ICANN
Transcription ICANN Kobe
GNSO New gTLD Subsequent Procedures
Work Track 5 (Geographic Names) Part 1
Saturday, 09 March 2019 at 09:00 JST

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Olga Cavalli: Hello, good morning. We will start our session. Thank you. Good morning, everyone. Do we have something on the screen? Not yet. So welcome to our Work Track 5 New gTLD Subsequent Procedures Policy Development Process Working Group this morning in Japan.

And hello to our remote participants. Good morning, good afternoon and good evening. To my right I have Martin Sutton, to my left Justine Chew, she is supporting Javier Rúa-Jovet from ALAC, and Nick Wenban-Smith, supporting Annebeth Lange should show up in a moment in the morning, and myself, I am Olga Cavalli, representing the GAC so welcome to our session this morning in Japan. And let me wait for something showing up in the screen. And I will show you the agenda for this morning.

And I hope you had the chance to review the compilation – fantastic work done by our colleagues from staff in compiling the comments. Maybe you have seen them. It's a beautiful color code that at a glance you can have an idea of the agreement which is green, if there are concerns which is yellow, if there are not agreement, which is red, and if there are new ideas which is

blue. So maybe you then go into a deep reading, but at the glance you can have an idea of each of the issues having or not some agreement.

So let's go to the next one please. Okay, there is Nick. Thank you very much. So this is the agenda for this morning. We will deliver an introduction and the current status of the Work Track 5, then we will go into the discussions and open topics, open issues, next steps and any other business. So mainly it's about reviewing what has been compiled from the comments, which have been many for the good, so we have comments from many colleagues in the community.

So let's go to the first slide, which is talking about the introduction and current status. So let me tell you what we have been doing so far, for those colleagues new in – or that have not joined us before, the Work Track 5 is a sub team of the New gTLD Subsequent Procedures Policy Development Process, PDP, Working Group. The overall is tasked with calling up the community's collective experiences from the previous round, the 2002 new gTLD Program round, to determine what if any changes may need to be made to the existing 2007 introduction of new generic top level domains policy recommendations.

The Work Track 5 seeks to review the existing policy and implementation related to the topic of geographic names at top level. We are not talking about second level, just top level. Determine if changes are needed and recommend revised or new policy and/or implementation guidance as appropriate. So anyone can join the Work Track 5 as a member or observer so we have many colleagues that have joined us in the calls and in the email list.

So the scope of the work of our Work Track 5, the next slide please, Number 6, can I change them from here? No. Okay thank you. So the scope, as I said, it's at the top level only; we are not talking about second level, which is a different issue, two characters, ASCII letter-letter combinations, country and

territory names as the 3166-1 short and long form in ISO 3166-1 additional categories in Section 2.2.1.4.1 of Applicant Guidebook.

Capital cities in ISO 3166 (unintelligible) in ISO 3166-2. UNESCO regions and names appearing in the composition of macro geographic continental regions, geographical sub regions and selected economic and other groupings, and other geographic names such as geographic features, rivers, mountains, valleys, lakes and others, and culturally significant terms related to geography also known as non AGB geographic terms, so those terms which are not in those lists that I named before and were in the Applicant Guidebook in the first round.

Any comments, any questions? I don't see the Adobe Connect room. No hands up. Okay, let's move on. So next slide is where we are now. So we have been meeting in conference calls, which have been very well attended by all colleagues and also we have had a very intense exchange of emails in our email list. And met regularly and published its supplemental initial report for public comment on 5 of December, 2018.

And the comment period was extended by the request of some members of the community so 42 comments were received with different opinions from the GNSO, from different SOs and ACs in ICANN, the GAC, the ccTLD managers, governments responding individually. So fantastic work done by staff in compiling all the public comments, very difficult, a lot of comments, diverse views and diverse ideas expressed in the comments which is great, but not easy to put them together.

So the staff has compiled this public comments into the public comment review tool. And the idea is to provide initial assessment of agreement, as I said, there is a color code, agreement is green, concerns is yellow or orange, new idea is blue, and divergence is red, if I'm not mistaken. So you can see that report and that color code.

So it is good summary of GNSO PDPs, Work Track 5 is reviewing every comment and seeking to ensure that it understands the comment and ask questions to where it may not be clear. Comments, questions? Adobe Connect. No, okay.

Let's go on. Let's move to the next slide, and just go to the substance. So the public comments preliminary recommendations, we will start in the parts that have been reviewed so far, so we will start with reviewing public comments in general. The close of the public comment Work Track 5 has conducted two meetings, one was led by Martin and the other was chaired by myself, both of which focused on reviewing public comment received.

Work Track 5 has considered general comments, many of which reflect on the 2012 round and the implementation of geographic names, and also considered comments received to its preliminary recommendations. So these are the two parts that we will review, and you can see compiled in this document. Work Track 5 must still, so the work still must be done, to consider comments received to its 11 questions and 38 proposals. You may recall that was how the document for comments was structured.

So let's go to the next slide, which is Number 10, and about the public comments general comments, thank you very much. So without seeking to foreclose additional discussion that may arise from review of public comments to questions and proposals, the – our colleagues believed that there are some instructive preliminary findings, which we want to share with you, and we shared in these two calls that I just mentioned.

From the general comments, many reflected on the geographic names implementation from 2012. The majority comments fell into these three buckets that are in the screen and that I will read right now. The first one are generally supportive of the continuation of the 2012 implementation and therefore the preliminary recommendations.

The second is – are generally supportive of the continuation of the 2012 implementation with the exception of the intended use provision assigned to noncapital city names, for example, wish to see support or non-objection extended and thus require in all circumstances. And the third one is that there are concerns about the basis for preventive protections afforded governments but nonetheless are willing to support the continuation of the 2012 implementation.

(Unintelligible) as a reflection of the compromise reached through the multistakeholder model. Many of the comments are – fell into this category also stated that they did not believe that preventative protections should be extended beyond the existing categories from 2002. So you see here the three quite diverse views of the – about the rules already established in 2012 to be extended or not.

Let's see if we have any hands up in the Adobe Connect? I don't see any. Any comments from colleagues in the room? I don't see any so I'll move on. Let's go to Slide 11, since from public comments most of the general comments fell into those three main buckets, it is important to note that not all comments did, so there are some other comments that did not fall in these categories I just mentioned to you.

For instance, there was some that opposed the preventative protections in the preliminary recommendations and believed that curative measures, for example, objections, contractor requirements, things that are done after the presentation of the request, are more appropriate given the understanding of the international law as it relates to governments' rights in geographic names. Long discussion about that, many times.

Some noted that particular brand TLDs usage is unlikely to be confused with geographic applications. Comments? Questions? Hands up? I don't see any. Okay, let's go on. Twelve, from the public comments, some preliminary

recommendations, there again seemed to be some convergence around the three things identified.

In looking at the preliminary recommendations in more detail, there can be considered as two relatively distinct categories, Recommendations 2-9 are considered reserved and unavailable to any party. Recommendations 10-13 require support or non-objection from the relevant government or public authority with noncapital names only requiring that approval when the gTLD is intended to be used in association with the geographic meaning.

And for Recommendations 2-9, there were a number of comments that expressed support or at least willingness to accept the recommendations generally on the basis of the three things already showed before identified. Any comments from colleagues, reactions? Yes, I forgot your name.

Katrin Ohlmer: Katrin.

Olga Cavalli: Katrin, go ahead, sorry.

Katrin Ohlmer: This is Katrin Ohlmer for the record. I think the first point does not reflect that there are some comments so stated that noncapital names also requiring support or non-objection letters, if the string is not used associated with the city name. So this probably lacking.

Olga Cavalli: I think it's covered in the next slide. If we can – I see your point but let's check the next slide. The – this have considered that the comments were many, they are diverse and we are just trying to show a summary, try to be as fair as possible but it's difficult because there are many comments and not the same.

So is this the next slide? Yes, thank you. So Recommendation 10-13, however, the views were more diverse. And I think that's your point, Katrin. For instance, a number of comments suggested that for the categories where

a letter of support or non-objection from the relevant government or public authority is always needed regardless of usage, that the recommendation be amended to integrate an intended use provision.

One of the arguments in that regard is that preventative protections are inconsistent with the level of rights provided to governments to geographic names under international law. Conversely, there are comments from those that wish to eliminate the intended use provision for noncapital city names and instead requires support or non-objection in all circumstances.

One of the arguments in that regard, cities, the unique nature of a TLD and that the intended use provision creates disincentives for applicants to seek support or non-objection, for example, claiming intended use will not be associated with the noncapital city name. I think this is the comment that you were referring to?

Katrin Ohlmer: This is Katrin Ohlmer again. Yes, but I think there's a part missing explaining why the support letter is required because of national law and I think contrary to the first part and the second part, the national law argument is missing. Thank you.

Olga Cavalli: Thanks to you. Maybe we can capture that comment and amend the notes. Thank you, Katrin, for your comment. Any other comments apart from Katrin's? No hands up in the Adobe Connect. Let me check. Okay, let's see the individual preliminary recommendations. It's Number 14.

So as described in Recommendations 2-9, Work Track 5 recommends, unless or until decide otherwise, maintaining the reservations of certain strings at the top level in accompanied by documentation of support or non-objection from the relevant governments or public authorities as applicable. So this is a summary of this public comments level of support, majority of comments, the commenters support the summary input from general

comments above. Some divergence from Recommendations 3 and 10-13, and two comments oppose recommendation.

Seems some are opposed to reservation for geo names in general but are still willing to support the recommendation. And new ideas concept for deliberations, there are none. Comments. Hands up in the Adobe Connect? I don't see any. Martin, go ahead.

Martin Sutton: Thanks, Olga. It's Martin Sutton here. I just want to rewind a little bit just make sure that everybody's aware now that we're trying to achieve this morning is that we are putting summaries up here. We will be – further down, Katrin, to the individual recommendations so we may want to check out the details that we've put in here. But again, these are summarized. We've got a lot of content that was in the initial report, that was an amalgamation of all the discussions that the Work Track 5 has had over a year so there's a lot of content already and a lot of the arguments for or against any of the particular existing practices for treatment of geographic terms at the top level.

And what we've done is condense what was the Work Track 5 discussions into the initial report preliminary recommendations. There were also, as we alluded to earlier, a number of questions and proposals within that so there's things like 38 proposals. Proposals weren't from Work Track 5 as a whole, these were proposals that came out from work track members as things to consider. And because there is quite a diverse set of views it was worthwhile including those in that initial report to gather feedback from the community.

So it's great that we've had a very large number of comments from different corners of the community. It is a challenge to summarize those but we've – endeavor to do so basically with a tremendous help from the staff. So we're giving you a high level view here today. Those that are members of the Work Track 5 will know that there's a lot of deep content that sits behind this. And you're very welcome to, if you're not familiar with Work Track 5 activities, that is all available and you can dig down further in that respect.

Today we're trying to give an overview of where we see sort of trends appearing within the preliminary recommendations so far but it's not to say that they won't be changing as we go through the rest of the comments that we've got in terms of the questions and the proposals that were also commented upon as well. So just as a sort of a precautionary measure is just to make sure that people understand this is a summary of the Work Track 5 work to date and assessment of the comments that have come in. Thanks. Kavouss.

Kavouss Arasteh: Thank you. Good morning to everyone. First of all, thank you very much for the summary that you have made, you did that to the best of availability of the time and best of knowledge that you have and we appreciate already to what you have done.

Having experience on other groups that are working, I don't want to criticize anyone, we should not use this opportunity to reopen the discussions that we have had for long time with different people, different ideas, different understanding, different knowledge and different background and different interest. We are not going to reopen discussion and use this opportunity to revert or change it again, otherwise there needs – go against the public comments.

So what we are looking now to see whether in view of every one of us there is any major thing is missing from the public comment, that's all. Thank you.

Martin Sutton: I will clarify. Thank you, Kavouss, because that's an excellent point. So this is a review of the comments, so it's already gone out to comment, we are assessing and analyzing those comments here and we're not looking for new comments.

What we are trying to determine is there substantive information that we've received that maneuvers particularly the preliminary recommendations that

were laid out within the initial report and taking into context the responses that we received for the questions and other proposals that were included in that report. Thank you, Kavouss, that's very useful to clarify.

Olga Cavalli: Other comments in the room, Adobe Connect, no hands up. Let me check. I don't see any, so thank you, Martin, thank you, Kavouss, thank you, Katrin for comments. I will turn over to my colleague, Justine, for the presentation. Thank you.

Justine Chew: Good morning, everyone. My name is Justine Chew. I am the proxy for Javier Rúa-Jovet who is the permanent ALAC co-lead on this working group Work Track 5. He sends his apologies, he's unable to join us today in person.

Okay, I'm going to touch on the trends that we've found in analyzing the public comments to Recommendations 2-9. These are in relation to geographic terms that are reserved at the top level and unavailable for registration by any party at this point in time.

So moving onto Slide 16. Okay so preliminary Recommendation 2 basically states that we recommend – the Work Track 5 recommends that we continue to reserve all two-character letter-letter ASCII combinations at the top level for existing and future country codes. So remember again, we're talking about two character letter letters, because anything outside of that would be out of scope for this work track.

And we're also talking about two letter character – sorry, two character letter-letter codes for the top level and not the second level. And what we've found was in terms of summarizing the public comment received, majority of the commenters that made a comment were in support of preliminary Recommendation 2. We did have some who said that they did not believe that governments have an exclusive legal basis in geographic names but yet they were still willing to support the recommendation. And we had one comment who opposes the recommendation all together.

Thematically one commenter raised an opposition to allowing one letter one digit strings. Now again, as I said before, we are dealing with just two character letter-letter, so this particular comment is deemed out of scope. And we also note that this particular area is considered under Work Track 2 or now in the preliminary level of the Subsequent Procedures Working Group. And there were no ideas to preliminary Recommendation 2.

Any questions or comments?

Nick Wenban-Smith: Good morning. It's Nick Wenban-Smith for the record. The question of the one letter one digit, I remember it was perhaps not just in the general comments but a lot of specific comments around that and the potential confusion of existing country codes or other two letter combinations, you know, sort of say P1 being very confusingly similar potentially to Poland's country code of Pl.

And I think obviously it's not a letter-letter combination therefore out of scope for this work, but is there a way to formally get that on the record for Work Track 2? Because a lot of people have made that comment in Work Track 5 and I don't know whether we need to do anymore or we just let it? Thanks.

Jeff Neuman: Yes thanks. This is – oh I'm sorry.

Justine Chew: So we have Jeff. Thank you. Jeff.

Jeff Neuman: Sorry. Jeff Neuman for the record. So with respect to getting that issue on – it wouldn't be Work Track 2 because we don't really have work tracks anymore, but there is a specific section that deals with string similarity. And I think that that's where this may fit in. So perhaps rather than creating a different standard for string similarity with respect to this issue, perhaps it just may fit into the overall discussion of string similarity.

So I understand that, you know, perhaps Poland, for example, may consider dotP1 to be similar to dotPL, I think the same thing can be said for frankly any two domains that have – that substitute a 1 for an L. So I think whatever we come out with in terms of the standard for string similarity overall should probably still apply in this case. And I don't think we necessarily need a separate rule just with respect to two letter country codes. I think it would be the same rule that's generally applicable.

Nick Wenban-Smith: I think that's very sensible. In fact I just want to make sure that in terms of the comments that we've received here that that's completed and finished and packaged up so that we don't have to consider that question anymore. I think that's the answer, yes thanks.

Justine Chew: Jorge.

Jorge Cancio: Thank you very much and good morning to everyone. This is on the first one and the first time I intervene, I just wanted to piggy back on what Nick said because this is the comment I at least have brought forward many times in these discussions. I think that overall the approach proposed by Jeff is sensible.

At the same time, we have to be careful and mindful that the impact of a similarity in a two letter code or a two number letter combination might be more important because you just have those two codes to – those two symbols. So perhaps it would be good at some later stage to be briefed on what is finally the result of the overall standard and how that applies to two letter codes.

Justine Chew: Thank you, Jorge. I have Susan Payne next and Alan next after that.

Susan Payne: Thanks, Justine. Hi, it's Susan Payne. Look, I might be mixing my comments up now because they do kind of merge a little bit, but I'm fairly sure we got

asked a question on this specifically in the wider SubPro public comment period and so there were comments on the letter number issue I think.

Justine Chew: I believe you're right, Susan. Alan.

Alan Greenberg: Thank you. Alan Greenberg speaking. Two comments on Jeff's statement, I think it's quite reasonable to presume that the string similarity rules still apply, but if we are going to be saying that numeric two letters involving numerics are allowed I think we're going to have to, in that section, note that it is still subject to string similarity rules, just because it – they're potentially conflicting with each other if we don't make it clear.

Number 2, there have been recent cases where strings are deemed to be similar but the registry has put in place rules to make sure that there is no conflict. And the question is, are we going to be subject to that kind of thing? This was in ccTLDs so our rules didn't apply. But are we going to add a provision like that or basically say if it looks – if there is an apparent string similarity conflict that it is absolutely ruled out? Thank you.

Justine Chew: Steve.

Steve Chan: Yes thanks, Justine. This is Steve Chan from staff. And just to follow Susan's point just to note that the comments that note that oppositions to one letter one digit combinations, so there's a number of similar comments that were raised in relation to the reserve names section if I recall correctly. Thanks.

Justine Chew: Kavouss.

Kavouss Arasteh: Yes. This is something that I have already raised. Is there any mechanism or process to ensure that the issue of geographic names if for some cases, has been taken care by other work tracks, would that have any contradiction to what we have done? Did we make check? And did we identify elements that might have been addressed primarily by us in a second way or whatever way

by work track – any work track, maybe Work Track 2 that we have to identify that and remove this inconsistency in order not to confuse the readers? Thank you.

Justine Chew: I'll call on Heather first and then Jeff has got a comment in answer to Kavouss.

Heather Forrest: Thanks very much. Heather Forrest. And Jeff, you might correct me when I'm done here, but I think ultimately one of the things that Kavouss's question is raising is the primacy of the Geographic Names Panel. To the extent that a name is found by the Geographic Names Panel to be geographic or not, I think has to then give us some indication as to how that name is treated in the Applicant Guidebook. There are of course provisions in the Applicant Guidebook that will affect a name that's found to be geographic and likewise a name is not found to be geographic.

So I don't know that, I mean, of course when we have a final text we go through and we have a look to see if there's anything that's an outright contradiction in terms that one provision says, you know, this name is geographic and it gets dealt with in this particular way and another provision says this name is geographic and it gets dealt with in a completely opposite way. But ultimately I think we need to deal with the Geographic Names Panel and observing the decisions of that panel. Thanks.

Jeff Neuman: Yes thanks. This is Jeff Neuman. I agree with that. I would just add that to the extent that this group thinks that there should be different rules with respect to geographic names at the top level, this group needs to specify those and then the issue needs to be discussed as to the primacy of those issues. So it's my assumption, and maybe incorrectly, that to the extent this group doesn't address certain issues, then those issues will be the same or dealt with the same as with any other application.

So for example, public comment period, right, if this group doesn't make any kind of recommendations with respect to the length of a public comment period or having an additional one or anything like that, the assumption is that the public comment period that applies to all applications will apply to geographic.

So this is not really a non-answer, but to the extent that this group wants any differential treatment it needs to specify that and of course we need to have consensus on that. So but I think Heather's right, if there are – when we put everything together, if there are some inconsistencies we'll have to flag those and talk about them. Yes thanks.

Justine Chew: Thanks, Jeff. Any more comments? If not, we will move on. Okay, move on. Preliminary Recommendation 3 we – it's recommending that we continue to consider the alpha 3 codes listed in the ISO 3166-1 standard to be – to continue to be reserved at the top level and unavailable for delegation. Looking at Slide – we're looking at Slide 17. Can we move – yes thank you.

Okay, so the comments that receive in summary is that again many commenters supported this preliminary Recommendation 3. Some do not believe that governments have an exclusive legal basis in geographic names but are still willing to support this preliminary recommendation. And we had some comments that oppose the recommendation and believe that alpha 3 codes on the ISO 3166-1 list should be made available, so that is a different take on this preliminary recommendation.

And there were no themes and no new ideas for this particular section. Any comments? No? Okay, let's move on to preliminary Recommendation 4, Slide Number 18.

This one recommends that we continue to consider the long form name listed in the ISO 3166-1 standard to continue to be reserved at the top level and unavailable for delegation as per the 2012 Applicant Guidebook. The public

comment summary is that again, we have similar – we see similar trends. The majority of the commenters supported this preliminary Recommendation 4.

One comment again does not believe that government has – governments have an exclusive legal basis in geographic names but are still willing to support this recommendation. One comment opposes this recommendation and believes that long form names should be made available. And no themes and no new ideas.

Okay, any comments? If not, moving on to preliminary Recommendation 5, Slide 19. This particular one recommends that we continue to take the short form names listed in the ISO 3166 standard to continue to be reserved at the top level and unavailable for delegation. And in summary, the public comments trends are that again, majority of the commenters supported.

One comment, similarly again, did not believe that governments have an exclusive legal basis but were still prepared to support this recommendation. And one comment opposes and believes that sort form names should also be made available. Okay, no themes and no new ideas.

Moving on to preliminary Recommendation 6. This one recommends that we make short form or we continue to consider short form or long form names in association with (accord) that has been designated as exceptionally reserved by the ISO 3166 Maintenance Agency, that those terms be continued to be reserved at the top level and unavailable for delegation.

In summary, the public comments had so this trend which is majority of the commenters supported, again. Similarly, one comment did not believe that governments had an exclusive legal basis in geographic names but was still willing to support this recommendation. And one opposed believing that the short form and long form names that I've mentioned before earlier, should be made available. No new themes and no new ideas.

Moving on, preliminary Recommendation 7. This one recommends that we consider – we continue to consider – we continue to consider the separable components of a country name designated on the Separate Country Names list, that is in fact as you all know, included as an appendix in the 2012 Applicant Guidebook. And we – it recommends that we continue to consider these ones also reserved at the top level and unavailable for delegation.

In summary, the public comments showed that a large, well a majority of the commenters supported this recommendation. Again, similarly, one did not believe that governments have an exclusive legal basis to geographic names but are still prepared to support this recommendation. And one opposes believing that this list of names should be made available.

In terms of if we move onto Slide 22, in terms of themes, there are none, but there was one new suggestion or new idea is that there be a – well there was a suggestion that the names listed in the Class C referring to synonyms of country names or sub national entities, so they are not separable components of country names and therefore do not require preventative protections and should not be reserved. And there was the request that this be clarified in this Recommendation 7. I'm going to stop here – I'm going to pause here for a while for comments or questions. No? Okay, very good.

Moving onto preliminary Recommendation 8. This one recommends clarifying the 2012 Applicant Guidebook Section 2.2.1.4.1 point Roman 6 which designated the following categories as country and territory names reserved at the top level and unavailable for delegation. And this has got to do with permutations and transpositions of any names that are already in that particular list. Okay and example of a transposition would be Czech Republic, Republic Czech. Okay.

Okay so what this work track recommends is to clarify that permutations and transpositions of the following strings are reserved. (Plus) 1 is long form

name listed in ISO 3166-1; second one is short form names; third one is short or long form names associated with a code that has been designated as exceptionally reserved by the ISO 3166 Maintenance Agency; and the fourth one is separable component of a country name designated on the Separable Country Names list. Okay again, this list is included in the 2012 Applicant Guidebook as an appendix.

Okay, and to make it – well we tried – the work track tried to make it clear by saying that the strings resulting from permutations and transpositions of alpha 3 codes listed in the ISO 3166-1 standard should be allowed because these – we thought that these permutations and transpositions end up with strings that are not on the ISO 3166 code, so therefore they should – they are not geographic names and should not be protected.

Okay, moving on to Slide 24, all right so the – in terms of analyzing the public comments, again, the majority of commenters supported this preliminary Recommendation 8. One was opposed to transpositions and permutations. One was opposed to transposition but was silent on permutations so presumably they approved of it. Themes, there were not. And in terms of new ideas, just again in summary for deliberations in the working group or in the work track for later meetings, is the first one was that we reserve permutations and transpositions of alpha 3 codes.

The second one is that I think some people thought there was confusion in the executive summary how we put this forward, this particular preliminary recommendation, so they said that we should ensure that there's consistency in what we're saying here in the executive summary. And the last suggestion was that we revisit for additional clarity the sentence that I spoke of earlier which is the strings resulting from permutations and transpositions of alpha 3 codes as stated in the ISO 3166-1 standard should be allowed.

And I think what they were trying to say is that we should say that in addition to what is stated already we should add the phrase "and which resulting

strings themselves are not listed in the ISO 3166-1 standard," and those should be allowed, which is what I explained earlier. Questions, comments? No? Okay, moving on.

Preliminary Recommendation 9. Okay, this one recommends that we continue to consider the names by which a country is commonly known or as demonstrated by – sorry, as demonstrated by evidence that the country is recognized by that name, by an intergovernmental or treaty organization. And the recommendation is that we continue to consider these names reserved at the top level and unavailable for delegation.

In summary, the public comments showed that again the majority of the commenters support this preliminary Recommendation 9. One comment said that they did not believe that the governments have exclusive legal basis in geographic names but are still willing to support this recommendation. Two comments opposed the recommendation and believes that the name by which a country is commonly known should be made available.

Okay. And there was one new idea, which suggested that a dedicated procedure be established to detect and demonstrate respective evidence. And this evidence has got to do with the evidence of a country being recognized as – or name of a country being recognized by an intergovernmental or treaty organization.

Okay that's the end of the summation for preliminary Recommendations 2-9. I should open the floor a little bit for comments, otherwise we can move onto the next section. No? Okay. I will hand it over to Martin. Thank you.

Martin Sutton: Thank you, Justine. It's Martin here. So just to empathize the point here, please feel free to interact, it's much more fun for us all if there's a bit more interaction. And I know we're sort of going through step by step of these initial recommendations and some of the feedback and trends that we've identified so far.

But if anybody has any questions regarding that, we're happy to try and cover that off because those that have not been following this closely it won't then be a surprise when the final report ever gets delivered that these are the parts of the conversations that we've included from the community as input, deliberated amongst ourselves within Work Track 5 and Work Track 5 will then go onto put forward recommendations to the full working group to coincide with a final report of Subsequent Procedures. So hopefully we'll get a bit more interaction.

If we – Susan, please, go ahead.

Susan Payne: Thank you, Martin. Hi, it's Susan Payne. And sorry, I should have leapt really in Justine's section. Just a quick comment, I don't disagree with the slides or the summaries that have been presented but when one digs out into the individual comments it is a little bit more nuanced than is reflected in the slides. And I just wanted to make that point.

I mean, there are a number of people who commented – I'm thinking in particular about the International Trademark Association, who made it pretty clear that they, you know, that their support for some of these recommendations is on the basis that, you know, they support the work that was done previously to reach a kind of compromise which kind of effective no one was entirely happy with but everyone was willing to live with.

And that if we start digging, you know, once we start breaking open that previous compromise, you know, some of the areas where they're listed as supporting, you know, that support falls away. So just wanted to put on that on the record.

Martin Sutton: Thank you, Susan. Heather.

Heather Forrest: Thank you, Martin. Heather Forrest. And to follow up on another point that Susan has very helpfully made, I think it's important that we bear in mind, and I like Susan's terminology, I don't disagree with the slides, but this is something we need to mention frequently in the GNSO, this business of numbers. We've emphasized on these slides one comment, two comments, the majority and so on. A number of the comments were submitted by groups and some of those groups or organizations have very many members. Susan's comment has just sort of tweaked that in my mind.

We are not permitted under the Working Group Guidelines for the GNSO to engage in any sort of numbers game. Consensus is not about numbers, consensus is about coming to an agreement as a group, as a collective. So I would like to emphasize for everyone in the room and for the record that frankly those numbers on the slide should be disregarded. Any reference to a number of comments needs to be disregarded. Thank you.

Martin Sutton: Thanks, Heather. Kavouss.

Kavouss Arasteh: Yes, while I have no problem with what was said, but this is not to express (unintelligible) that we quote the comments. We are not quantifying the comment by the members of quantifying the people. That is that. I don't remember since years that I am working on different public comment we try to see that when we say one comment from one person, or one comment from 10 person, or so on so forth. I don't think that we should get on that type of (unintelligible). Thank you.

Martin Sutton: Thanks. Greg.

Greg Shatan: Thanks. Greg Shatan for the record. And following up on this, I think that, you know, one of the problems here, aside from jetlag in terms of engaging with this, is that these – I feel like I'm still on a plane because this is about the 30,000 foot level over these comments and everything is so smoothed out

that we can't actually see the – what the actual comments say. And so there's much more nuance and there's much more there.

And I think that in terms of – another thing in terms of numbers not being as meaningful or not really – should be disregarded, my understanding has always been that even a single comment is persuasive to the group that we didn't get it right that something should be changed, that comment should be taken into account.

Similarly, if there are, you know, multiple comments but they don't seem to add something – we're supposed to qualitatively engage with the comments, not quantitatively engage with the comments. And at this point I feel like we're not actually engaging with the comments at all, we're kind of engaging with boxes inside of which the comments are. And we can't – there's no way to say, is this comment persuasive? Is this comment interesting?

How would this comment – the other thing we need to be thinking about is we need to respond to the comments and, you know, it can't just be duly taken into consideration which can mean everything from we ignored it to – after reading it – to we took it – we actually changed a whole bunch of things or we had a spirited discussion but ultimately didn't or we tweaked things slightly or it took us in a different direction. But there needs to be a substantive response to the comments.

So right now we're kind of – this is like going to the zoo and not paying the admission and trying to look at it from kind of outside the gates and I can't make any comments really based on what we're doing here because we're separated from what we're actually supposed to be working on. Thanks.

Martin Sutton: So, Greg, just in response to that first, we have been doing that through Work Track 5, so the Work Track 5 is going through all of the individual comments and this is, I mean, we could go through that for the community but I think

that that would be extensive and probably not particularly helpful to do line by line.

So this is the summary view to be able to give an indication of where we're seeing some trends in comments and perhaps some outlying comments. You're absolutely right, as Kavouss and others have highlighted, that this is about trying to identify any substantive comment or idea that needs us to consider or reconsider some of the preliminary recommendations that we've already presented in the initial report.

So that is the objective of the Work Track 5 as it goes through each of the comments, which is not today. We've been doing that so far through the general comments, the preliminary recommendations. We still have a bunch of stuff to go through which can have an impact on some of the preliminary recommendations that we've already put out as the initial report.

So we can go down to individual lines if there's anything that wants to be pulled out. We've got the underlying data and information but to go through that line by line for the 42 comments times all of the questions, times all of the proposals, times all the recommendations, would probably not be a helpful use of the group's time today.

Greg Shatan: Maybe just clarify then, what is this – I thought this was a working session of Work Track 5, or is it not?

Martin Sutton: So it's also community session at ICANN so that we can bring them all along with us in terms of what progress we've been making, where we're seeing some views of convergence, where we're still seeing outlying based on what we've had through the community input from the initial report. We can open it up then into further discussion and we've got some more focused areas to work through in terms of languages which were not included in preliminary recommendations but perhaps we can then open that up to more discussion

here today to follow on from what we've received so far and discuss within Work Track 5.

Greg Shatan: If we want to ask the community what they think because right now this seems like this is either redundant of the work we're doing in Work Track 5 during the other times or it's just very high level, so I don't know if the community, which is not sitting at the table, you know, is finding this engaging.

Like to see if they have some comments because I think if we're making our comments in our other meetings then we've either done it or we haven't. But again this is kind of – these flyover sessions sometimes become very frustrating to me because I feel like we don't get close enough to anything to actually, you know, make a difference. Maybe this is just a gut check that we're kind of okay but I don't know. Thanks. Sorry.

Martin Sutton: So I've got Paul next. Was there somebody…

((Crosstalk))

Martin Sutton: Oh sorry, Katrin.

((Crosstalk))

Martin Sutton: Sorry, Jorge, Katrin and then Paul.

Jorge Cancio: Okay. Thank you very much. I just wanted to comment on this issue of how the different options are being presented and that I generally agree with the approach here and just taking as co-leads and the staff because we are, after one year of working on this, we are really at the time after seeing the public comments where we should see, okay, where are the different sensitivities converging?

Where there is divergence and in the end I think that Work Track 5 was established in a very special manner so that we see the different sensitivities from the community, it's not so much about numbers, about how many commenters are behind one comment or how many people commented in one specific direction, but at the same time, you have to be cognizant that okay, the ccNSO or ccTLDs are moving in this direction; ALAC is moving in this direction; GNSO or some parts of the GNSO are here, the others there; and in the GAC you have the same, you have countries here, other countries there.

And that gives you the overall picture. And I think that we are there and this is really the discussion we should be having. Perhaps we have to drill down a bit more on the specifics but we have some time. And in this sense I also would like to ask or request some kind of explanation because after we see some nuances appearing in the slides where we go from many to several and I would like to understand why we're changing from many to several, because my understanding from the public comment record is that we should be staying with many on the support of the recommendations and not changing to several.

But maybe you have some explanation to that in the sense of okay, we see a shift on the – in these recommendations where parts of these sensitivities which were supporting switch to a more critical tone. But I think we need that explanation to understand better.

Martin Sutton: Katrin.

Katrin Ohlmer: Katrin Ohlmer for the record. I think I'm a bit confused. So let me reiterate what I understood. So we are not collecting amounts of feedback to certain points, is correct? So maybe we can go back one slide to Recommendation 9? There's a level of support saying a majority of commenters support, so to my understanding this is counting certain amount of support or not? And at

the same time we say we don't count the support for new comments. So I'm really a bit confused how this kind of fits together. Thank you.

Jeff Neuman: Thanks. This is Jeff Neuman. So your confusion is well noted and I think there's confusion in, to some extent, the GNSO Working Group Guidelines, right, because there is a status called Majority Support. And if you are going to label something as Majority Support inevitably you're going to have to do some level of quantitative analysis.

However, our goal is to try to come to a unanimous consensus on these issues. So I agree that we shouldn't focus on the quantity at this point, although I know we put that on the slides just as a way to summarize for the community. But we're not, in these slides, weighing those comments, it's more just a fact, a numeric fact that there was one comment that said this and two comments that said that.

What I think is being maybe read into these comments, which we didn't intend, was weighing those comments and saying, well because there's a majority then the two comments opposing the recommendation don't have merit. That's not what we're saying. Agree it's tough to do that on slides and so we'll take that back as kind of a lesson learned and try to figure it out.

But, all of that said, the GNSO Working Group Guidelines call for the most part for a qualitative analysis of the chairs to try to come to consensus. However, inevitably there is going to be some level of quantitative analysis as well. But I would encourage us not to worry about that at this point because again, the goal is to get to a consensus.

So that's really what I'd love people to consider in the working group and the community is okay, there are definitely especially as we go with city names and further down in the recommendations there are, to avoid using numbers, lots of people that feel this way and lots of people that feel another way. What can we do as a group to bridge that gap, if anything? And that's what we

need to try to get a little bit outside our comfort zone and try to see if there are pieces for which we can try to come together for a solution that I think as Susan said, we all may not like but we all can live with.

Martin Sutton: I've got Paul.

Paul McGrady: Thanks. Paul McGrady here. So the conversation has advanced significantly since I raised my hand in the Adobe chat. But first of all welcome to all the community members that are here. So I thought today's – the purpose of this event was to help us start with our funnel, right? So we had some preliminary recommendations, those went out for public comment, right? And then we got public comments back and absent pitchforks and torches, right, then those things are kind of now over here and we don't have to talk about them anymore.

And the funnel keeps getting smaller and smaller and smaller so that the working group isn't constantly talking about things where we've already got a preliminary recommendation that went out to public comment, nobody or very few people had any problem with that, so we're moving on, right? So we're hopefully, I think what we're doing here, is giving the community one last chance to hear what the public comments said, if there's a last minute pitchfork or a last minute torch, get it out.

Otherwise we're working to get down to the four or five issues that remain that are really thorny, right? And then hopefully we can knock those small list of issues out over the next several months, right, and then we'll be done. And that's what I thought we were doing. I think that's what we're doing. So hopefully that's what we're doing. Thanks.

Martin Sutton: Thanks, Paul. Kavouss and then Greg.

Kavouss Arasteh: Yes, I think we are not doing a survey, we're doing a public comment. Quite different. Survey you have a subject, you go different people, 300 in favor, 60

against, 40 new idea. This is not the way we are doing it. Putting some idea how to see the particular case, we want to know whether we are right, whether we are wrong or whether we are other approach, we go to the comment – public comments, and so on so forth.

Whether we have any specific official available whether the community is composed of 5% or 10% or 20%, and whether those persons saying that reflect the view of community have coordinated with the community, or has not coordinated with the community, whether they have any legitimacy, therefore I suggest we do not go to this sort of very tedious difficult exercise. We do whatever we have done during the last several years. We have transition, (unintelligible), we have public comments, we have done it well, we have this is feasibility two phases, we have done it well.

We have feasibility naming, we have the reserve, we have auction, we have done it well. We have PDP, we have done it very well because for instance there was a group of six but we did not count six views one view, representing the six, if it is possible. Therefore I don't think that we go to that direction and that avenue; would not provide any valuable results. Thank you.

Martin Sutton: Okay, thanks. So sorry, Greg, go ahead.

Greg Shatan: Thanks. Greg Shatan for the record. I think, Jeff, you may have been comparing apples and oranges to some extent in your comments because the levels of support that are in the GNSO Guidelines, I'm not saying anything you don't know, but the levels of support in the Guidelines apply to the level of support within the working group for a given recommendation. Levels of counting or not counting the levels of support or levels of whatever we find in the public comments don't relate to those levels of consensus at all.

So there is no, you know, strong support but significant opposition coming out of the comments because as Kavouss said, this is not survey, this is a collection of comments which may or may not be weighted or balanced or

skewed in any way. So the fact that a majority of comments, you know, agreed, well we can take some kind of a warm and fuzzy feeling from that that we seem to have gotten it right in the eyes of many commenters, but that doesn't mean that there is kind of strong support necessarily.

Now we could look at what the groups are but if we got 10,000 individual comments all on a form because somebody did a really good grass roots or, you know, astro turf job, that doesn't mean we have kind of strong support for that if we see is a much more nuanced and thoughtful comments that are maybe fewer in number but that are opposed.

So this is not about the level of support or non-support for anything in the working group. This is not about levels of consensus. So worrying about whether it's many or several, now it's important to characterize correctly, but that's almost – it's not particularly relevant. And it's not relevant at all to whether or not we have a level of consensus in the group. Thanks.

Olga Cavalli: Thank you. We have some comments in the chat which I will read. We have a comment from Heather about Jeff's point. She is concerned that the reference to the number of comments received will be – I'm sorry, I'm jetlagged – misinterpreted by those unfamiliar with GNSO Working Group Guidelines which emphasize that consensus building is not about numbers. You want to add something to that? Heather.

Heather Forrest: Olga, it's Heather Forrest. Not at all. I'm just clarifying for – it's our first meeting of the day and I think we're all a bit tired and jetlagged. So I think there's been a misunderstanding about the comments in the chat and we've just clarified that. Thanks to Julie Hedlund, you'll note her comment, it's only comments that have comment and bracket written around them that are meant to be read out. And I misunderstood the earlier message from Julie so there's no need to read out my comments at all. Thank you. In the room and happy to speak.

Olga Cavalli: No problem. But as I saw it in between comment bracket I read it. So theirs is another comment from Syed Iftikhar, he, "So I can take appropriate measures to take on board its matters particularly gTLD geographic names before finalizing such cases." And I think there is another comment from – "The basic reason is that many countries are not actively participated in ICANN forums and meetings so in case of new gTLDs geographic matters relevant governments should be contacted by ICANN itself." That's it. Thank you.

Martin Sutton: Okay. So thank for all those comments and thoughts as we go through this. As I said, there is a balance of trying to make sure that community that is able to consider what's going on and get up to date with the progress of Work Track 5, this is also a useful exercise to go through but also for the work track members as to what we've already covered off within preliminary recommendations and some of the sort of trends that we have seen so far.

But please, can I just remind you, there is a big caveat on all of this which is you may see majority of comments support, whatever, and that's probably repeated through quite a lot of the preliminary recommendations but we are still yet to go through the questions and the proposals, responses, and they may have an impact on what we've already covered off in the first couple of phases that we've analyzed so far.

I mean, it's the break. Right, well let me go on to – can I go onto Recommendation 13 – 10? That was it. So this – the last bunch of recommendations really focus on the requirement that exists in the Applicant Guidebook to have a letter or authority, sorry, approval or non-objection. So this is based around city names, capital city names, city names, and others.

So let's go to 10, we'll try and do this one before coffee comes along. So this is where the recommendation is. Can you – the following category which is the city – capital city names that require a level of – the letter of approval or sorry – letter of support or non-objection from the appropriate government or public authority.

So what we saw here was that there were, again, much in support from the comments received. Another one here that governments have – does not believe that governments have an exclusive legal basis in geographic names but are still willing to support the recommendation. Several comments opposed the recommendation and believe that no letter of support or non-objection should be needed. So we've got quite a spread starting to appear in some of these levels of support coming through.

We just move the slide there's a couple of other bits to add onto this one which is no themes. Oh, some ideas suggested are that applications for these strings must be accompanied by documentation of support or non-objection from the relevant governments of public authorities independent from the intended use. I think that was a comment that Katrin highlighted earlier on so the intended use comes into play.

Although I think the capital cities, that doesn't become relevant, does it, because it's all capital cities are…

((Crosstalk))

Martin Sutton: We could probably remove that out of the (unintelligible). You want to – thanks, Steve.

Steve Chan: Sure. This is Steve Chan from staff. I think that I really don't want to speak but I'll try anyway. I think the intent was just to emphasize that for capital city names it's always required. So it wasn't intended to be a change, it's more of a clarification added to the end of the sentence and just to make it clear that regardless of usage it's always required. So hopefully I stated that correctly. Thanks.

Olga Cavalli: Yes.

Martin Sutton: Got it. Thank you, Steve. And the other item here was if capital city names continue to be protected they should be subject to intended use requirements. So we've just got two minutes. I'd open up for any questions on this one and we – Jorge.

Jorge Cancio: Thank you, Martin. It's not a question, it's a comment. I think that intended use is not really a new idea. Perhaps it's a concept for deliberation but it's not really new because we discussed intended use to a very long length during the last year not only related to city names but also to other kinds of geographic names. And we not only discussed intended use as intended use but also as confusion of as risk of confusion and similar concepts. So I really have an issue if we present this as a new concept because it's not.

Martin Sutton: So just to clarify then, this was identified as new just because it wasn't actually stipulated within the preliminary recommendation. So that text element there for instance is an add-on so it's adding independent from the intended use. So that they're just saying here is that within the slide above there, the text that we've already got in the AGB or for the recommendation up above is that we add in a certain text to fully clarify. So it's not actually saying that intended use is a new idea, it's just saying new text could be added to the preliminary recommendation.

Does everybody want coffee? I do. Paul. Hang on, Paul's got an announcement to make before coffee.

Paul McGrady: Standing between this group and coffee is only the second worst assignment that I've had in the last 10 days so that's okay.

((Crosstalk))

Paul McGrady: Yes, you can guess what the other one was. So just back to my prior comment, which is here is one where we're not – we don't have a consensus yet so it's not going over here, it's going over there, right? So that's the

purpose of what we're doing here. So this one's still got some different points of views, some new ideas, it's going to go from the happy bucket over to the things we're still working on bucket, right? Thanks.

Martin Sutton: Yes. Coffee now. Thank you, Paul. We restart at 10:30 so look forward to seeing you then.

END