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EA Procedure for the investigation and resolution of Complaints and Appeals

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1 PREAMBLE

1.1 General

- 1.1.1 This procedure describes the responsibilities and actions of EA Committees, EA Multilateral Agreement Council (EA-MAC), the EA Secretariat, the EA Advisory Board (EAAB), and EA Members in relation to the investigation and resolution of complaints and appeals.
- 1.1.2 Complaints and appeals received may concern decisions and activities of EA or EA Members, or conformity assessment bodies accredited by EA members.
- 1.1.3 This procedure shall be publicly available on the EA website and provided on request to enquirers by the EA Secretariat.
- 1.1.4 EA considers all complaints and appeals as a possible opportunity to improve its services and implement corrective and preventive action measures. EA is committed to monitoring and achieving continual improvement in all areas of its activities.

1.2. Definitions

The terms and definitions used in this procedure are based on ISO/IEC 17011:2004 and ISO/IEC 17000:2004, except as noted below.

1.2.1 Complaint

Expression of dissatisfaction, other than appeal, by any person or organization to EA, relating to the activities of EA, EA Members, or conformity assessment bodies accredited by EA Members, where a response is expected.

1.2.2 Appeal

Request by an accreditation body for reconsideration of any decision made by EA related to its membership (or Contract of Cooperation (CoC)) status in EA, or a request for reconsideration of any adverse decision made by the EA-MAC related to its future or present MLA signatory (or bilateral) status, or a request by an EA Member for reconsideration of decisions taken by the EA General Assembly or EA Executive Committee if the appellant considers such decisions have been taken in breach of the EA procedures and general ethics.

Note: Adverse decisions may include, but are not limited to:

- Refusal to accept an application for membership
- Denial of membership
- Refusal to accept an application for evaluation
- Refusal to proceed with an evaluation
- Corrective action requests
- Changes in scope
- Decisions to deny, suspend, or withdraw signatory or membership status
- Any other action that otherwise impedes the attainment of signatory status desired by an AB

1.2.3 EA Member

EA membership is defined in Article 5 of the EA Articles of Association.

Note: Accreditation bodies that have signed a bilateral agreement or CoC with EA are considered, for the application of this procedure, as an EA Member, except where they are a member of another regional cooperation of accreditation bodies. In such cases, the complainant should be referred to the other regional cooperation of accreditation bodies.

1.2.4 Appeal Review Panel

An Appeal Review Panel (ARP) shall consist of a Convenor and two members nominated by the EA Executive in consultation with the Chair of the EAAB. ARP members shall be nominated from the Members of EAAB and the senior management of EA Members. At least one member shall be nominated from the EAAB. At least one member shall be nominated from the senior management of an EA Member.

2 COMPLAINTS

2.1 EA Responsibility for Complaints

- 2.1.1 Complaints submitted to EA shall be limited to concerns or issues regarding EA, EA Members and/or their accredited bodies, including accreditation process, with respect to compliance with the requirements of EA documents, EA Members documents, the relevant standards and the requirements in the European Regulation n°765 applicable to accreditation bodies, taking into account the guidances given in relevant EA, ILAC, IAF and/or other applicable EU/EFTA documents.
- 2.1.2 If a complaint is made about the activities of an EA Member, whether by a third party, an accredited body or another EA Member, the immediate role of EA in relation to the issue is an indirect one of ensuring that the EA Member complained about has itself first had the opportunity to resolve the particular matter through its own complaints/appeal handling procedure and through direct discussions with the complainant.
- 2.1.3 Complaints submitted regarding a specific accredited body must be referred to the relevant accreditation body (or bodies) for resolution through the accreditation body's own complaints handling procedure and/or the accredited body's complaints handling procedure, as appropriate.
- 2.1.4 It is the responsibility of the complainant to provide in English relevant documentation to EA to demonstrate that the complaint has already been submitted for investigation through the EA Member's own complaint/appeal handling procedure.
- 2.1.5 If the EA Member has not been able to make satisfactory progress in the resolution of a complaint within a reasonable length of time, the complainant has the right to refer the matter to EA for resolution using this procedure. The EA Member should keep the complainant informed of progress being made in dealing with the complaint.

- 2.1.6 Regardless of the outcome of any complaint, the complainant and EA will each meet its own costs.

2.2 Complaint Processing

- 2.2.1 All complaints must be addressed in writing in English to the EA Chair at the EA Secretariat. The EA Secretary shall within 5 working days acknowledge to the complainant (in writing):

Receipt and subject of the complaint, or,

Rejection of the complaint (with written justification) if it is not, or has not been dealt with, in accordance with the requirements of Clause 3.2

Notes: The complainant shall identify itself properly.

If any EA Member, Committee Chair or Secretary, EA-MAC Chair or Secretary, receives a complaint against EA, this should be immediately forwarded to the EA Secretariat.

- 2.2.2 The EA Chair may delegate his/her responsibility to the Vice Chair or another member of the EA Executive Committee.

- 2.2.3 Upon receipt of a complaint, the EA Secretary shall inform the EA Executive Committee.

- 2.2.4 The EA Secretary shall provide the complainant with details of this EA Complaints and Appeals Procedure, ensure that the substance of the complaint is clearly understood and documented, and that all relevant claims or statements made by the complainant or other interested parties can be properly authenticated in writing when relevant and appropriate. Such authentication and provision of information is usually essential before the complaint can be considered as a formal complaint and any investigation initiated.

Note: Authentication means that all information can be verified as accurate and correct through an independent source, other than the complainant. It is the responsibility of the complainant to submit information that can be authenticated.

- 2.2.5 The EA Chair or his/her delegate can at his/her discretion authenticate any or all information, as he/she deems appropriate, at any time during the investigation process. If additional information is needed during this investigation, it is the responsibility of the designated investigator(s) to obtain such information.

2.3 Complaint Investigation Process

- 2.3.1 Upon receipt of a complaint, if the complaint relates to the activity of an EA Member, the EA Secretary shall formally bring the issue of the complaint and any relevant facts to the notice of the EA Member (even where these have already been made known to the EA Member by the complainant), and ask the member to provide within 30 days, a full account as to how the subject of the complaint has been dealt with and the outcome.

- 2.3.2 If it is found that it has not been possible to resolve the matter satisfactorily, or a report is not received from the EA Member, or the matter relates to EA itself, the EA Chair or his/her delegate shall, in conjunction with the EA Executive Committee, assign an ad-hoc Task Force Group (TFG), comprising one or more investigators, to investigate the complaint. The TFG membership shall be acceptable for both sides. One of the investigators shall be nominated as the TFG convenor. If possible, at least one of the investigators should understand the complainant's mother language.
- 2.3.3 The TFG shall proceed with a thorough investigation of the complaint, not limited only to procedural aspects, and seek a resolution of the issue(s) involved. It is the responsibility of the TFG to ensure that the investigation is performed in a timely manner. Direct communication between the TFG, the Complainant, the involved EA Member and any other relevant body shall be made, whenever possible and needed during the investigation process. It is the responsibility of all involved parties to provide information that can be authenticated.
- 2.3.4 The designated TFG shall keep the EA Chair or his/her delegate and the EA Secretary informed of progress being made in dealing with the complaint.
- 2.3.5 After the issue has been investigated, the TFG Convenor shall submit a detailed written report on the complaint, including a statement indicating whether the complaint has been found to have been substantiated or not, and recommendations on resolving the complaint, to the EA Chair or his/her delegate and the EA Secretary, who will distribute it to the EA Executive Committee.
- 2.3.6 The EA Chair or his/her delegate, in consultation with the EA Executive Committee, shall decide if the report/recommendations are likely to be satisfactory in terms of resolving the matter. The EA Chair or his/her delegate, in consultation with the EA Executive Committee, may request any amendment to the report or recommendation considered necessary and when satisfied, shall forward a summary of the final outcome to the EA Secretariat. The final outcome shall include a recommendation on any action to be taken in relation to the complaint. If grounds have been found for the EA Executive Committee to consider taking remedial action, the report shall recommend the specific action to be taken and a time limit for its implementation. If the final outcome includes a request to the EA-MAC to take any action in relation to the EA Member, the EA-MAC shall report to the EA Executive Committee within 2 months on the action taken and the response from the EA Member.
- 2.3.7 The EA Secretary shall notify the complainant, with copy to the involved EA member (if any) and to the EA-MAC Secretary, of the final outcome of the complaint investigation, consistent with valid confidentiality requirements, through the provision of a summary copy of the conclusions and recommendations of the report.
- 2.3.8 The EA Secretary shall maintain a detailed and complete record of the receipt, handling and outcome of every complaint. The Secretary shall submit a summary of all complaints handled since the previous meetings to each meeting of the EA Executive Committee (with a copy to the EA-MAC Secretary) and of the EAAB.
- 2.3.9 The EA-MAC Secretary shall make available to the relevant EA Peer Evaluation Team Leader in advance of an evaluation, details and general conclusions of all complaints processed by EA in relation to an EA Member, including any communication from the EA Member in response to the outcome of the complaints.

2.3.10 The EA Chair or his/her delegate shall report on complaints at each meeting of the EA General Assembly.

2.4 Further petition by Complainant

2.4.1 A complainant may submit a petition against the outcome of a complaint investigation to the EA Secretary, within 30 days of receiving the final outcome on the complaint.

2.4.2. A petition to a final outcome shall be heard by the EA Executive Committee and shall be conducted to ensure that the investigation was performed in full conformance with this complaints procedure.

2.4.3. The EA Executive Committee may request the TFG or the relevant EA Committee/Council Chair to reopen or reconsider any aspect of the investigation, with a maximum period for resolution of 30 days.

2.4.4. The decision made by the EA Executive Committee, shall be final and the complaint closed. This shall be conveyed to the complainant by the EA Secretary.

2.5 Timing of Complaints Process

2.5.1 If the complainant is unable and/or unwilling to submit all additional information as requested within 30 days of the date of delivery of the letter of EA secretary to the complainant requesting amendments to enable the EA Secretary to authenticate the complaint and acceptable justification for extension of this period was not received from complainant, the EA Chair or his/her delegate shall close the complaint and inform the complainant of the closure

2.5.2 The EA Secretary shall inform the relevant EA Member(s) of an authenticated complaint within 5 working days.

2.5.3 The designated TFG shall complete the investigation and provide a written report to the EA Secretariat and the EA Chair or his/her delegate as soon as possible.

Note: It is expected that authenticated complaints not requiring an on-site investigation would normally be resolved within 3 months.

2.5.4 The EA Secretary shall forward the final outcome of a complaint investigation to the complainant within 5 working days of receipt from the EA Chair or his/her delegate.

3 APPEALS

3.1 Responsibility for Appeals

3.1.1 Considering the nature of an appeal, appeals are handled directly by the EA Chair in consultation with the EA Executive and in conjunction with an Appeal Review Panel. The EA Chair may delegate his/her responsibility to the EA Vice-Chair.

3.1.2 Appeals shall be considered to ascertain that, taking account the particular circumstances of the case, EA's decisions were ethically, appropriately and competently made in line with EA's policies and processes. Information regarding the actions, responses and behaviours of both the appellant and EA shall be considered during the investigation.

3.1.3 If EA is approached about an accreditation decision of an EA Member, whether by a third party, an accredited body or another EA Member, the role of EA in relation to the issue is only an indirect one of ensuring that the EA Member concerned has itself first had the opportunity to resolve the particular matter through its own appeal handling procedure and through direct discussions with the appellant. EA shall handle this through the Complaints Handling process described above.

Note: It is expected that appeals to accreditation bodies not requiring an on-site investigation would normally be resolved within 2 months.

3.1.4 All decisions stand throughout the investigation of an appeal.

3.1.5 If for any reason an appeal is withdrawn, a future appeal on the same grounds will not be considered.

3.1.6 Regardless of the outcome of any appeal the appellant body and EA will each meet its own costs.

3.2 Appeal Process

3.2.1 All appeals must be addressed in writing to the EA Chair at the EA Secretariat. The EA Secretary shall within 5 working days acknowledge receipt of the appeal to the appellant (in writing).

Note: If any EA Member, Committee Chair or Secretary, EA-MAC Chair or Secretary receives an appeal against an EA decision, this should be immediately forwarded to the EA Secretariat.

3.2.2 Upon receipt of an appeal, the EA Secretary shall inform the EA Chair or his/her delegate who shall inform through the EA Secretary the Chair of the EAAB, and the EA Executive Committee.

3.2.3 The EA Secretary shall provide the appellant with details of this EA Complaints and Appeals Procedure, ensure that the substance of the appeal is clearly understood and documented, and that all relevant claims or statements made by the appellant or other interested parties can be properly authenticated in writing when relevant and appropriate. Such authentication and provision of information is usually essential before the appeal can be considered as a formal appeal and any investigation initiated. The EA Secretary may require additional documents and information.

Note: Authentication means that all information can be verified as accurate and correct through an independent source, other than the complainant. It is the responsibility of the complainant to submit information that can be authenticated.

- 3.2.4 The EA Chair or his/her delegate can at his/her discretion authenticate any or all information, as he/she deems appropriate, at any time during the investigation process. If additional information is needed during this investigation, it is the responsibility of the designated investigator(s) to obtain such information. It is the responsibility of all involved parties to provide information that can be authenticated.
- 3.2.5 EA first considers appeals internally (Stage 1). Any unresolved appeals are referred to an Appeal Review Panel (ARP) (Stage 2) on request by the appellant or EA.
- 3.2.6 At any time during the process, the appellant may withdraw the appeal.

Stage 1

- 3.2.7 In case of an appeal against an EA-MAC decision, the EA-MAC is first given the opportunity to reconsider the decision.
- 3.2.8 In other cases, the EA Chair or his/her delegate shall appoint an Investigating Officer from the members of the EA Executive Committee to ascertain that, taking account the particular circumstances of the case, EA's decisions were appropriately and competently made in line with EA's policies and processes. The findings of the Investigating Officer shall be reported in writing to the EA Chair or his/her delegate and EA Executive Committee.
- 3.2.9 The Investigating Officer shall not have been directly involved in the decision-making process for the appellant organisation.
- 3.2.10 The EA Executive Committee will consider the findings of the Investigating Officer and any other relevant information in deciding the outcome of the investigation. The EA Chair or his/her delegate shall inform through the EA Secretary the appellant of the outcome of the internal investigation of the appeal, and seek confirmation whether the appellant accepts this outcome or wishes to proceed to the second Stage.

Stage 2

- 3.2.11 The EA Chair or his/her delegate, in consultation with the EA Executive Committee and Chair of the EAAB, shall appoint an Appeal Review Panel (ARP) to consider the appeal.
- 3.2.12 The appellant may object once to the membership of the ARP, after which the EA Chair or his/her delegate will select a replacement member(s).
- 3.2.13 EA will, on request from the ARP, make available the findings of the internal investigation.
- 3.2.14 The Convenor of the ARP may convene a hearing or may conduct the review by email as appropriate. In either case, the appellant shall be given the opportunity to present its case with any supporting documentary evidence. Supporting documentation must be provided at least 5 working days ahead of the hearing/review and shall also be made available to EA. EA shall also be invited to make comments concerning the appeal with any relevant documentation, which shall also be made available to the appellant.
- 3.2.15 The ARP may call on witnesses or on experts to provide advice.

- 3.2.16 After considering the evidence, the ARP shall arrive at a recommendation with supporting reasons.
- 3.2.17 The Convenor of the ARP shall inform the EA Executive Committee of its findings and recommendations, through the EA Secretary.
- 3.2.18 Following consideration of the findings and recommendations of the ARP by the EA Executive Committee, the EA Chair or his/her delegate shall inform through the EA Secretary the appellant of its decision. As EA-MAC decisions on MLA signatory status can only be changed by the EA-MAC, if applicable, the EA Executive Committee will ask the EA-MAC to reconsider its earlier decision. However, recommendations may be made to the EA-MAC with regards to reinforcing its competence and consistency of operation. A copy of the conclusions and recommendations of the ARP will be provided to the appellant.

3.3 Timing of Appeal Process

- 3.3.1 Appeals must be made in writing, within one month of the date of receipt of the related adverse decision.
- 3.3.2 The EA Secretary shall acknowledge appeals within 5 working days of receipt.
- 3.3.3 The outcome of Stage 1 of an appeal shall be communicated to the appellant within 1 month of acknowledgement of appeal.
- 3.3.4 The appellant must make a request for an ARP to be convened within 2 months of the date of notification of the outcome of Stage 1 after which the appeal will be considered to be closed.
- 3.3.5 Any supporting documentation from the appellant must be submitted to the Convenor of the ARP at least 5 working days ahead of any hearing.

4 CONFIDENTIALITY AND CONFLICTS OF INTEREST

- 4.1 Any individuals nominated as members of a TFG or an ARP, or otherwise involved in the complaints and appeals process, that have a real or perceived conflict of interest or confidentiality issue with the situation presented shall excuse themselves immediately from any discussions or potential receipt of information regarding the specific complaint/appeal. ARP members shall have no commercial or other interest in the appeal being considered and shall not have been personally involved in any matters relating to the appeal.
- 4.2 When an appeal or a complaint concerns an EA Member that provides a person with responsibilities within this procedure, the EA Executive Committee shall nominate someone else from a different accreditation body to carry out those responsibilities.
- 4.3 All persons involved shall take necessary measures to preserve the confidentiality of information obtained during the investigation. A complainant or appellant may request to remain anonymous to other parties involved in the investigation and the designated investigator shall take adequate steps to preserve confidentiality.