

**Procedure**

**SOP 2 CAD**

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## **Complaints, Appeals and Disputes**

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MYANMAR FOREST CERTIFICATION COMMITTEE



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# 1 Policy Background

## 1.1 Introduction

Myanmar Forest Certification Committee (MFCC) is the National Governing Body (NGB) of forest/timber certification schemes in Myanmar. Currently there are two schemes operating in Myanmar which MFCC oversees and manages. These are:

1. The Myanmar Timber Legality Assurance System (MTLAS);
2. The Myanmar Forest Certification Scheme (MFCS).

MFCC has overall responsibility for ensuring the smooth operation of MTLAS and MFCS, and maintaining their credibility.

MFCC regards all complaints and appeals as opportunities to improve its services and implement corrective and preventive measures.

## 1.2 Scope

This policy details procedures for complaints and appeals to, and disputes with, MFCC. In the case where an appeal, complaint or dispute is made regarding aspects of the certification process or an accreditation body, MFCC will never act as an arbitrator or get involved in any disputes whatsoever. The Certification Body or Accreditation Body will have sole responsibility for handling such issues in accordance to their own policies and procedures.

Whilst this document summarises the responsibilities of Certification Bodies and Accreditation Bodies with regards complaints, appeals and disputes (please see annex 1), the main purpose of this policy focuses on complaints, appeals and disputes in relation to decisions and/or activities of MFCC, including standard setting, interpretation of the MTLAS and MFCS Standards and Policy documents, trademark usage licencing and notification of certification bodies.

## 1.3 Normative References

MTLAS P 1 Implementation Arrangements  
CAD Reg 1 Complaints, Appeals and Disputes

## 1.4 Definitions

<i>Appeal</i>	Written request by an appellant for reconsideration of any decision made by MFCC or a MFCC Certification Body.
	Written request by any person or organisation (the appellant) for reconsideration of any decision affecting the appellant made by MFCC where the appellant considers such decision have been taken in breach of the MFCC policy requirements or procedures.
<i>Appellant</i>	Person or group lodging an appeal.

<i>Arbitrator</i>	An independent person or body appointed to settle a dispute.
<i>Auditor</i>	An MFCC Certification Body representative appointed to undertake the inspection of a client or applicant. An auditor may be an employee or subcontractor, and must be independent from MFCC.
<i>Certificate</i>	The document issued by the MFCC Certification Body signifying formal award of certification.
<i>Certification</i>	The overall process by which an entity's products are assessed for conformance to MTLAS or MFCS, and provided a certification decision.
<i>Complaint</i>	Written expression of dissatisfaction (other than appeal) by any person or organisation which relates to the activities of MFCC where a response is expected.
<i>Complainant</i>	Person or group lodging a complaint.
<i>Days</i>	"Days" means days irrespective of weekend or holidays.
<i>Dispute</i>	A complaint/appeal that cannot be satisfactorily resolved by MFCC.
<i>Disputant</i>	Person or group involved in a dispute with MFCC.
<i>MFCC</i>	Myanmar Forest Certification Committee.
<i>MFCC Employees</i>	In this policy an MFCC employee can refer to full and part time employees, consultants and sub-contractors and volunteers.
<i>MFCS</i>	Myanmar Forest Certification Scheme. MFCS is contained in a range of documents including MFCC policies, Standard Operating Procedures, other supporting system documentation, and the MFCS Forest Certification Standard.
<i>MTLAS</i>	Myanmar Timber Legality Assurance System. MTLAS is contained in a range of documents including MFCC policies, Standard Operating Procedures, other supporting system documentation, and the MTLAS Timber Legality Standard.
<i>Panel</i>	"Panel" means an arbitrator or three arbitrators as the case may be.

## 2 Policy Standards

### 2.1 MFCC Complaints and Appeals

Complaints and appeals submitted to MFCC shall be limited to concerns, or issues, regarding MFCC activities and their compliance with MFCC requirements.

It is the responsibility of the complainant/appellant to submit written information supporting the complaint/appeal which can be verified as accurate and correct through an independent source. The written complaint/appeal must be submitted within thirty (30) days after the incident provoking the complaint.

To have standing under this Policy the submission must:

- identify and provide contact information for the complainant/appellant;
- clearly identify the basis of the complaint/appeal (date, place, nature of action) and which parties or individuals are associated with the action;
- explain the action/incident in detail;
- indicate what steps have been taken to informally resolve the issue;
- propose what actions would, in the opinion of the complainant rectify the matter.

Regardless of the outcome of any complaint/appeal, the complainant/appellant, and MFCC shall each meet their own costs.

It is expected that any formally accepted complaint, not requiring an on-site investigation, should normally be resolved within 6 months.

Complaints/appeals are registered on CAD Reg 1 Complaints, Appeals and Disputes. MFCC CEO will propose and approve the actions to be taken by involving the concerned MFCC employees.

MFCC will inform the complainant/appellant of the receipt of the complaint/appeal, the complaint/appeal handling process, persons chosen to handle the process, provide the necessary reports and whenever necessary a formal notice of the outcome.

### 2.3 Dispute Resolution

MFCC and the disputant shall agree on mutually acceptable third party arbitrators to resolve any disputes. This should be agreed within 14 days from the time a dispute arises.

The Panel shall be composed of three arbitrators.

The three arbitrators shall be selected according to the following:

- One arbitrator nominated by MFCC senior management;
- One arbitrator nominated by the disputant; and
- The third arbitrator shall be selected by submission of candidates by MFCC senior management and the disputant and shall be selected by the two arbitrators already nominated;
- The Panel shall select a chairperson.

The chairperson notifies the appellant and MFCC of the make-up of its panel, giving either party the opportunity to state objections. If there are objections, the chairperson of the panel will decide on the final make-up of the panel.

### 2.3.1 *Independence and qualifications of Panel*

Every arbitrator shall be independent of the parties and shall immediately disclose any circumstances, or conflict of interest, likely to affect their independence.

### 2.3.2 *Closing a Dispute*

The Panel must render a final decision, including the grounds for it, within twenty (20) days following the end of the hearing. The decision shall be final and binding on all parties.

Decisions are reached by a simple voting majority. The ballot shall provide for a vote to affirm the original (disputed) decision or a vote to reverse said decision.

The decision shall not be invalidated by failure to comply with the above time period.

### 2.3.3 *Resolution*

If resolution is reached during any of the steps outlined above, a memorandum for the record shall be distributed to the concerned parties, providing final documentation and/or closure.

### 2.3.4 *Records*

Records are kept of all complaints, appeals and disputes for a period of five years.

### 3 Document History

Date of Issue:	Version	Approval date:	Requested by:	Nature of Change	Approved by:

## 4 Appendices

### *Annex 1: Certification Body and Accreditation Body Responsibilities*

#### Certification Bodies

Appeals, complaints and disputes concerning aspects of certification process(es) will be dealt with by the relevant MTLAS/MFCS Certification Body.

These may come from either clients (e.g. concession owners, mill owners, traders, manufacturers or retailers) or from other third parties such as interested stakeholders.

Adverse decisions include (but are not limited to):

- refusal to accept an application;
- refusal to proceed with an assessment;
- status of Corrective Action requests<sup>1</sup>;
- decisions to grant, reverse, deny, suspend or withdraw certification; and
- any other action that impedes the attainment of certification.

All Certification Bodies auditing against MTLAS and/or MFCS will have their own policies and operating procedures for dealing with appeals, complaints and disputes.

In the case where an appeal, complaint or dispute is made regarding aspects of the certification process as described above, MFCC will never act as an arbitrator or get involved in any disputes whatsoever. Nor will MFCC respond to any complaints or appeals with regards certification decisions. The Certification Body will have sole responsibility for handling such issues in accordance to their own policies and procedures.

#### Accreditation Bodies

Complaints involving an accreditation body shall be dealt with by the complaints and appeals procedures of the relevant accreditation body; or by the International Accreditation Forum where applicable.

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<sup>1</sup> For instance, if a client feels a corrective action request was closed satisfactorily but the Certification Body argues otherwise.