

# MINUTES

## Standards Committee Teleconference

Monday 22 October 2012

### Teleconference times (allow 2 hours)

- Vancouver/Carlsbad/Seattle @ 0600;
- Salt Lake City @0700;
- New York/Toronto @ 0900;
- London @ 1400;
- Antwerp/Paris@ 1500;
- Johannesburg@ 1500;
- Mumbai @ 1830;
- Melbourne@ midnight.



### Documents circulated:

- Minutes of Standards Committee teleconference, 14 September 2012
- Draft Powerpoint presentation for teleconference
- Draft RJC Comments Report on Proposed Scope for COP Review
- Powerpoint presentation submitted by group of Indian companies ('India committee')
- Revised RJC Governance Handbook

### References of interest:

- UNEP-WCMC report on the integration of biodiversity in standards (October 2012): <http://www.cbd.int/doc/meetings/cop/cop-11/information/cop-11-inf-59-en.pdf>
- IUCN World Heritage Advice Note – Mining and Oil/Gas Projects (June 2011) [http://cmsdata.iucn.org/downloads/iucn\\_advice\\_note\\_on\\_mining\\_in\\_wh\\_sites\\_final\\_060512\\_2\\_2.pdf](http://cmsdata.iucn.org/downloads/iucn_advice_note_on_mining_in_wh_sites_final_060512_2_2.pdf)
- Report - World Heritage Sites and the Extractives Industry by S.D. Turner (June 2012) [http://cmsdata.iucn.org/downloads/whs\\_and\\_extractive\\_industries\\_20\\_jun\\_12.pdf](http://cmsdata.iucn.org/downloads/whs_and_extractive_industries_20_jun_12.pdf)

*Attendees are kindly reminded that the RJC is committed to complying with all relevant antitrust and competition laws and regulations and, to that end, has adopted an [Anti-trust Policy Statement](#), compliance with which is a condition of continued RJC membership. Failure to abide by these laws can potentially have extremely serious consequences for the RJC and its members, including heavy fines and, in some jurisdictions, imprisonment for individuals. You are therefore asked to have due regard to this Policy today and indeed in respect of all other RJC activity.*

**Participants:** Didier Backaert, Gemma Cartwright, Charles Chaussepied, Cecilia Gardner, Mark Gershburg, Rob Headley, Caren Holzman (on behalf of Estelle Levin), Wilfried Hörner, Patrick Laine, Alan Martin, Andrew Parsons, Jon Phillips, Marcelle Shoop, Fiona Solomon, Graham Nicholls, , Sam Brumale, Marieke van der Mij, Michael Rae.

**Apologies:** Eva Carlson, Assheton Carter, Michèle Brühlhart, Larry Drummond, Stephane Fischler, Felix Hruschka, Juliane Kippenburg, Jennifer Horning, Stan Lurie, Steven Oates, Ngomesia Mayer-Kechom, Ryan Taylor.

### 1. Welcome

- Welcome from Co-Chairs: Charles Chaussepied.
- Roll-call of participants.

## 2. Minutes of previous meeting

- Minutes of the Standards Committee teleconference on 14 September 2012 were accepted and will be posted on the RJC website at:  
<http://www.responsiblejewellery.com/rjc-standards-committee/>
- Standards Committee is advised that the RJC Board has formally approved the amendment to clause 5.2 of the Governance Handbook re the 'duty to exercise loyalty to the Council', as per the amendment proposed for non-RJC Members of Committees at the April 30 Standards Committee teleconference. An updated PDF of the Handbook has been published on the RJC website at  
[http://www.responsiblejewellery.com/files/RJC\\_Governance\\_Handbook\\_2012-update\\_OCT.pdf](http://www.responsiblejewellery.com/files/RJC_Governance_Handbook_2012-update_OCT.pdf)

## 3. RJC Code of Practices review

- Background: Standards Committee teleconferences to date have held discussion on identified key topics, to feed into first draft revision of Code of Practices (COP) for public comment. Topics discussed to date include human rights, mining in conflict zones, free prior and informed consent, grading and appraising, child labour and India implementation (introduction to issues).
- Final group of topics discussed in October teleconference:
  - Implementation in India – continued
  - Biodiversity
  - Mercury
  - Comments report on first public comment period re proposed COP Review Scope

### Implementation in India

- A submission from a group of India companies ("India committee") was circulated to the Standards Committee and discussed during the call. The submission was welcomed by the Committee for its clear discussion of issues.
- It was agreed to develop additional guidance as proposed in the submission on the topics of: annual leave; piece rate payments; emergency exits.
- It was agreed to draft additional guidance which supports the intent of the COP provision/applicable law on the topics of: overtime compensation; provident fund; employment of trainees; on-site contractors; Factories Act provisions relevant to the COP: safety officer, ambulance room.
- It was agreed that separate regional Guidance documents could be avoided where possible, and the proposal to incorporate India-specific Guidance in the main Standards Guidance document was supported. The current India FAQ document will be updated and group together all India-related guidance in a quick reference document. The same approach can be used for other regions eg China, where many of the issues raised are also relevant.
- The draft guidance will be published for public comment in the third round of consultation for the COP review and issues which lack consensus will be brought before the Standards Committee for further discussion.
- Topics with detailed discussion during the teleconference:
- Overtime hours: can 12 hours per week limits be exceeded under collective agreements or other conditions to meet seasonal / market demand? Discussion:
  - Discussion pointed to the need for wording that accommodated some flexibility without putting workers at risk.
  - Restricting conditions to collective bargaining agreements may be too limiting, and may exclude temporary or part-time workers, non-unionised workplaces, or regions where freedom of association may be limited.
  - Applicable Law that grants licenses for additional hours and/or supports written agreements with employees should be accommodated in the COP.

- In the Indian context, diamond polishing is very seasonal and employees that are paid on a piece rate compete for as much work as possible. It is an employer responsibility to limit hours, as employees are unlikely to be self-limiting.
- The Ethical Trading Initiative and Fair Labour Association work on these issues should be reviewed, as the same issues arise in the apparel industry.
- **Legal compliance:** while legal compliance is an expectation of business and a principle for the COP, RJC Certification does not aim to provide a comprehensive legal compliance assessment. The India submission raises important issues about clarifying the relevance of legal compliance topics to the COP audit scope. The RJC COP needs to be clear on what an auditor is expected to verify so as to support consistency of audits across Members. Changes to COP 4.1 and the definitions of Major and Minor Non-Conformance are therefore proposed. Discussion:
  - Legal compliance is a baseline expectation of business, so changes to the COP should not erode that commitment, create ambiguity or reduce auditor attention to the issues. Agreed to add 'ensure' before compliance to emphasise this.
  - The audit approach to 4.1 in the current COP would seek evidence of a system in place and evaluate its effectiveness. The proposed changes to the provision wording in effect seek to clarify that approach in practice. If systems are in place for awareness and compliance with applicable law, and an auditor finds compliance gaps, then this would indicate that the system is not working and would result in a non-conformance. Serious legal non-compliance issues can trigger Member Discipline processes, as outlined in the RJC Complaints Mechanism.
  - Proposed changes to the definition of Minor Non-Conformances accommodates situations of technical non-compliance, for example waiting for the granting of a government permit after application has been lodged, particularly in countries where long delays can be common.
  - To better guide auditors on these issues, guidance on the audit approach for COP 4.1 will be improved in the Standards Guidance and in auditor training.
- **Beyond COP Review:** Once the COP review process is finalised in late 2013, RJC aims to have an 'Impacts' focus in 2014, to focus on its monitoring and evaluation program and commitment to the ISEAL Impacts Code. To continue the focus on India implementation issues, field projects on auditing consistency and interpretation in India are being planned for 2014 and beyond.

## **Biodiversity**

- Identified as a key topic in COP Review Scope, to review recommendations of UNEP-WCMC study on integration of biodiversity in voluntary standards systems and updates to IFC Performance Standard 6. A submission from WWF that covered the biodiversity provisions has also been reviewed.
- Discussion:
  - Changes were proposed to 3.5.2, 3.5.3, 3.5.4 and 3.5.5 to take account of the mitigation hierarchy and net positive gain concepts, include a new provision relating to critical habitat, and take account of threatened species decline. These changes were broadly supported.
  - The lack of proposed change to 3.5.1 on no-go areas did not have full support of the Committee. Several Committee members volunteered to continue discussion of these issues offline, including whether the approach of managing biodiversity impacts and risks irrespective of protected area status was sufficient.
  - Proposal to delete 'lead to extinction' in favour of 'lead to significant decline' was supported.
  - RJC will review whether the definition of 'Key Biodiversity Areas' covers the concept of 'High Conservation Value'; and whether 'net positive gain' is the same concept as

‘net positive impact’. The BBOP program was recommended as a useful reference on this and for how ‘significant decline’ of species could be assessed.

- More guidance on how to define ‘where practicable’ was sought.
- Confirmation was sought that the Glossary definition of Critical Habitat fully aligned with the IFC PS6 and RJC will review.
- Applicability of the Biodiversity provisions to new projects and expansions was confirmed. The current Standards Guidance statement that ‘Provisions 3.5.1 and 3.5.2 do not apply retrospectively to Mining Facilities in operation before World Heritage or protected area status is designated’ would continue to apply.

## **Mercury**

- 2009 Mining Supplement identified Mercury as a topic to revisit during the COP review and agreed to monitor progress in the UNEP Global Mercury Partnership and the forthcoming Legally Binding Instrument on mercury. Discussion:
  - Proposed changes to 3.2.1 were discussed, which included changing current wording from ‘subject to international bans’ to ‘which have been banned by international protocols or conventions or under Applicable Law’. It was agreed that the wording could be further improved for clarity, for example, add ‘in accordance with’.
  - Including Applicable Law specifically relates to the earlier discussion on legal compliance, emphasising COP-relevant areas where more detailed compliance checks from auditors should be carried out. However if intent is to encompass forthcoming Legally Binding Instrument, the topic may be adequately covered by proposed new provision 3.2.5 which addresses mercury specifically.
  - The value of including a separate topic on mercury (3.2.5) was discussed, and it was noted that mercury continues to a high-interest topic so probably merits additional visibility in the COP.

## **Draft Comments report**

- RJC published the proposed COP Review Scope for public comment during July-September 2012 (Comment Period 1). A draft Comment report on Comment Period 1 has been prepared that details all formal comments received, includes summary of key points and a table of comments arranged under topic areas.
- RJC will publish the Comment Report with the consultation documents for Comment Period 2. Stand-alone submissions will also be published separately as PDFs on the RJC website (see Appendix).
- Overall, there were 15 commenters and more than 100 individual comment points.
- RJC is reviewing all comments in preparing first draft COP revision for next comment period. How comments are addressed will be noted in a revision table that includes the previous COP provision and proposed changes.
- Standard Committee are asked to advise RJC if there are any additional topics/comments in the report that Committee members would like specifically presented for the November call.

## **4. Update on other relevant initiatives**

- SEC rule for Section 1502 (Conflict Minerals) in Dodd-Frank Act: update from Fiona Solomon, RJC.
  - The US National Association of Manufacturers (NAM) and US Chamber of Commerce appear to have filed a lawsuit against the SEC regarding Section 1502 on 19 October 2012.
  - The RJC, LBMA and EICC announced cross-recognition of gold refiner audits in September, and this has been well received by stakeholders.
- OECD Due Diligence Guidance: update from Fiona Solomon, RJC.
  - RJC is involved in planning for the next OECD meetings November 27-30 in Paris. 1 day will be focused on gold, 1 day on 3Ts, and 1 day on all four minerals. Meetings aim to

review implementation progress, discuss long-term governance for the Guidance, and potential activities for an OECD-hosted gold implementation programme in 2013.

- World Gold Council - Conflict-Free Gold Standard: update from Andrew Parsons, AngloGold Ashanti.
  - The WGC standard was published on October 18 and is closely aligned to the OECD Due Diligence Guidance.
  - WGC Members have 1 year to implement the Standard and report on conformance in the subsequent reporting period.
  - RJC already cross-references the WGC in the RJC Chain-of-Custody Standard and this will be highlighted on the RJC website, alongside the information re gold refiner audit cross-recognition.
- Initiative for Responsible Mining Assurance (IRMA): update from Rob Headley (Jewelers of America).
  - IRMA continues to progress and in-person meeting will be held in November in New York.
  - IRMA is working on governance and system mechanisms such as auditor accreditation, alongside continuing work on standards development.
- RJC Chain-of-Custody standard – diamond sub-committee: update from Michael Rae, RJC.
  - The diamond sub-committee concluded its work at the last teleconference on October 16. The sub-committee Co-Chairs will prepare a report summarising the recommendations for the Standards Committee to consider, and will speak to the next Committee teleconference on November 26.

#### **5. Any other business**

- Gemma Cartwright is stepping down from the RJC Standards Committee as she is leaving Fairtrade. RJC sincerely thanks her for her contributions to its standards development work programs. The RJC Board will identify a new stakeholder appointment to the Standard Committee asap.
- While not noted during the call, for Standards Committee information it is advised that Chikashi Miyamoto has also resigned from the Standards Committee due to workload. The resulting RJC Member vacancy in the Diamond Trading, Cutting and Polishing Member Forum is currently being filled through the election process as outlined in the RJC Governance Handbook.
- It is hoped that both vacancies will be filled before the November 26 teleconference.

#### **6. Standards Committee schedule – 2012 dates:**

- Remaining 2012 teleconferences:
  - Monday November 26, 2012, 2pm London time: approve release of consultation draft revision of Code of Practices. Committee members who will be participating in the KP Plenary meetings send their apologies for this teleconference.
  - Proposal for additional call in December for a briefing from Cecilia Gardner and Rob Headley on the US Diamond Source Warranty Protocol. Potential dates will be circulated.
- **Please note:** Committee members are welcome to contact Fiona Solomon and Marieke van der Mijn to arrange times to discuss input or feedback in more detail between formal meetings, or initiate discussion by email.