely used ccTLDs, that TLDs with country names or 3-character country codes may cause to the registrant.
- That the Report preliminarily recommends "to maintain the existing policy in ICANN to reserve 2-letter codes for ccTLDs" (p.20); ...

*LACTLD (21 April 2017)*

We support CWG-CTN's decision to continue protecting two letter country code domains as stated in page 20 of the Interim report: "The CWG recommends that the existing ICANN policy of reserving 2-letter codes for ccTLDs should be maintained, primarily on the basis of the reliance of this policy, consistent with RFC 1591, on a standard established and maintained independently of and external to ICANN and widely adopted in contexts outside of the DNS (ISO 3166-1)."

*NICCR (21 April 2017)*

According to RFC1591, the proper space for national identification on Internet corresponds to the ccTLDs, who represent the national interest and have a duty to serve their communities fulfilling a role of stewardship on behalf of the best interest to their stakeholders and its local Ecosystem, represented on policies that guide the operation on this sake.

*NICMX (21 April 2017)*

The RySG acknowledges the preliminary recommendation within the CWG, to maintain the existing ICANN policy of reserving 2-letter codes for ccTLDs.

*RySG (21 April 2017)*

We support the preliminary recommendations of the CWG-UCTN that the existing ICANN policy of reserving two-letter codes for ccTLDs be maintained. That support is due to the basis for the recommendation adopted by the CWG-UCTN, namely that this is "consistent with RFC 1591, on a standard established and maintained independently of and external to ICANN and widely adopted in contexts outside of the DNS (ISO-3166-1)", and that this has provided a stable and predictable policy up to now.

*VAL (21 April 2017)*

#### Does not support 2-letter domains being strictly limited to ccTLDs

The BC does not object to continuing to reserve existing two-letter country-codes for use as ccTLDs where the code is currently assigned to a specific country or territory for use as its ccTLD. However, the BC sees no principled reason to categorically maintain the status quo moratorium on generally using two-letter strings as gTLDs. The BC would thus support further consideration of this issue by the community.

As an initial matter, two-letter domain names can be combined into 676 (26<sup>2</sup>) configurations, of which only around 250 correspond to codes currently assigned to a specific country or territory for use as its ccTLD. To the extent certain jurisdictions have an assigned country code but have yet to utilize the corresponding ccTLD (e.g., .bl for Saint Barthélemy, .bq for Bonaire, Sint Eustatius and Saba, .bv for Bouvet Island, .mf for Saint Martin, and .sj for Svalbard and Jan Mayen), the BC would support the reservation of such domain names. However, that still leaves several hundred remaining combinations of two letter domain names which are not currently associated with a particular country or territory.

The designation of two-letter TLDs as ccTLDs is not based on any particular technical or legal principle. Rather, it is a mere historical artifact from early development of the Domain Name System (DNS).<sup>1</sup> On the other hand, there are countervailing principles supporting the opening of certain unassigned two-letter strings for use as gTLDs, including principles of free expression and applicable national trademark laws. For example, the two-letter string "VW" is currently not assigned as a two-letter country-code.

We see no reason why Volkswagen, which owns trademark registrations around the globe for the well-known VW mark,<sup>2</sup> should not be able to apply to operate .VW as a Brand gTLD

Moreover, many existing ccTLDs are already used as de facto "generic" TLDs, and not as a means of identifying their assigned country or territory. For example, .CO is marketed and used generically to refer to corporations (although .CO is the ccTLD for Colombia), and .TV is marketed and used generically to refer to television (although .TV is the ccTLD for Tuvalu).

For these reasons, we believe the possibility of lifting the existing complete moratorium on using non-assigned/delegated two-letter strings as gTLDs should be further explored in any future policy development process examining the use of two-letter strings at the Top Level.



BC (25 April 2017)

## Three-Letter Names

### Supports maintaining the status quo and restricting use of 3-letter codes

The discussion on the use of geographical names, including meaningful representations and abbreviations, have shown to be very controversial in the Community discussions. In this context, the current applicant guidebook section 2.2.1.4.1 is a result of long discussions and should be recognized as a compromise and a baseline for the future treatment of country and territory names as new gTLDs. ISO 3166-1 3-letter codes have strong associations with the country or territory they represent, sometimes even stronger than their 2-letter equivalent.

*GACNor (19 April 2017)*

On 3-letter codes at the top-level, we note that the CWG-UCTN has been unable to come to a consensus for a recommendation. We note also that the GAC-Helsinki communique advises the ICANN Board to "keep current protections in place" and appreciate that the Board ensures this advice is kept in mind while this issue is still being discussed.

*GACSing (20 April 2017)*

In this context, we consider that the rules contained in the current applicant guidebook, in particular in section 2.2.1.4.1, which are a result of long discussions crosscommunity efforts, should be recognized as a compromise and a baseline for the future treatment of country and territory names as new TLDs.

*GACSwitz (24 April 2017)*

Considering:

- The possible confusion with existing and widely used ccTLDs, that TLDs with country names or 3-character country codes may cause to the registrant.
- . . . And that, with respect to 3-letter country codes, the report of the above-mentioned working group indicates that "no consensus was reached" (p.25). It is important to note that this is an issue that has already had several rounds of discussion over the years and, in general, the community has repeatedly failed to find a definite consensus on the release or maintenance of restrictions on these three-letter codes, when they coincide with the nomenclatures used by the countries.

We propose:

- To conclude the discussion on the eventual release of the restrictions on the registration of 3-character TLDs that coincide with country codes.
- To maintain the exclusion of TLDs corresponding to the country names and 3-character country codes.

*LACTLD (21 April 2017)*

It is clear that allowing generic domains to include the ISO 3166-1 codes and country names is a controversial issue that does not lead to consensus of the global Internet community. As such, we recommend that this discussion is not continued and the Use of Country and Territories a Top Level Domains continues to be protected as it has been in previous rounds.

We strongly believe, that the use of the ISO 3166-1 codes and country names as TLDs has a very significant intangible value strongly related to the sovereignty and reputation of a country. Allowing third parties to use a country name can create confusion with the current ccTLD, and also link a country's reputation with undesirable ideas that makes these domains extremely sensible and should be protected.

*NICCR (21 April 2017)*

Expanding the DNSs space opening TLDs corresponding to the country name or the 3 letter character country code will increase complexity on registration causing potential confusion to registrants, and surely will cannibalize a market which is fundamentally limited, and in which it will not be feasible to sustain concurrent strings.

*NICMX (21 April 2017)*

### Supports requiring government support or non-objection for delegation of 3-letter codes

CENTR accepts that the working group was unable to reach a consensus in relation to the 3-letter ASCII codes. Indeed, there are greater and lesser degrees of sensitivity within the CENTR community itself about the potential use of 3-letter combinations which exactly match the ISO 3166-1 Alpha-3 list. For some ccTLDs, the corresponding 3-letter country code combination, if released as a gTLD, would present a very real and serious cause for concern due to the similarity with the existing 2-letter ccTLD and the high degree of user/consumer identification with the 3-letter combination with the country in question.

We suggest that if at any point in the future 3-letter codes that are currently included in the ISO 3166-1 Alpha-3 list are

to be delegated, this should only be allowed on the same terms as currently defined under the current gTLD round in the AGB paragraph 2.2.1.4.2. It does not make any sense that capital cities and cities under certain circumstances need support or non-objection from relevant governments or public authorities, but that 3-letter country codes would not need this protection. This is not in line with the hierarchy of such names.  
*CENTR (24 April 2017)*

If the decision to continue with the discussion on three -or -more -letter country domains is made, it is suggested that any new gTLD containing a country name, or its initials, should go through a non-objection process by the relevant administration. To this end, the procedure should establish a mechanism to ensure that the consultation is being answered by a valid, official and legitimate interlocutor. In this regard, similar procedures are already in place, so the use of Protection Mechanisms such as the Uniform Rapid Suspension (URS), the Post-Delegation Dispute Resolution Policy (PDDRP) and the Registry Restriction Dispute Resolution Procedure (RRDRP) is suggested. Information about each of these processes is available on the ICANN website: <https://www.icann.org/resources/pages/urs-2015-12-15-es> and <https://www.icann.org/resources/pages/pddrp-2015-04-24-es> | <https://archive.icann.org/es/topics/new-gtlds/draft-rrdrp-clean-15feb10-es.pdf>. Once again, we reiterate the importance of including all stakeholders in these discussions, particularly the GAC, and the ccNSO, and that these discussions should not only take place within the gNSO.

*GACCR (20 April 2017) [Translated from Spanish](#)*

### Supports use of 3-letter codes as gTLDs

... The BC supports the use of three-letter strings as new gTLDs, and objects to either (1) maintaining the existing moratorium on using three-letter strings as gTLDs or (2) designating any unassigned three-letter strings exclusively for use as three-letter ccTLDs.

Again, there is no principled reason for reserving three-letter strings for use as three-letter ccTLDs. Although the International Standardization Organization (ISO) maintains a list of three-letter country-codes to complement its list of two-letter country-codes, these three-letter strings have never been used as ccTLDs. On the contrary, many three-letter strings have been used as gTLDs (e.g., .COM, .NET, .ORG, .EDU (legacy gTLDs) and .TOP, .RED, .REN, .APP (new gTLDs)). The most ubiquitous of these examples, the .COM TLD, overlaps with the ISO three-letter code assigned to Comoros.

On the other hand, principles of free expression and national trademark law militate in favor of opening three-letter strings for use as new gTLDs, even where they may correspond to a three-letter country-code on the ISO list. Existing rules and requirements restricting what can be allocated as a gTLD, such as rules against confusingly similar strings, should still apply. However, there is no internationally-accepted legal basis for giving blanket priority over the use of three-letter strings to governments or ccTLD managers.

Accordingly, we believe the possibility of lifting the existing moratorium on using three-letter strings that correspond to three-letter country-codes on the ISO list as gTLDs should be further explored in any future policy development process examining the use of two-letter strings at the Top Level.

*BC (25 April 2017)*

The comments that we made earlier in this comment in relation to 2-letter terms – the lack of any basis under international law for governments to claim sovereignty and priority of use in those terms – apply equally in relation to the 3-letter terms. Any claims to such “sovereign” rights would conflict with existing trademark rights. In the case of 2-letters, such claims to sovereignty were not the basis for the CWG-UCTN’s recommendation. There is no rationale provided in the Interim Paper for not applying the same decision-making approach which was adopted for the 2-letters to the 3-letter codes. The recommendation of the CWG-UCTN in relation to 2-letter codes is based on the historical, standardized practice relating to the use in the DNS of the externally-managed ISO standard, and arising from the adoption of RFC1591. There is no such practice, based on the reliance on an externally-managed standard adopted from the outset of the DNS, in relation to 3-letter codes. Consequently, there is nothing which supports reserving these terms, either entirely or for use only as ccTLDs.

Further, ISO 3166-1 alpha-3 codes are three-letter country codes defined in ISO 3166-1, to represent countries, dependent territories, and special areas of geographical interest based upon the alpha-2 codes.

As such, the countries and geographic interests represented thereby are wholly represented in ISO 3166 alpha-2. Consequently, the continued reservation of these 3 letter codes would be completely duplicative, redundant and serve no apparent purpose.

Furthermore, insofar as there have been arguments for allocating these terms to be operated as ccTLDs, no perceived advantage or necessity has been identified by the technical or country code community for such an expansion, save that of providing additional revenue streams for existing ccTLD providers, who have already been

allocated what would be considered to be prime internet real estate in the form of the 2-letter codes. The IPC has been unable to identify any advantage of such a policy, and sees numerous disadvantages in terms of restricting the availability of many potential 3-character strings as new gTLDs within the DNS, many of which are commonly used words or famous or well-known trademarks. This is inconsistent with many countries'/states' own national trademark laws and is a significant impediment to the ability of rights holders worldwide to participate in the DNS and engage in e-commerce.

The IPC does not support any restrictions on the use of 3-letter codes as gTLDs, save insofar as certain terms have been reserved for technical reasons, subject of course to any policies designed to protect against the infringement of legal rights and the avoidance of string confusion.

*IPC (21 April 2017)*

The RySG strongly opposes any policy of reserving 3-character codes and is of the opinion that all 3-character codes (ASCII as well as IDN) should be eligible for the use as gTLDs, regardless of whether they are listed as alpha-3 codes on the ISO 3166-1 list.

There are no valid reasons that justify a policy of reserving 3-letter codes:

- There is no basis for countries or country-code operators to claim sovereignty or ownership rights over 3-character codes.
- Using 3 characters or more for gTLDs and reserving 2 characters for ccTLDs is consistent with current practice since the inception of the domain name system.
- There exist several 3-character gTLDs while there are no examples of 3-character strings that are used as a ccTLD. Reserving 3-character strings for use as ccTLDs risks creating confusion with the existing system wherein two-character codes are used as ccTLDs.

The RySG shared these arguments with the CWG in its submission to the 2015 survey. Only in a limited number of cases where international law, or other agreed-upon restrictions dictate an exception, should a restriction on the use of a particular 3-character string for a gTLD be allowed (for example as for the use of "www").

*RySG (21 April 2017)*

We note that the CWG-UCTN has been unable to reach a consensus position regarding the three-letter codes identified in ISO 3166-1 (the alpha-3 codes), and therefore has made no recommendations on their treatment. We acknowledge that there is a historical precedent for two-letter codes to be allocated to ccTLDs, as referred to above. No such precedent exists in respect of the alpha-3 codes, and it is recognized in the CWG-UCTN Interim Paper that historically three-character combinations have always been permitted in the DNS. To the extent that precedent exists, therefore, it is for the use of three-letter combinations as gTLDs. There are multiple examples of three-letter terms being used as gTLDs, both for Brand and non-Brand TLDs, including new gTLDs such as .APP, .NYC, .DIY, .SAP and .PET, and the legacy gTLDs, such as .NET, and .ORG. Furthermore, prior to the 2012 New gTLD Round, there appears to have been no policy of reserving the alpha-3 codes. The clearest demonstration of this is the .COM gTLD, "COM" also being the officially-assigned alpha-3 code for Comoros. The fact that .COM has been in longstanding use and is the largest by far of the TLDs demonstrates the impossibility of now attempting to create any consistent and predictable usage of the alpha-3 codes as ccTLDs.

It has been argued by some members of the community that to allow alpha-3 codes to be used as gTLDs would give rise to a risk of confusion with the corresponding countries and the ccTLDs. No evidence has been presented to substantiate this argument, and, further, it presupposes that these terms serve to designate the country in question and have no other meaning. A cursory review of the list of alpha-3 codes demonstrates the fallacy of this argument.

The listed three-letter combinations include common words, such as CAN, CUB and VAT; commonly-used acronyms, such as IOT (internet of things) and IDN (Internationalized Domain Name), commonly-used abbreviations such as GEO (geographic) and brands such as MNG. In some cases and contexts, the "alternative" meaning will likely be viewed as the primary one.

It is our view that all three-letter terms should be eligible for use as gTLDs, irrespective of whether they are on the ISO 3166-1 list or not. There is no justification and basis under international law or by precedent for reserving three-letter codes either to prevent use or for use as ccTLDs.

*VAL (21 April 2017)*

#### Supports use of 3-letter codes as ccTLDs

I would like to emphasize some points that are not present in these papers regarding the reasoning why especially 3 letter ISO country codes should be released as ccTLDs.

\*Basis for ISO3166 Alpha-3 as ccTLD:\* TLDs are part of the foundation of the Internet. Internet is part of the world, so I think that direct conflict between these two counterparts should be avoided. In the real world the 3 letter codes are

used in everyday life to represent certain country, these codes are used on documents, car number plates, sports broadcasts and thus have very strong relation to a country. Lets take USA as an example. So avoiding this conflict and confusion is basis on its own to keep country names and country codes from being released as generics for general use. This point is clearly supported by ICANNs decision to keep these strings from being released during the first round of new gTLDs (New gTLD Applicant Guidebook 2012 chapter 2.2.1.4.1 treatment of country or territory names) by defining what is considered as a country representation.

\*.com is not a precedent\* that changes USA, RUS, FRA or EST from being associated with certain countries and the three letter labels from being used internationally to mark that specific country. .com is one of the first TLDs in the Internet and for majority of people stands for commercial or companies or even international. It is truly sad that Comoros cannot protect their interests that might be associated with this 3 letter ISO 3166 Alpha-3 country code, but this does not change anything for the countries that have strong relation, widely known and recognized association with their country codes and are still able to protect their interests and sovereign right to these unreleased strings.

\*gTLD space was built on 3-character codes - not entirely true.\* gTLD space was initially build on closed list of 5 TLDs that happened to be all 3 letters long (RFC920 1984). The list has been extended through out the years with strings of various lengths. The closed list principle has been in place from the beginning and was broken on 2012 (22 gTLDs in the list at the time) by introduction of new gTLD program. So I see no reason why extending the 2 letter ccTLD principle should be seen or handled any differently than in case of dropping the limit in gTLDs case.

\*Confusing internet users with introduction of ccTLDs longer than 2 characters:\* Average internet user does not know and care about ccTLD and gTLD classification. What matters for internet users is what the TLD stands for and represent in their mind - so yet again com for international, .shop for shopping, .me for myself, .info for information, .tv for television, .eu for Europe, .ca for Canada etc. Domain registrants also care for what the TLD represents for their target group and how to register their domain under the TLD they are interested in. So this here is only a matter of policy making concerning a limited group of interested parties (registries, countries and companies interested to acquire a delegation for some TLD to use in their business interests). In case of gTLDs the policy is set by ICANN and in case of ccTLDs by local governments. That is the key for countries - do they have full and sovereign control over the use of codes and labels that represent their countries.

*EIF (7 March 2017)*

## **Full Country AND Territory Names**

### Supports maintaining the status quo and restricting use of full country and territory names

The discussion on the use of geographical names, including meaningful representations and abbreviations, have shown to be very controversial in the Community discussions. In this context, the current applicant guidebook section 2.2.1.4.1 is a result of long discussions and should be recognized as a compromise and a baseline for the future treatment of country and territory names as new gTLDs.

*GACNor (19 April 2017)*

In this context, we consider that the rules contained in the current applicant guidebook, in particular in section 2.2.1.4.1, which are a result of long discussions crosscommunity efforts, should be recognized as a compromise and a baseline for the future treatment of country and territory names as new TLDs.

*GACSwitz (24 April 2017)*

We propose:

- To maintain the exclusion of TLDs corresponding to the country names and 3-character country codes.

*LACTLD (21 April 2017)*

We strongly believe, that the use of the ISO 3166-1 codes and country names as TLDs has a very significant intangible value strongly related to the sovereignty and reputation of a country. Allowing third parties to use a country name can create confusion with the current ccTLD, and also link a country's reputation with undesirable ideas that makes these domains extremely sensible and should be protected.

*NICCR (21 April 2017)*

Expanding the DNSs space opening TLDs corresponding to the country name or the 3 letter character country code will increase complexity on registration causing potential confusion to registrants, and surely will cannibalize a market which is fundamentally limited, and in which it will not be feasible to sustain concurrent strings.

*NICMX (21 April 2017)*

### Supports requiring government support or non-objection for delegation of country and territory names

If the decision to continue with the discussion on three -or -more -letter country domains is made, it is suggested that

any new gTLD containing a country name, or its initials, should go through a non-objection process by the relevant administration. To this end, the procedure should establish a mechanism to ensure that the consultation is being answered by a valid, official and legitimate interlocutor. In this regard, similar procedures are already in place, so the use of Protection Mechanisms such as the Uniform Rapid Suspension (URS), the Post-Delegation Dispute Resolution Policy (PDDRP) and the Registry Restriction Dispute Resolution Procedure (RRDRP) is suggested. Information about each of these processes is available on the ICANN website: <https://www.icann.org/resources/pages/urs-2015-12-15-es> and <https://www.icann.org/resources/pages/pddrp-2015-04-24-es> | <https://archive.icann.org/es/topics/new-gtlds/draft-rrdrp-clean-15feb10-es.pdf>. Once again, we reiterate the importance of including all stakeholders in these discussions, particularly the GAC, and the ccNSO, and that these discussions should not only take place within the gNSO.

*GACCR (20 April 2017) [Translated from Spanish](#)*

#### Supports use of full country and territory names as gTLDs

... The BC supports the use of full country and territory names as new gTLDs, including removing any moratorium on the ability to apply for such names generally and not requiring any form of governmental pre-approval or non-objection.

The BC has previously voiced strong objection to any proposal to restrict use of such names as TLDs, such as the “Argentina Proposal” that remains in development within the Governmental Advisory Committee Geographic Names Working Group. Again, such a proposal is not consistent with accepted principles of international and national law. There is no generally accepted legal principle granting governmental priority over country and territory names in the context of the DNS.

That being said, the BC respects the perspectives of GAC members in the Geographic Names Working Group, and looks forward to further engagement on this issue in the context of a policy development process examining the use of full country and territory names at the Top Level. In particular, where certain geographic regions are under collective administration by multiple state actors, it may be useful for the process to incorporate an early means for such entities to voice their concerns regarding TLDs corresponding to such regions. While applicants should not be prohibited from using such strings, this would allow them to be aware of the relevant concerns and to engage with the state actors at an earlier stage in the application process.

*BC (25 April 2017)*

## **Section IV: Analysis of Comments**

*General Disclaimer: This section is intended to provide an analysis and evaluation of the comments received along with explanations regarding the basis for any recommendations provided within the analysis.*

The comments received refer to three categories:

- The recommendations of the CWG.
- The text of the Interim Report.
- Proposals and rationales with respect to the use of 2-letter codes, 3-letter codes and full names of country and territories as TLDs.

The CWG has not discussed any of the comments received to date.

With respect to the draft recommendations of the CWG, based on the summary of the comments received (see table below): There is support for closure of the CWG and consolidation of community efforts. Further, the consolidated efforts should be part of an all inclusive dialogue. However, how commenters see how this dialogue should be shaped is not conclusive: some comment that it should be as a formal Policy Development Process, either as a GNSO or ccNSO Policy Development Process. Others opt for a cross-community effort, and one requests additional clarification.

Overview of support CWG Recommendations:

<b>Recommendation</b>	<b>In Support</b>	<b>No comment</b>	<b>Objection</b>	<b>Need to Clarify</b>
<b>Closure of CWG (Recommendation 1)</b>	CENTR, LACTLD, RySG, VAL, IPC, NICMX, ALAC, BC (6)	(9)	None	None
<b>Consolidation of community efforts (Recommendation 2)</b>	GACCR, GACSing, VAL, BC, IPC, ALAC (6)	(9)	None	None
<b>Recommendation 3 A</b>	IPC, BC, RySG, VAL (4)	(10)		VAL, CENTR (2)
<b>Recommendation 3 B</b>	GACNor, GAC Spain, GAC Switz (3)	(10)	IPC (1)	VAL, CENTR (2)
<b>Recommendation 3 C</b>	ALAC, NICCR, GACCR, NICMX, LACTLD (5)	(8)		VAL, CENTR (2)
<b>Supports all inclusive dialogue (Recommendation 4)</b>	VAL, BC, IPC, ALAC, NICCR, CENTR (6)	(9)		

