

# Objections Update with the ICC

9 January 2014



**Trang Nguyen**

Director, gTLD Operations  
Generic Domains Division

# Webinar Information

**US Toll-free:** 1-877-941-1227

**US Toll:** 1-480-629-9656

**International Numbers:** Download at <http://newgtlds.icann.org/webinars>

**Conference ID:** Applicant Update Webinar (4639304)

## + Q&A session after the presentation

- Questions submitted to ICANN prior to the webinar given priority
- Phone questions
  - + To ask a question dial \*1 (star one)
  - + To exit the question queue dial \*2 (star two)
- Questions will be answered as time permits

## + Recordings and slides available after the webinar:

<http://newgtlds.icann.org/webinars>

# AGENDA

+ **Welcome**

+ **Presentation from ICC**

+ **Questions & Answers**

**Trang Nguyen**

**ICC Staff**

# NEW GTLD DISPUTE RESOLUTION PROCEDURES ADMINISTERED BY ICC

**Andrea Carlevaris**

Director, ICC Dispute Resolution Services; Secretary General, ICC International Court of Arbitration

**Emmanuel Jolivet**

General Counsel ICC

**Hannah Tümpel**

Senior Counsel and Manager

**Špela Košak**

Deputy Manager

# PART I

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# INTRODUCTION

# INTRODUCTION

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## 1. Who is on the line from ICC

## 2. Structure of the presentation

- **Background:** The Centre and the objection grounds administered by the Centre
- **General Update:** The status of the cases filed with the Centre
- **Focus on Scrutiny:** How does the ICC scrutiny process work?
- **Stay of proceedings:** What is ICC's practice with regard to the stay of proceedings?
- **Payments:** How does ICC reimburse the parties?
- Where can you find what on ICC's **webpage**
- How can you **contact** the Centre?

# BACKGROUND: THE CENTRE WITHIN ICC

## ICC Dispute Resolution Services

**ICC International Court  
of Arbitration**

**ICC International Centre  
for ADR**

**Arbitration**

ADR  
Secretariat

International  
Centre for  
Expertise

International  
Centre for  
Dispute Boards

# THE ICC INTERNATIONAL CENTRE FOR EXPERTISE

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# OBJECTION GROUNDS


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**ICC administers objections based on two different grounds:**

- Limited Public Interest Objections
- Community Objections

# GOVERNING RULES AND DOCUMENTS

gTLD Applicant Guidebook  
Version 2012-06-04



Attachment B  
New gTLD Dispute Resolution Procedure

## Attachment to Module 3

*New gTLD Dispute Resolution Procedure*

These Procedures were designed with an eye toward timely and efficient dispute resolution. As part of the New gTLD Program, these Procedures apply to all proceedings administered by any of the dispute resolution service providers (DRSP). Each of the DRSP, not a specific set of rules that will also apply to such proceedings.

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Attachment B  
New gTLD Dispute Resolution Procedure

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INTERNATIONAL CENTRE FOR ADR | LEADING DISPUTE RESOLUTION WORLDWIDE

## EXPERTISE RULES




International Chamber of Commerce  
The world business organization

INTERNATIONAL CENTRE FOR ADR | LEADING DISPUTE RESOLUTION WORLDWIDE

## PRACTICE NOTE




International Chamber of Commerce  
The world business organization

INTERNATIONAL CENTRE FOR ADR | LEADING DISPUTE RESOLUTION WORLDWIDE

## EXPERTISE RULES APPENDIX III

SCHEDULE OF EXPERTISE COSTS FOR PROCEEDINGS UNDER THE NEW gTLD DISPUTE RESOLUTION PROCEDURES

**ARTICLE III**  
Non-Refundable Amount

1. The non-refundable amount for the administration of proceedings pursuant to the new gTLD Dispute Resolution Procedure is €9,000.

2. The Disputant, when filing the Dispute, shall pay an amount equal to the non-refundable amount. No Disputant shall be permitted unless accompanied by the required expert.

3. The Respondent, when filing the Response, shall pay an amount equal to the non-refundable amount. No Respondent shall be permitted unless accompanied by the required expert.

**ARTICLE III**  
Administrative Expenses

The administrative expenses of the Centre for the proceedings shall be fixed by the Centre at its discretion being subject to the limits set out by the Centre. The administrative expenses shall, normally, not exceed €20,000 for non-expert panel proceedings and €30,000 for expert panel proceedings, unless required otherwise by exceptional circumstances.

**ARTICLE III**  
Panel and Expenses of the Expert

1. The fees of the expert shall be calculated on the basis of the time reasonably spent by the expert for the proceedings, as established for such proceedings by the Centre. The hourly rate shall be €800 unless established otherwise by the Centre at its discretion with the expert and the party.

2. The amount of reasonable expenses of the expert shall be fixed by the Centre.

3. Unless agreed otherwise by the parties of a three-member expert panel or unless decided otherwise by the Centre, the panelist of the panel shall receive 20% of the total fee, and each co-expert shall receive 30% of the total fee.

**ARTICLE III**  
Dispute Resolution Costs

Dispute Resolution Costs shall include any panelist and/or expert fees, and any other costs or charges, including the reasonable expenses of the parties, in the resolution of any such disputes as there is a viable subject-matter for the expert resolution. Any ICC administrative expenses may be subject to VAT for charges of taxable nature in the proceedings.

**ARTICLE III**  
VAT

A panelist shall not include any panelist and/or expert fees, and any other costs or charges, including the reasonable expenses of the parties, in the resolution of any such disputes as there is a viable subject-matter for the expert resolution. Any ICC administrative expenses may be subject to VAT for charges of taxable nature in the proceedings.

International Chamber of Commerce (ICC)  
38, Cours Albert Ier, 8000 Paris, France  
T +33 (0)1 53 30 32 02  
F +33 (0)1 53 30 32 09  
E [iccadr@iccwbo.org](mailto:iccadr@iccwbo.org)  
[www.iccadr.org](http://www.iccadr.org)

**ARTICLE III**  
Dispute Resolution Costs

Dispute Resolution Costs shall include any panelist and/or expert fees, and any other costs or charges, including the reasonable expenses of the parties, in the resolution of any such disputes as there is a viable subject-matter for the expert resolution. Any ICC administrative expenses may be subject to VAT for charges of taxable nature in the proceedings.



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## **PART II**

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# **UPDATE ON STATUS OF CASES**

# STATUS OF CASES FILED WITH ICC

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**Cases received: 137**

**Cases terminated prior to  
Expert Determination: 38**

**Remaining cases 99**

**Of those:**

**Cases stayed by the Centre: 17**

**Cases stayed by the Expert: 2**

**Remaining cases not stayed: 80**

**Expert Determination notified: 49**

**Expert Determination in scrutiny: 31**

# THE ICC SCRUTINY PROCESS

# THE SCRUTINY PROCESS

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## Attachment to Module 3 of the New gTLD Dispute Resolution Procedure

### Article 21 – The Expert Determination

*“(b) The Panel shall submit its Expert Determination in draft form to the DRSP’s scrutiny as to form before it is signed, unless such scrutiny is specifically excluded by the applicable DRSP Rules. The modifications proposed by the DRSP to the Panel, if any, shall address only the form of the Expert Determination. The signed Expert Determination shall be communicated to the DRSP, which in turn will communicate that Expert Determination to the Parties and ICANN.”*

### ICC Expertise Rules

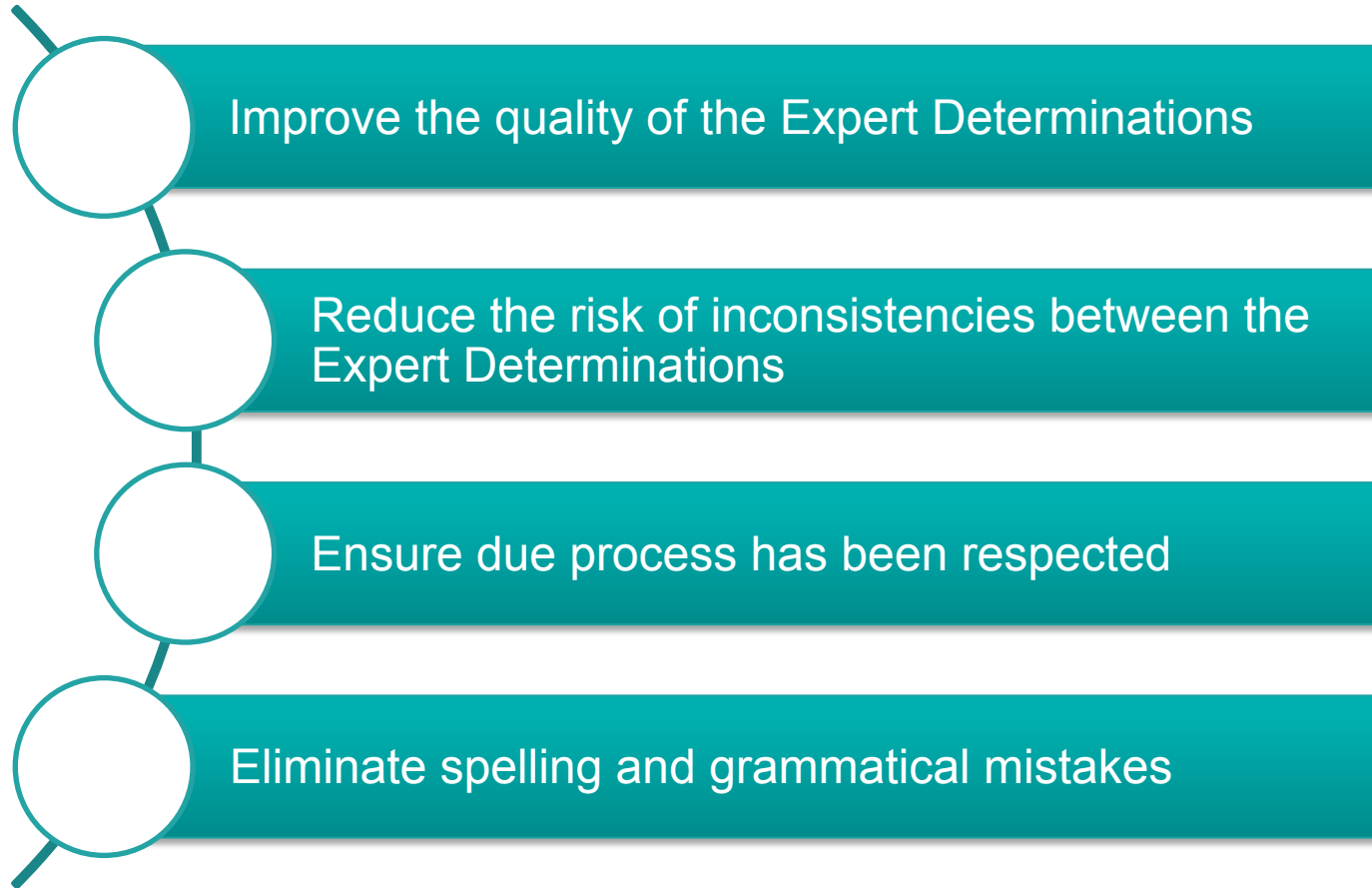
#### Article 12(6)

*“The expert’s report shall be submitted in draft form to the Centre before it is signed. The Centre may lay down modifications only as to the form of the report. No report shall be communicated to the parties by the expert. No report shall be signed by the expert prior to the Centre’s approval of such report.”*

# THE SCRUTINY PROCESS

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## ADVANTAGES OF THE SCRUTINY PROCESS



# THE SCRUTINY PROCESS

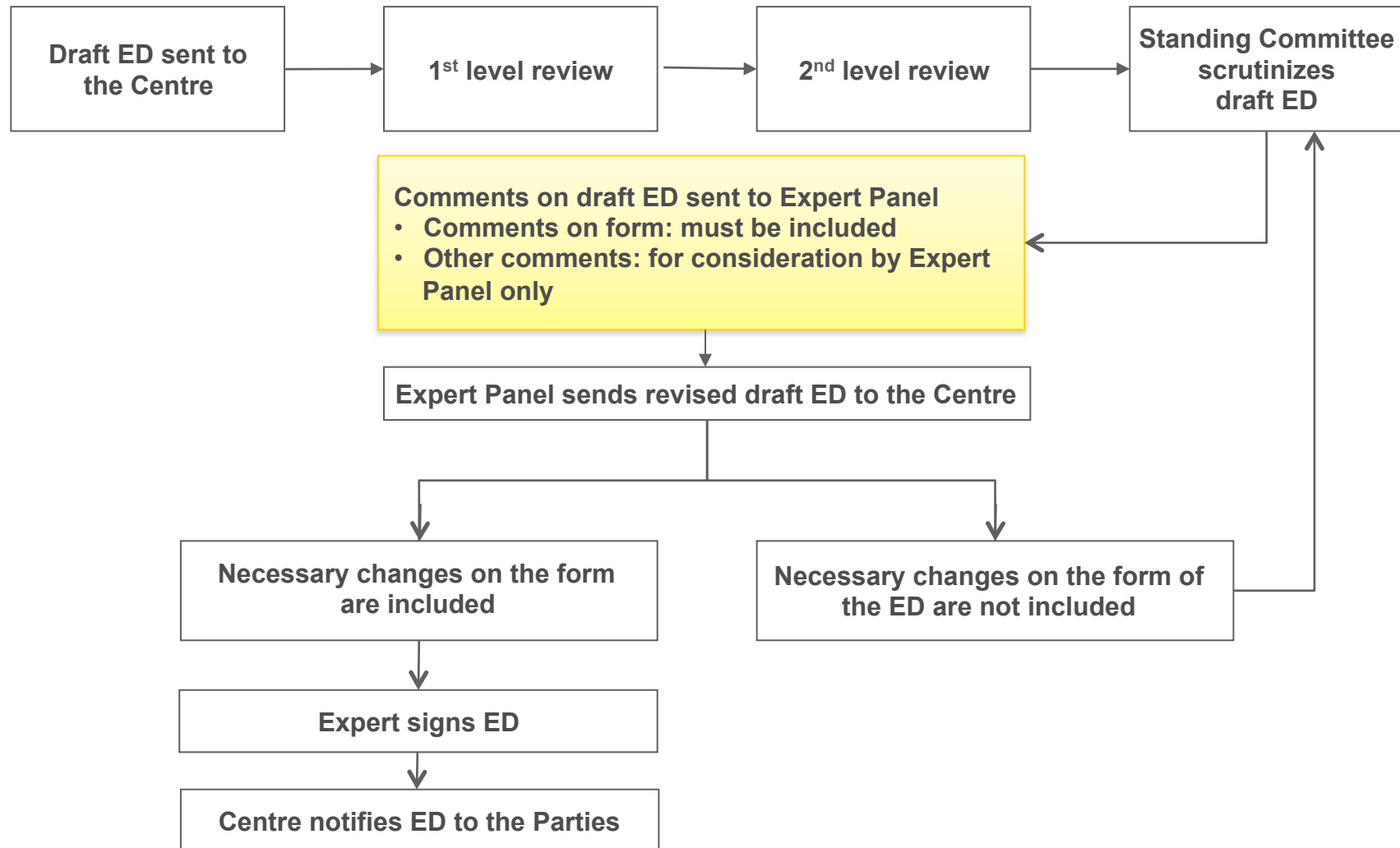
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## THE ACTORS OF THE SCRUTINY PROCESS

- **Lawyers of the ICC International Centre for Expertise**
- **The Standing Committee of the ICC International Centre for Expertise, a group of independent experts**
- **The Expert Panel**



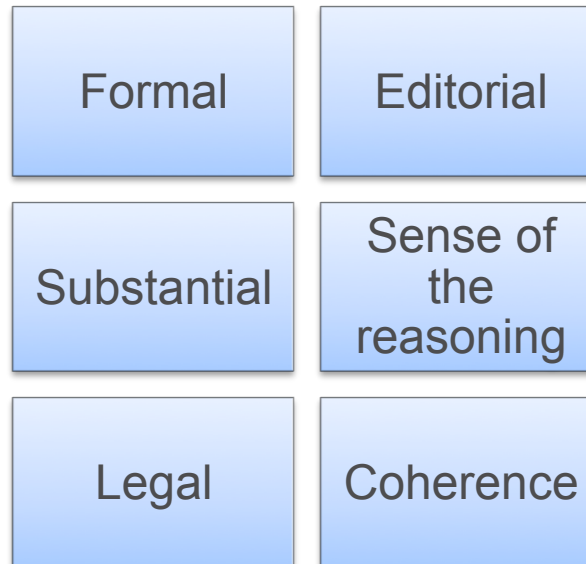
# THE SCRUTINY PROCESS



# THE SCRUTINY PROCESS

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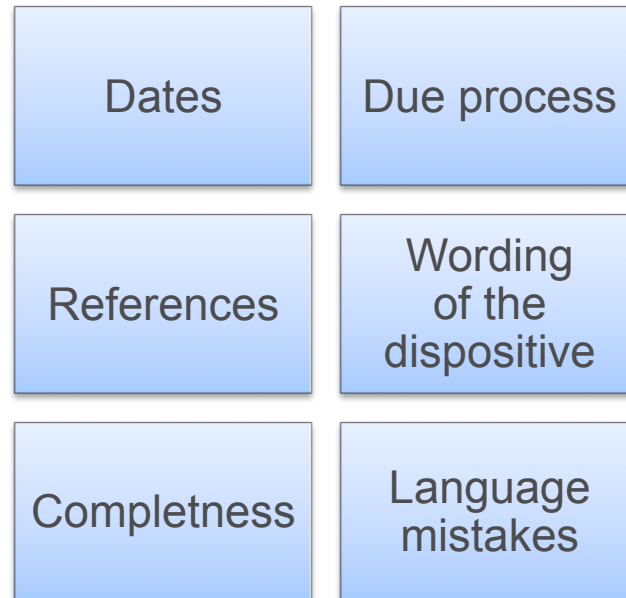
## SCRUTINY FACETS



# THE SCRUTINY PROCESS

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## RECURRING ISSUES IN PRACTICE



# THE SCRUTINY PROCESS

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## IMPORTANT:

**NEITHER THE CENTRE NOR THE STANDING COMMITTEE  
CAN CHANGE THE SUBSTANTIVE DECISION OF THE  
EXPERT PANEL.**

# **STAY OF PROCEEDINGS**

# STAY OF PROCEEDINGS – ICC'S PRACTICE

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## Who is in charge?

- If file has not yet been transferred to the Expert Panel, ICC will decide on any request for a stay of the proceedings
- If file has been transferred to the Expert Panel, the Expert Panel will decide on any request for a stay of the proceedings

## If the file has not yet been transferred:

- If stay is requested jointly by all parties, stay will be granted
- If extension of stay is requested jointly by all parties, the extension will be granted
- A stay is usually granted for 30-45 days. Subsequently, the parties must request an extension
- If stay is requested by one party only, stay will not be granted, i.e. case will continue

## If the file has been transferred:

- Expert has discretion to take the decision

***NB: ICANN has informed ICC that it might order it not to further stay any proceedings.***

# PAYMENTS - REIMBURSEMENTS

# REIMBURSEMENTS

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- **At the end of the proceeding, each party which will be reimbursed is invited to file Banking Instructions.**
- **After receipt of the completed instructions, ICC's accounting department is asked to proceed with the reimbursement.**
- **Regular payment sessions are conducted every two weeks.**
- **Usually now around 14 days between the time the BIs are received and the payment is processed by ICC. Additional time can be required by the bank to process the payment.**
- **Factors which prolong reimbursement:**
  - Late return of Banking Instructions
  - Incomplete or wrong Banking Instructions



## **PART III**

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# **WEBSITE AND CONTACT DETAILS**

# WHAT TO FIND WHERE ON THE WEBPAGE

The screenshot shows the ICC website with the following structure:

- Header:** ICC International Chamber of Commerce - The world business organization
- Navigation Menu:** ABOUT ICC | NEWS & MEDIA | GLOBAL INFLUENCE | PRODUCTS & SERVICES | ADVOCACY, CODES & RULES | TRAINING & EVENTS | CHAMBER SERVICES | MEMBERSHIP
- Left Sidebar (Arbitration & ADR):**
  - Expand All Collapse All
  - Arbitration
  - ICC as Appointing Authority
  - Pre-Arbitral Referee
  - Mediation
  - Expertise** (highlighted with a red circle)
  - Rules
  - Suggested Clauses
  - Services and procedure
  - Filing a Request for Expertise
  - Costs and payment
  - ICANN New gTLD Dispute Resolution** (highlighted with a red circle)
  - Dispute Boards
  - DOCDEX
  - Articles
  - Internships
  - Contact us
- Main Content Area:**
  - Breadcrumbs: Home > Products and Services > Arbitration and ADR > Expertise >
  - Introduction to ICANN New gTLD Dispute Resolution**
  - 8+1 social share icons
  - Table of Contents:
    - Introduction to ICANN New gTLD Dispute Resolution
    - Procedure
    - How to file an Objection
    - How to file a Response
    - Costs and Payment
    - Pending Cases
    - Experts
    - Expert Determinations
    - Documents
    - Contact us
  - Text: "The International Centre for Expertise of the ICC will administer disputes arising on Limited Public Interest Objections and Community Objections."
  - Text: "The Internet Corporation for Assigned Names and Numbers ("ICANN") (see [www.icann.org](http://www.icann.org) website) has implemented a program for the introduction of new generic Top-Level Domain Names ("gTLDs") on the internet."
  - Text: "This program includes a dispute resolution procedure, pursuant to which disputes arising out of the application for new gTLDs will be resolved. ICANN has set out this procedure in a document entitled **New gTLD Dispute Resolution Procedure**."
- Right Sidebar (Upcoming events):**
  - 10 Jan 2014: 2nd North African Dispute Resolution Conference: Mediation in practice (Tunis)
  - 15 Jan 2014: ICC Institute Masterclass for Arbitrators, Singapore (Singapore) - Programme | Speakers | Logistical Notes
  - 17 Jan 2014: ICC YAF: Future trends in ADR – Spotlight on Asia (Singapore) - Speakers | Logistical Notes
  - 18 Jan 2014: ICC YAF: Introduction to alternative dispute resolution (Amman) - Programme | Speakers | Logistical Notes
  - 30 Jan 2014: ICC YAF: Standards for disqualifying arbitrators in commercial and investment arbitration: convergence or divergence? (Paris) - Speakers | Logistical Notes

Red arrows in the image point to the breadcrumb path, the 'Introduction to ICANN New gTLD Dispute Resolution' link in the table of contents, the 'ICANN New gTLD Dispute Resolution' link in the sidebar, and the 'New gTLD Dispute Resolution Procedure' link in the main text.

## CONTACT DETAILS

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ICC International Centre for Expertise

***NB: New postal address since 21 October 2013!***

33-43 avenue du Président Wilson

75116 Paris

France

Phone: + 33 1 49 53 30 53

Email: [expertise@iccwbo.org](mailto:expertise@iccwbo.org)

Website: [www.iccexpertise.org](http://www.iccexpertise.org)

# THANK YOU & QUESTIONS?

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