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Complaint Handling and Dispute Resolution Procedure



Malaysian Timber Certification Council

C-8-5, Block C, Megan Avenue 2

No.12, Jalan Yap Kwan Seng

50450, Kuala Lumpur, Malaysia

Tel: +60 (0)3 2161 2298, Fax: +60 (0)3 2161 2293

E-mail: info@mtcc.com.my, Web: www.mtcc.com.my

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1. INTRODUCTION

- 1.1 The Malaysian Timber Certification Council (MTCC) is the National Governing Body (NGB) of the Malaysian Timber Certification Scheme (MTCS) and has overall responsibility for ensuring the smooth operation of the MTCS and maintaining its credibility.
- 1.2 This document describes the procedure for handling complaints and the investigation and resolution of disputes in the MTCS, covering; (i) the types of complaints that can be referred to the MTCC in its role as the NGB; (ii) the process for submitting complaints; (iii) the function and membership of the Dispute Resolution Committee, as well as its decision-making process; and (iv) the costs associated with these procedures.

2. SCOPE

- 2.1 The types of complaints that can be submitted to the MTCC include:
 - 2.1.1 Complaints resulting from decisions and/or activities of MTCC as the NGB under the MTCS; and
 - 2.1.2 Complaints about the implementation of MTCS
- 2.2 Complaints resulting from decisions and/or activities of MTCC as the NGB under the MTCS would be:
 - 2.2.1 Activities related to the notification of accredited certification bodies (CBs)
 - 2.2.2 Issuance of logo/trademark usage licences for MTCC and PEFC trademark (PEFC trademark only after endorsement of the MTCS by the PEFC Council)
 - 2.2.3 Procedures and requirements specified in the MTCS Technical Documents and the MTCS ST 1002 *Malaysian Criteria and Indicators for Sustainable Forest Management*; and
 - 2.2.4 The standard review committee and the standard review process governed by the MTCS ST 1001 *Standard Setting Procedures for Forest Management Certification Standards*
- 2.3 Complaints about the implementation of MTCS would be complaints on the certification process, certification bodies and/or certified organisations.
- 2.4 Complaints and disputes that are being legally contested shall not be addressed through these Procedures. This is to prevent any undue influence, circumvention or involvement in the legal process. Once the legal action has been resolved, including any appeals, the complainant may resume their complaint and/or dispute following these Procedures. However, any decisions made by MTCC and the Dispute Resolution Committee (DRC) shall not contradict any rulings made by Malaysia's Court of Law.

3. TERMS AND DEFINITIONS

3.1 Complaint

An expression of discontent or dissatisfaction by any person, group of persons or organisation, relating to the MTCC's Organisation, Standard or Scheme. Complaints can be substantive (technical) or procedural nature.

3.2 Complainant

Person, group of persons or organisation filing a complaint

3.3 Dispute

An unresolved complaint that has been addressed using this procedure, but the complainant remains dissatisfied with the outcome.

4. DISPUTE RESOLUTION COMMITTEE (DRC)

4.1 The Dispute Resolution Committee (DRC) is an independent committee established by the MTCC Board of Trustees to consider and resolve disputes outlined in these Procedures.

4.2 The DRC shall consist of five members appointed by the MTCC Board of Trustees. The Board shall also appoint the DRC Chairperson. Each member shall serve a two-year term, renewable at the Board's discretion.

4.3 A quorum of three members is required for DRC meetings to proceed.

4.4 The DRC Chair shall preside over all meetings. If the Chair is absent more than fifteen (15) minutes, or unwilling to preside, the members present shall select a Chair for that meeting.

4.5 Decisions made by the DRC shall be based on a simple majority and will be final. In the case of a tie, the chair shall have a casting vote.

5. COMPLAINT ON MTCC AS THE NGB UNDER THE MTCS

5.1 Complaint Handling Procedure under MTCC

5.1.1 Upon receiving complaint, the MTCC Chief Executive Officer (CEO) shall provide written acknowledgement of the receipt of the complaint to the complainant.

- 5.1.2 Depending on the severity of the complaint, the MTCC CEO shall establish a Complaints Committee, consisting of relevant personnel within MTCC. The Complaints Committee shall be provided with the details of the complaint and convene to consider and discuss the issue. If the MTCC CEO deems a Complaints Committee unnecessary, he or she will determine the most appropriate response to the complaint.
- 5.1.3 The MTCC CEO or the Complaints Committee shall communicate the outcome of the complaint to the complainant and the MTCC Board of Trustees.
- 5.1.4 Any complaints related to the MTCS ST 1002 *Malaysian Criteria and Indicators for Sustainable Forest Management*, the standard review committee, and the standard review process governed by the MTCS ST 1001 *Standard Setting Procedures for Forest Management Certification Standards*, shall be documented and considered in the next standard review.
- 5.1.5 If the complainant is not satisfied with the outcome of the complaint, they may appeal the outcome/decision made by MTCC to the DRC Chair. This will then be considered a dispute.

5.2 Submission of Dispute

- 5.2.1 All disputes shall be submitted in writing to the the DRC Chair, with a copy to the MTCC Chairman. The complainant shall submit provide a clear and concise letter that includes the following:
- 5.2.1.1 The complainant's identification
 - 5.2.1.2 A detailed description of the dispute, including the facts, issues and concerns;
 - 5.2.1.3 A summary of the procedures and outcomes to date;
 - 5.2.1.4 The potential parties to the dispute;
 - 5.2.1.5 A proposed solution or remedy.
- 5.2.2 The DRC Chair shall acknowledge receipt of all disputes in writing.
- 5.2.3 The DRC Chair reserves the right to accept or reject any disputes. If a dispute is rejected, the complainant shall be notified in writing. The notice shall include:
- 5.2.3.2 the reason(s) for the rejection; and
 - 5.2.3.3 a description of how the deficiencies in the submission may be rectified.

5.3 Notification of Dispute to DRC

- 5.3.1 Once the dispute has been accepted by the DRC Chair, the Secretariat shall be instructed to provide copies of the dispute and its supporting documents to the DRC.

- 5.3.2 The DRC Chair shall appoint a Secretariat to assist in the proceedings of the dispute. The Secretariat shall be an independent party who is not affiliated with MTCC.

5.4 Responding Party

- 5.4.1 The Secretariat shall immediately send copies of the dispute and its supporting documents to any party identified in the complaint as a potential respondent.
- 5.4.2 If the DRC Chair determines that a person not named as a respondent should participate in the proceedings, the Secretariat shall send that person a copy of the dispute and its supporting documents and invite their participation.
- 5.4.3 Responding parties named in the complaint shall have 20 working days from the Secretariat's transmission of the dispute and its supporting documents to submit their own response briefs.
- 5.4.4 The response briefs must be in writing, accompanied by supporting documentation not already presented by the complainant, and identify the type and location of any other non-documentary supporting evidence. Respondents must also explain why any persons not already part of the proceedings should be invited to participate.
- 5.4.5 If respondents are added to the proceedings by someone other than the complainant, they will have a reasonable period, not exceeding 20 working days, to submit their supporting documents. The DRC shall make every effort to avoid delaying pending proceedings while waiting for the briefs of later-added parties, and these time periods cannot extend the deadlines for actions required by the Procedures.
- 5.4.6 Any briefs submitted beyond the permitted time will be lodged by the Secretariat and forwarded to the DRC Chair, who will determine the extent, if any, to which the DRC will consider the material contained in the brief. The Secretariat will promptly forward copies of the respondent's briefs to the parties involved in the dispute and the DRC.

5.5 Consideration of Dispute by DRC

- 5.5.1 Within 15 working days of receiving the respondent(s)'s briefs, the DRC shall determine whether or not they will hear the dispute. The determination shall be issued in writing and notified by the Secretariat to the complainant(s) and respondent(s).
- 5.5.2 If the DRC decides to proceed with hearing the dispute, they shall convene to discuss and make a decision on the dispute solely on the basis of the briefs submitted to the DRC.

5.5.3 In exceptional circumstances, the DRC may take any or all of the following actions:

- 5.5.3.1 request additional information or briefing from any party involved in the dispute;
- 5.5.3.2 seek assistance from the Secretariat;
- 5.5.3.3 seek the assistance of consultants or outside experts; and
- 5.5.3.4 conduct site visits, oral hearings or other proceedings that may assist in resolving the dispute.

5.5.4 The decision of the DRC shall be based on a simple majority, and shall be final.

5.5.5 The DRC shall issue a statement of its decision within 20 days of deciding to hear the dispute. The DRC shall communicate the outcome of the dispute resolution process, including any recommendations or remedial actions, in writing to the complainant, MTCC, and any other responding parties.

5.5.6 If necessary, MTCC shall formulate and implement appropriate corrective and preventive actions based on the outcome of decision made by the DRC.

5.5.7 The flowchart outlining the procedures for resolution of complaint on MTCC as the NCB under the MTCS is given in **Appendix I**.

6. COMPLAINTS ON THE IMPLEMENTATION OF MTCS

6.1 Certification under the MTCS is carried out by independent third-party certification bodies. MTCC has no influence or authority over their processes or practices, except for monitoring the outcomes and investigations conducted by these bodies on complaints they receive.

6.2 Complainant are advised to lodge their complaint to the certified organisation itself, and the certification body responsible for auditing it. MTCC will assist in providing contact details for the certification body and advise on the complaint lodging process. Once the certification body confirms that the complaint has been lodged, they will provide MTCC with their intended timeframe for resolving the complaint.

6.3 MTCC will monitor the progress of the complaint with the certification body. If the complainant does not receive a satisfactory response, they are then encouraged to contact the accreditation body that issued the accreditation certificate.

6.4 If the complainant remains dissatisfied with the outcome from the accreditation body, they are invited to contact the International Accreditation Forum (IAF), of which the accreditation body is a member. Any outcome or decision by the IAF are considered final.

7. RECORDS AND PRIVACY POLICY

- 7.1 All documentation related to a complaint will be retained for a minimum period of five (5) years. These documents include, but are not limited to, email correspondences, letters, reports, respondent briefs, independent expert information, supporting documents, recordings, and meeting minutes.
- 7.2 If a complainant wishes to remain anonymous or requests confidentiality for their raised concerns, MTCC and/or DRC Chair will make every effort to protect their identity. However, this confidentiality cannot be guaranteed if MTCC and/or DRC Chair determines that there is a legal or regulatory obligation to disclose the concern. All communications with the complainant will be treated as confidential throughout the entire procedure. However, relevant information about the complainant may be shared with independent third parties solely for the purpose of addressing and resolving the complaint within this procedure.
- 7.3 By submitting a complaint, the complainant explicitly consents to the processing and disclosure of their personal data. The complainant's personal data will be shared with an independent third party exclusively for the purpose of addressing and resolving the complaint. For comprehensive information on how MTCC handles personal data, please refer to the MTCC Privacy Policy available at <https://mtcc.com.my/privacy-policy/>.

8. COSTS

- 8.1 Under these Procedures, each party will be responsible for their own costs associated with participating in any complaint or dispute, regardless of the outcome.

9. CONFLICTS OF INTEREST

9.1 Recusal

- 9.1.1 If a member of the DRC becomes aware that their involvement in the resolution of a dispute may lead to a conflict of interest, they shall disclose such conflict to the DRC without delay and recuse themselves from further participation in the proceedings

9.2 Recusal: Vacating a Decision

- 9.2.1 If a member of the DRC fails to recuse themselves upon becoming aware of the conflict, their participation in any stage of the proceedings will result in the vacation of:
 - 9.2.1.1 the final decision reached by the DRC in the resolution of the dispute, even if the member with the undisclosed conflict did not participate in the deliberations leading to the decision; and
 - 9.2.1.2 any interim decision made in which the member with the undisclosed conflict participated in any way, at any stage of the proceedings.

- 9.2.2 If a final decision is to be vacated due to an undisclosed conflict, a motion must be made immediately after the discovery of the conflict, but no later than 20 working days after the DRC's transmission of the final decision.
- 9.2.3 The motion shall be submitted to the DRC, and the party making the motion must demonstrate the existence of the conflict.
- 9.2.4 If a party fails to make a motion to vacate a final decision within the specified time limitation, the party will be deemed to have waived any objection to the member's participation with an undisclosed conflict..
- 9.2.5 The decision of the DRC on a motion to vacate a final decision cannot be reviewed further under these Procedures.

FLOW CHART FOR RESOLUTION OF COMPLAINT ON MTCC AS THE NGB UNDER THE MTCS

