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Guidelines for corrective action to be taken by a certification body in the event of misuse of its mark of conformity

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Foreword

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Guidelines for corrective action to be taken by a certification body in the event of misuse of its mark of conformity

1 Introduction

1.1 The purpose of this paper is to identify a series of procedures which a national certification body (non-governmental) should consider in deciding how to respond to :

- a) a reported misuse¹⁾ of its registered mark of conformity, or
- b) a situation in which a certified product is subsequently found to be hazardous²⁾.

The action that a certification body chooses will depend upon a number of factors such as : the laws of the country in which the misuse occurs; the nature of the contract or agreement between the certification body and the party misusing the mark; the seriousness of the misuse; whether the misuse was inadvertent or deliberate; whether the product is hazardous³⁾.

It is recognized that a manufacturer or distributor of a product can be involved in two distinctly different ways, namely, as a misuser or as a producer or distributor of a marked product which subsequently is found to be a hazardous product.

It is also recognized that the ability to foresee all potential forms of misuse or other forms of use that might develop and which might result in a marked product becoming hazardous is exceedingly more difficult than to safeguard the obvious and common forms of misuse. While the hazards arising from these different situations both require corrective actions the assessment of responsibility in each situation requires quite different considerations.

In deciding upon what action is might take, the certification body will be motivated by a desire to protect the integrity of its mark, to assist persons who may be misled by the misuse of the mark and to provide equity to competitive users of the mark, while being cognizant of the problem of mass production and distribution. The corrective action described herein is based on the premise that, in general, the following conditions exist :

1.1.1 The certification system involves the use of a mark of conformity which is applied to each certified product.

1.1.2 The certification body has its mark of conformity registered or in other ways the use of its mark protected under at least the law of the country in which it is headquartered.

1) Misuse may take a variety of forms such as :

- a) misapplication of mark or non-conforming products, e.g. a non-conforming product may result from a violation of a contract, inadequate quality control, or error in assessment of conformity by a certification body or laboratory;
- b) unauthorized use of the mark, e.g. mark appearing on non-certified products.

2) Some reasons for which product may be found to be subsequently hazardous are :

- a) inadequate standards;
- b) unanticipated end-use of a product;
- c) a manufacturing defect.

3) This document is limited to corrective action applying to a mark of conformity; the case of certificates of conformity might be considered at a later stage if a demand exists. The document is directed at non-governmental certification bodies, although it could also be used by governmental certification bodies operating similar types of certification systems.