

# MARINE STEWARDSHIP COUNCIL - TECHNICAL ADVISORY BOARD

## TAB DIRECTIVE SERIES

TAB Directive Number	Title	Date of Issue
TAB D-016 v2.1	Direction for Suspension, Withdrawal and Re-Instatement of a Chain of Custody (COC) Certificate	1 May 2010
Decision Date: 10 June 2008 Effective Date: 31 July 2008		

### Documents Supplemented or Modified by this Directive

MSC Scheme Document	Status Change
TAB Directive 016 v2	Superseded

### Background

There are various reasons that a certificate may be suspended or withdrawn from a client, but some should be dealt with more seriously than others. Certification Bodies (CBs) have sought guidance on the actions they are required to take in the event of each situation.

The MSC wishes to convey the level of seriousness with which it regards the misrepresentation of product from non-certified fisheries as certified. The TAB has agreed the following direction regarding various reasons for suspension, while acknowledging that the certificates are ultimately owned by the CBs.

This directive does not deal with instances where the CB determines that suspension of a certificate is appropriate in order to deal with matters of a contractual or administrative nature which do not threaten the integrity of the chain of custody. Some examples include:

- Late payment of CB invoice;
- Short slip in the audit schedule due to unforeseen circumstances;
- Slow response to the CB that the CB deemed unacceptable, but once response was given the issue was not high risk.

### Intent

This Directive's intent is to ensure consistency of CB approaches for suspension, conditions for reinstatement following suspension, and conditions for issuing a new certificate to a client following withdrawal of a certificate for whatever reason. It focuses on scenarios of suspension or withdrawal following a certified party's inability to demonstrate that fish is from a certified source. These are considered activities that jeopardise the integrity of a certified supply chain. The instructions in this Directive are intended to protect the integrity of MSC COC certifications.

### Directive

Any suggestion that product being sold by a certified organisation as MSC certified when in fact the fish does not come from an MSC certified fishery is serious, and shall be investigated and managed as follows:

1. If there is evidence<sup>1</sup> that indicates product being labelled with the MSC logo is not certified, the CB shall immediately consider this information and if valid, suspend the certificate to prevent the possibility of further potentially mislabelled product entering the supply chain;<sup>2</sup>
2. The need to investigate potential non compliances is urgent; investigations shall take place as soon as is practicable, and in any event within one month of the CB first learning (by any means) of a potential non compliance.
3. Should a certificate be suspended,
  - 3.1 the CB shall ensure that:
    - 3.1.1 MSC is notified within two working days;
    - 3.1.2 the client<sup>3</sup> identifies all relevant existing and potential purchasers (customers);
    - 3.1.3 the client advises customers of the suspension in writing within two working days of the suspension; and
    - 3.1.4 records of that advice are maintained.
  - 3.2 The CB shall conduct a risk assessment to determine the level of the risk that caused the suspension. The risk assessment will be used to determine the length of the suspension and the verification activities needed to show that corrective action has been effective and that the lifting of suspension was justified.
4. The CB shall determine whether the integrity of the certified supply chain has been compromised. They shall consider the level of intent and/or how systematically the integrity of the supply chain has been compromised. Some examples of activities that would lead to suspension for this reason are:
  - 4.1 Clear evidence that certified product has been replaced with non-certified product and is being or has been sold as certified; or
  - 4.2 Clear evidence that certified product has been supplemented with non-certified product and is being or has been sold as certified; or
  - 4.3 The certified organisation is unable to demonstrate that the product is from a MSC certified source.
5. Should the cause of the suspension be that the CB has determined that the integrity of the certified supply chain has intentionally and/or systematically been compromised, MSC requires the following process to be followed before suspension can be lifted:
  - 5.1 The period of suspension shall be six months, except as provided for in 5.4;
  - 5.2 The client shall provide the CB with proposed corrective action plan for addressing the non-conformance;
  - 5.3 The CB shall consider the proposed corrective action plan, and accept or reject it as being adequate to address the non-conformance. The corrective action plan shall be completed, implemented and verified by the CB by the end of the period of suspension;
  - 5.4 The CB may extend the suspension to a maximum of 12 months when verification activities cannot take place earlier due to the seasonal nature of the activity. This requirement for extra time shall be noted in the agreed corrective action plan;
  - 5.5 Verification activities should include CB monitoring the activities of the suspended client (e.g. submission and review of all purchasing and sales documents, conducting

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<sup>1</sup> Evidence shall include, but is not limited to, information that the client is buying from a supplier that is not certified.

<sup>2</sup> In addition to information from the CBs own sources, formal communication from the MSC's accreditation body should be considered to be sound evidence. The MSC requires positive evidence of compliance; the absence of this is not sufficient to maintain certification.

<sup>3</sup> The Client refers to the certified party.

- unannounced audits, interviews with the person responsible for MSC to ensure understanding and ability to train other members of staff, etc.);
- 5.6 Prior to accepting that corrective action has been effective the CB shall perform an on site verification audit and at a later date perform a second on site unannounced audit;
  - 5.7 The evidence collected by the CB, and the justification for closing out open non-conformances shall be documented in a comprehensive report which shall be forwarded to the MSC and the MSC's accreditation body within 10 days of closing the non conformance with a change to the certificate's status;
  - 5.8 If the verification of the effectiveness of the corrective actions cannot be concluded within the period of suspension, the certificate shall be withdrawn;
  - 5.9 If the certificate is reinstated after completion of all actions listed above an enhanced surveillance programme shall be followed for a minimum of one year.
- 6 If a client that has been suspended for an activity that jeopardises the integrity of a certified supply chain applies for certification to another CB, the succeeding CB shall comply with this directive. A new certificate shall not be issued until at least six months from the date of original suspension.
  - 7 If a client that cancels their certificate during the suspension, or has their certificate withdrawn with immediate effect, applies for certification to a new CB, the succeeding CB shall comply with this directive. A new certificate shall not be issued until at least six months from the date of original suspension.
  - 8 The MSC will only recognise one certificate for the stated scope (combination of fishery and activity) for the client at any time. MSC will recognise a suspended certificate until such time as the current CB notifies the MSC that it has been withdrawn or cancelled<sup>4</sup>.
  - 9 If a CB determines that a client has jeopardised the integrity of the certified supply chain a second time, the certificate shall be withdrawn immediately. The client may not re-apply for certification for a minimum of two years, at which time they shall advise their CB of the relevant history. If the client applies for certification to a new CB, the succeeding CB shall comply with this directive.

#### *Notification*

- 10 The MSC will advise all CBs of suspended or withdrawn certificates by email, and information on suspended or withdrawn certificates will be available on the MSC website.
- 11 All CBs are requested to review each of their clients' suppliers' lists (see COC methodology clause 5.6.1 e) and inform clients to take action as necessary.
- 12 Information about certificates that are suspended or withdrawn due to **activities which jeopardise the integrity of the certified supply chain** will be circulated to all relevant COC clients by the MSC.<sup>5</sup>

ENDS

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<sup>4</sup> MSC shall not permit use of logo or claims until a valid certificate is issued or suspension lifted.

<sup>5</sup> At the time of writing this refers to all COC clients as there is no efficient and guaranteed effective way to distinguish relevance. In the future the MSC will have a database where all suppliers will be registered and this will be used to discriminate on who will be contacted.