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Complaints Procedure



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Flowchart of MSPO Complaints Procedure

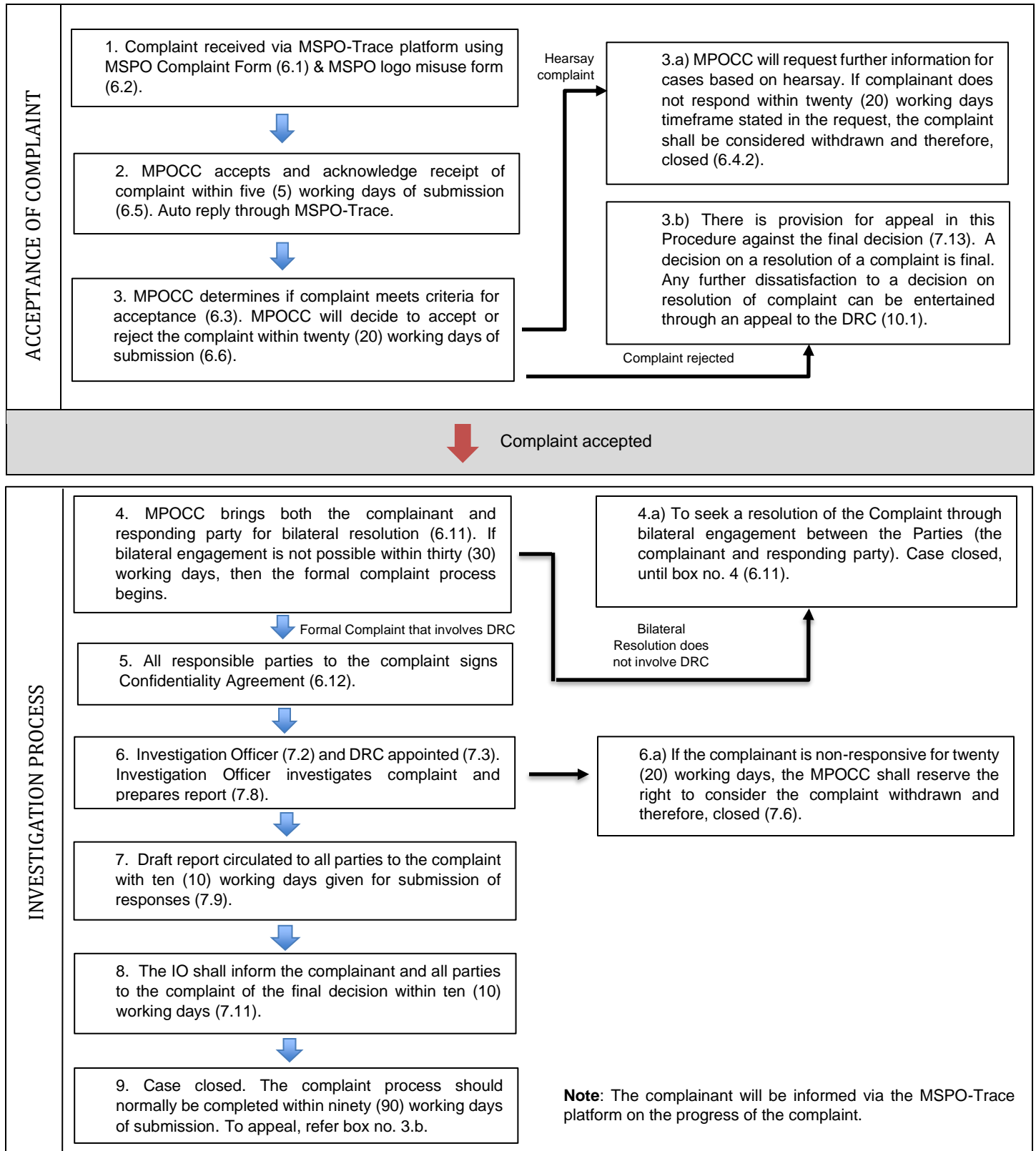


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1. Purpose

- 1.1 This document details the process adopted by the Malaysian Palm Oil Certification Council (MPOCC) to ensure effective and timely resolution of complaints from individuals or organisations relating to the MSPO Certification Scheme activities and of the conduct of MPOCC in its other related functions.

2. Scope

- 2.1 This Procedure shall be used by any stakeholder to raise a formal complaint relating to one or more of the following activities:
- 2.1.1 Management of the MSPO Certification Scheme, in relation to a breach of the requirements of one or more of the MSPO Standards and MPOCC Certification System documents.
 - 2.1.2 Execution of any other MPOCC's functions¹, except as otherwise provided for in 2.4; and
 - 2.1.3 Conduct of any MPOCC employee in relation to the handling complaints, and in executing any of the above.
- 2.2 A formal complaint shall also meet the requirements set out in 6.3.
- 2.3 The statute of limitations for submitting a formal complaint is three months (90-days) from the date that the event that the subject complaint occurred.
- 2.4 This Procedure **shall not** be used for raising:
- a. Complaints or objections about an applicant Certification Body (CB) or accredited CB (ACB) and certification decisions, which should initially be

¹ New initiatives such as those with China (CGFDC) and Japan (Simple Verification System)

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dealt with under the CB's internal complaints procedure. If the CB is not able to address the grounds of the complaint satisfactorily, it should be raised with the Department of Standards Malaysia (Standards Malaysia) in accordance with the Accreditation Body's (AB) Complaints Procedure.

- b. Complaints about the activities of Standards Malaysia or an applicant / accredited CB, should be dealt with under the *Standards Malaysia Complaints Procedure* [CAB 2 COMPLAINTS, Issue 4, 27 June 2018].
[<http://www.jsm.gov.my/acb-publication#.XrElcKgZPY>]
- c. Complaints about the content of the MSPO standards, standards review and their associated normative documents, should be sent to standards_review@mpocc.org.my to enable MPOCC and Standards Malaysia to review and process according to the *Standard Setting and Review Procedure under the Malaysian Sustainable Palm Oil (MSPO) Certification Scheme* [MSPOSSP 1/2018, 1 Oct 2018]².
[<https://www.mpocc.org.my/scheme-documents>]
- d. Complaints regarding the appointment, competency, role and qualification of peer reviewers in any certification assessment, should be addressed to the CB who appointed the peer reviewer.

2.4.1 Complaints related to 2.4a and 2.4b are to be submitted by the complainant to Standards Malaysia and copied to MPOCC for information.

² This document will remain until it is revoked.

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3. Responsibilities

Responsible party	Responsibilities
Complainant	An individual, organisation, or their representative who files a complaint according to the MSPO Complaints Procedure.
Grievances & Complaints Unit	<p>An independent and impartial unit within MPOCC, responsible to provide assurance that grievances and complaints processes and procedures are operating effectively.</p> <p>Note: Independent and impartial: - not directly involved in other operations, functions and/or units within MPOCC.</p>
Investigation Officer (IO)	A person(s) appointed by MPOCC under the Grievances and Complaints Unit that are independent from other functions within MPOCC and technically impartial to conduct investigation on the complaint if the complaint is valid. Such person(s) will lead and manage full-time investigation processes in MPOCC, manage the day-to-day activities for the effective and efficient functioning of the investigations process and report directly to his or her immediate superior within the unit.

Responsible party	Responsibilities
Party to the complaint	Any person(s) or entity who has filed the complaint, or any person or entity against which the complaint has been raised.
Responding party	In the case of a Complaint, the party against whom the Complaint is being made.
MPOCC Grievances & Complaints Executive	Involved in administrative work of the Grievances & Complaints Unit, not limited to processing the complaint, supporting other parties in their roles in executing the Procedure, including the IO; monitoring, reporting, tracking of the received complaints and coordinating the annual complaints review.
Temporary Support Staff	Any person(s) within MPOCC that are not under the Grievances & Complaints Unit, required to provide support to the IO in executing his duty. Support given primarily on the technical knowledge and information and data sharing, based on the nature of their functions of the unit. Temporary support staff shall be selected based on the nature of grievances and/or complaints received.
MPOCC Dispute Resolution Committee (DRC)	An independent committee established by the Board of Trustees of the MPOCC to consider and resolve the types of disputes mentioned in this Procedure.

4. Terms and definitions

For this document, definitions in the relevant ISO/IEC standards shall apply. The following definitions and abbreviations shall also apply.

Term	Definition
Complaint	Expression of dissatisfaction, other than appeal or objection, by any person or organisation, relating to the activities of MPOCC, an MSPO certificate holder, a management unit that is in progress of certification or the MPOCC, where a response is expected.
Dispute	<p>Disagreement, arising from a <u>complaint</u>, submitted to an <u>organisation</u>.</p> <p>Note: Some <u>organizations</u> allow their <u>customers/stakeholders</u> to express their dissatisfaction to the organisation in the first instance. In this situation, the expression of dissatisfaction becomes a complaint when sent to the organization for a response and becomes a dispute if not resolved by the organization. Many organizations prefer their customers/stakeholders to first express any dissatisfaction to the organization before utilizing dispute resolution external to the organization. (Refer ISO 10003)</p>
Entity or legal entity	Any individual, partnership, proprietorship, corporation, association, or other organisation that has, under the law, the capacity to make a contract or an agreement and the abilities to assume an obligation and to pay off its debts. A legal entity, under the law, is responsible for its actions and can be sued for damages.

Certified entities	An organization or a Management Unit that has obtained a certificate of conformity issued by the Accredited Certification Body (ACB) under the MSPO Certification Scheme.
Management Unit	Unit of certification or unit that is in progress of certification.
Conflict of interest	Situation in which a party has an actual or perceived interest that gives, or could have the appearance of giving, that party an incentive for personal, organizational, or professional gain, such that the party's interest could conflict, or be perceived to conflict with, the conduct of an impartial and objective certification process.

5. Associated documentation

- 5.1 MSPO Complaints Procedure (CP 1/2020)
- 5.2 *Standard Setting and Review Procedure under the Malaysian Sustainable Palm Oil (MSPO) Certification Scheme* [MSPOSSP 1/2018, 1 Oct 2018]³
- 5.3 *Dispute Resolution Procedure of MPOCC* [MSPODRP03, rev 1 Oct 2019]
- 5.4 Issuance of MSPO logo usage license (<https://www.mpocc.org.my/logo-application>)

6. Procedures for receiving complaints

- 6.1 All complaints submitted to MPOCC must be done through the MSPO Complaint Form (**Annex 1**) in the MSPO-Trace platform

³ Same as Footnote No. 4

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(<https://mspotrace.org.my/Complaints>) with detailed information of the complaint, complainant and responding party. This is essential for the purpose of data capture, tracking and reporting of all complaints submitted to MPOCC. For marginalised complainants⁴ who are unable to use the MSPO-Trace platform, assistance may be provided by MPOCC staff, upon request.

- 6.2 Complaints regarding MSPO logo misuse shall be submitted through MSPO-Trace platform with details as per **Annex 2**. Complaints regarding MSPO logo misuse can still be received via other means apart from submission through the MSPO Trace platform.
- 6.3 The complaint shall be:
 - 6.3.1 Specific, and include appropriate objective justification and evidence to substantiate any claim and allow MPOCC to take appropriate action.
 - 6.3.2 Submitted in writing using the MSPO Complaint Form (**Annex 1**) in the MSPO-Trace platform (<https://mspotrace.org.my/Complaints>).
 - 6.3.3 Submitted in the English Language or Bahasa Malaysia.
- 6.4 A complaint based on hearsay shall not be accepted as a valid complaint without obtaining further supporting information.
 - 6.4.1 In such a case, MPOCC shall request for further information from the complainant to assess whether it is a valid complaint.
 - 6.4.2 If the complainant is non-responsive for twenty (20) working days⁵, following a request for information or acknowledgement, the MPOCC

⁴ Socially excluded groups of people for different reasons, that have been marginalised against, discriminated, excluded and do not receive equal opportunities whether as workers and/or smallholders in the oil palm sector. The discrimination faced may be gender, age, physical or mental disabilities, lack of training, lack of protection (absence of gender inclusive policies, physical protection from harassment, and financial protection, e.g. insurance coverage due to non-contracted jobs) economic status, access to education or live in isolated places and therefore, unable to use the MSPO-Trace platform.

⁵ Complainant checks a tick box to confirm understanding this condition in the MSPO-Trace platform.

shall reserve the right to consider the complaint withdrawn and therefore, closed.

- 6.5 MPOCC shall accept and acknowledge receipt of complaints within five (5) working days of submission.
- 6.6 MPOCC will review the complaint received using the criteria in 6.3 and will decide to accept or reject the complaint⁶ within twenty (20) working days of submission.
- 6.7 The responding parties shall have twenty (20) working days after acceptance of the complaint, to submit their own response briefs of the complaint to MPOCC. The response briefs shall address the issues presented by the complaint and shall be in writing through the MSPO-Trace platform.
- 6.8 If the complaint is valid, MPOCC will appoint an Investigation Officer (IO) to conduct investigation on the complaint.
- 6.9 If the complaint is valid, but relates to an ongoing ACB complaint process, MPOCC will not pursue the investigation and the ACB shall conclude the process.
- 6.10 If the complaint is not valid, the complainant shall be informed of the reason and MPOCC will provide a formal reply to the complainant on the decision made by MPOCC.

⁶ Based on initial diagnosis of the complaint by determining the allegations made by the Complainant, including those described in Section 6.3 of this document. The initial diagnosis is not to be regarded as a final determination or verification of the Complaint itself.

- 6.11 The MPOCC shall first attempt to bring the Parties (the complainant and responding party) together to seek a resolution of the Complaint through bilateral engagement between the Parties. If bilateral engagement is not possible, within a period of thirty (30) working days, then the formal complaint process begins.
- 6.12 To proceed with the formal complaint process, all responsible parties to the complaint shall sign the **Confidentiality Agreement (Annex 3)**.
- 6.13 The accepted complaint may be forwarded to the AB, Applicant CB/ACB and relevant authorities, i.e. regulatory agency⁷, where necessary, for their information and comments.
- 6.14 In all respects, all efforts must be taken to ensure that there is no professional conflict of interest for a duration of 3 years and that impartiality is preserved.

7. Investigation and decision making on a complaint

- 7.1 The complaint process should normally be completed (i.e. final decision made) within ninety (90) working days of submission. In case there is a delay, the parties to the complaint shall be informed promptly.
- 7.2 The MPOCC appointed IO under the Grievances & Complaints Unit shall abide by the following criteria:
- 7.2.1 Integrity - The integrity of the IO establishes trust and thus provides the basis for reliance on the judgement.

⁷ MPOB and other relevant regulatory or inspection agencies

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- 7.2.2 Objectivity – The IO demonstrates the highest level of professional objectivity in collecting, evaluating, and communicating information about the activity or process under investigation. The IO makes a balanced assessment of all the relevant circumstances and is not unduly influenced by their own interests or by others in forming judgements.
- 7.2.3 Confidentiality – The IO respects the value and ownership of information received and does not disclose information without appropriate authority unless there is a legal or professional obligation to do so.
- 7.2.4 The IO shall not be one of the parties to the complaint. If such a situation arises, the IO is not allowed to perform his/her duty. The immediate superior may lead and execute the investigation processes and/or may appoint another person(s) within the unit to execute the duty of IO.
- 7.2.5 The IO may be more than one person working as a team. Depending on the nature of the complaint, such as a complaint giving rise to a conflict of interest, an investigator independent of the MPOCC may be appointed. If such a situation occurs, the complaint shall be referred to the DRC.
- 7.3 MPOCC shall constitute the Dispute Resolution Committee (DRC) comprising appropriate people. The Grievances & Complaints Unit will present the findings to the DRC and shall not be involved in the decision making of the DRC.
- 7.4 The relevant sections in the *Dispute Resolution Procedure of MPOCC* [MSPODRP03] document which involves MPOCC or otherwise, shall apply for this purpose.

- 7.5 The complainant will be informed via the MSPO-Trace platform on the progress of the complaint on a regular basis.
- 7.6 If at any time during the investigation process, if the complainant is non-responsive for twenty (20) working days⁸, following a request for information or acknowledgement, the MPOCC shall reserve the right to consider the complaint withdrawn and therefore, closed.
- 7.7 The IO shall objectively analyse and assess the complaint using all available relevant information.
- 7.8 The IO shall prepare a report which includes:
- 7.8.1 A summary of the nature of the complaint.
 - 7.8.2 A proposed determination as to the validity of the complaint, shall be one of the following:
 - 7.8.2.1 Not upheld.
 - 7.8.2.2 Not upheld, but with improvement plan proposed.
 - 7.8.2.3 Upheld, with corrective action plan proposed.
 - 7.8.3 An improvement plan, if proposed as per 7.8.2.2
 - 7.8.4 A corrective action plan, if proposed as per 7.8.2.3
- 7.9 A draft report shall be circulated to all parties to the complaint for comment and to identify any errors of fact, with ten (10) working days given for submission of responses before finalisation of the report.
- 7.10 The final report shall be presented by the Grievances & Complaints Unit to the DRC to discuss and agree on a final decision.

⁸ Complainant checks a tick box to confirm understanding of this condition in the MSPO-Trace platform.

- 7.11 Within ten (10) working days of the final decision, the IO shall inform the complainant and all parties to the complaint of the decision, any agreed improvement or corrective action plan and the timeline for implementation.
- 7.12 The final decision can be forwarded to the AB, ACB/Applicant CB, and relevant authorities, where necessary.
- 7.13 There is provision for appeal in this Procedure against the final decision. Appeal shall be presented to the DRC which will discuss and decide on the appeal.
- 7.14 The Parties of a Complaint shall always engage in good faith in the processes outlined in this Procedure with the final aim of arriving at a resolution. The Responding Party shall not engage in any form of retaliation, reprisal, violence, threats, or adverse discrimination against or apply undue pressure upon the Complainant, affected parties or their representatives/spokespersons or whistle-blowers.

8. Implementing a corrective action or improvement plan

- 8.1 The IO shall oversee the implementation of any improvement or corrective action plan resulting from the investigation, until fully implemented, from the final decision as per 7.11.
- 8.2 The IO shall report back, on a quarterly basis to the DRC on the agreed milestones and to confirm when the improvement or corrective plan has been completed.
- 8.3 The corrective action plan shall not impact previous decisions made during an assessment or certification process. Any findings from the complaint may be

shared with the AB and CB, and may be considered in future surveillance, as appropriate.

- 8.4 The DRC shall verify that the improvement or corrective action plan has been effectively implemented and, if so, close the complaint.
- 8.5 The IO shall notify the complainant that the complaint has been addressed and closed, and explain the actions taken, within ten (10) working days of closure.

9. Complaints review

- 9.1 The MPOCC led by the Grievances & Complaints Unit shall conduct an annual complaints review which includes examination of:
 - 9.1.1 The handling of any complaint under this Procedure.
 - 9.1.2 Summaries of complaints.
- 9.2 A summary of the findings of the complaints review shall be provided to the MPOCC Board of Trustees for information on an annual basis.
- 9.3 Learnings from the Complaints review shall be used when reviewing this Procedure.
- 9.4 This Procedure shall be reviewed at least once every five (5) years, or sooner where deemed necessary by the MPOCC Board of Trustees or top management. Comments shall be acknowledged, and the commentators notified and/or consulted if or when the Procedure is reviewed and revised.

10. Decision on resolution of complaints

10.1 A decision on a resolution of a complaint by the DRC is final.

11. Records

11.1 All records generated from complaints shall be kept by MPOCC for a minimum of five (5) years, after which it will be deleted. These records include the following:

11.1.1 Complaints.

11.1.2 Acknowledgement and notification to the complainant.

11.1.3 Reports prepared by the IO including proposed improvement or corrective action plans.

11.1.4 Final decisions.

11.1.5 Annual summaries from the CBs and AB.

11.1.6 MPOCC records of all annual summaries of all complaints relating to the MSPO Certification System.

11.2 Any personal information submitted by the complainants shall be handled in accordance with the relevant clauses in the Personal Data Protection Act 2010 (Act 709).

Liability: *The MPOCC and all its officials and authorized personnel shall in no way be held liable to any person for any loss or damage arising, whether directly or indirectly, from any act or lawful exercise of their powers or duties under this Procedure including all things done in the bona fide belief of the existence of such powers or duties.*

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Annex 1: MSPO Complaint Form

As per 6.1 of this Procedure, all complaints shall be submitted to the MPOCC using the current version of the form “MSPO Complaint Form” found at:

<https://mspotrace.org.my/Complaints>

General

For MPOCC to process your complaint effectively and efficiently, please read the following information carefully:

1. This form should be filled out in English or Bahasa Malaysia.
2. All fields with a * must be completed.
3. Complaints based on hearsay will not be accepted.
4. Where multiple complaints are filed with the same underlying issue, these are considered as one dispute, and will be processed together as one.
5. All filed complaints shall be accompanied by relevant evidence.
6. Complainant should identify the responding party of the complaint.

Send the completed information via MSPO Trace platform.

Your information:

Name*:

Organisation (if applicable):

Mobile number*:

E-mail address*:

Telephone number *:

Postal address *:

Postcode*:

City/Town*:

State/Country*:

List of enclosed evidence (if applicable):

- ☐ Title(s) of any document(s) and
- ☐ Reason the enclosed documents are considered evidence

Complaint type*: (compulsory to tick any one of the boxes below)

- ☐ Non-compliance to MSPO Certification Scheme
 - ☐ Non-compliance of national laws and regulations
 - ☐ Others
- Please enter the reason for your complaint in the field below (max 500 words).
 - Please specify which clause of the MSPO Standard, law or regulation that is related to the complaint? Please be specific.

Key areas*:

Social: e.g. health & safety, FPIC, human right violation

Environment: e.g. open burning, pollution, forest encroachment

Economy: e.g. FFB pricing

Legal requirement: e.g. Noncompliance of laws and regulations

--

Do you need to maintain confidentiality of your identity? Y / N

Do you need any support?

- ☐ Translation and interpretation
- ☐ Communication with female staff
- ☐ Others, please specify
- ☐ I understand that as a complainant, if I do not respond within 20 working days following a request for information or acknowledgement, MPOCC shall reserve the right to consider the complaint withdrawn and therefore, closed.

Annex 2: MSPO Logo Misuse

As per 6.2 of this Procedure, all MSPO logo misuse complaints shall be submitted to the MPOCC through <https://mspotrace.org.my/Complaints>

The MSPO logo is a registered trademark under Intellectual Property Corporation of Malaysia (MyIPO) and subject to strict control. Only companies that possess MPOCC permission are authorized to promote their products and services as MSPO certified / support MSPO certification and to use the logo.

If you suspect that MSPO logos are being misused, please provide us any possible information regarding the specific logo misuse. All reports of label misuse will be treated confidentially, and we will not share any of your details when investigating possible misuses.

Name:

Email:

Phone Number (please include country code):

Date of misuse was observed (DD/MM/YYYY):

Where was the MSPO logo misused? **to tick*

<input type="checkbox"/>	Billboard / Signage
<input type="checkbox"/>	Label / packaging on product
<input type="checkbox"/>	Leaflet / Brochure
<input type="checkbox"/>	Document
<input type="checkbox"/>	Newspaper
<input type="checkbox"/>	Television

<input type="checkbox"/>	Website
<input type="checkbox"/>	Others

--

Name of manufacturer / company /owner name of logo misuse:

Please provide as much details as possible to help us investigate. E.g. name of the products, how the MSPO logo misuse, details of company of MSPO logo misuse, website URL, etc
--

How was the MSPO logo misuse?

Please provide as much details as possible to help us investigate.
--

Was there a number shown in the MSPO logo?

**yes / no / not sure*

If yes, please state the number as below

MSPO/x-x-xxxx

If you have any supporting documents (e.g. photo of misuse), kindly send them with this complaint.

Do you wish to be contacted to further explain the information you have provided?

**yes / no*

Annex 3. Confidentiality Agreement

As per item 6.12 of this Procedure, to proceed with the formal complaint process, all responsible parties to the complaint shall sign the **Confidentiality Agreement** as below.

Please tick where applicable:

☐

Complainant

☐

Responding Party

Name of party: Tel no:

Email: Date:

I agree that, in consideration for access to information submitted, I will:

1. Keep all information provided, relating to this complaint, and its processes in strict confidence.
2. Disclose this information solely to MPOCC agreed this [day] day of [month, year]

.....

Signature

.....

Name / Title

.....

Date

[Note: MPOCC to send this Confidentiality Agreement via email to the complainant and responding parties to sign and return to MPOCC]

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Annex 4. List of Abbreviations

ACB	Accredited Certification Body
CB	Certification Body
DRC	Dispute Resolution Committee
FFB	Fresh Fruit Bunches
FPIC	Free, Prior, Informed Consent
IO	Investigation Officer
MPOB	Malaysian Palm Oil Board
MPOCC	Malaysian Palm Oil Certification Council
Standards Malaysia	Department of Standards Malaysia