

## Summary Notes

### RJC Standards Committee Meeting

#### 07-08 Nov 18

**Participants:** Ainsley Butler (non-industry co-chair), Charlres Chaussepied (industry co-chair), Purvi Shah, Phaedon Stamtopoulos, Vanessa Terra (*on behalf of Eleonora Rizutto*), Joelle Ponelle, Claire Piroddi, Anouchka Didier, Michael Geelhand de Merxem, Ian Rowe, Cecilia Gardner, Estelle Levin, Jennifer Horning, Assheton Carter, Jean-Baptiste Andrieu, Didier Backaert, Estelle Levin (by phone)

**RJC Management Team:** Anne-Marie Fleury (Standards, Assurance and Impacts Director), Peter Dawkins (Assurance and Standards Coordinator), Andrew Cooper (Standards Manager), Monica Staniaszek (Assurance Manager), Maria Mursell (Senior Member and Stakeholder Training Manager), Mikaela King (Certification Manager), Andrew Bone (Executive Director)

**Apologies:** Alan Martin, Jennifer Hillard, Yves Bertan, Diana Culillas, Michele Bruelhart

#### Materials circulated prior to meeting:

- Guidance chapters for review by the Standards Committee.
- Summary notes from previous meetings (24<sup>th</sup> Jul 2018, 13<sup>th</sup> Sep 2018 & 27<sup>th</sup> Sep 2018).

#### Day 1 – Wednesday 7<sup>th</sup> November

##### 1. Opening remarks

Co-chair Ainsley Butler welcomed participants to the meeting and reminded them of the RJC Anti-Trust Policy. Summary notes from previous meetings held on the 24<sup>th</sup> July, 13<sup>th</sup> September and 27<sup>th</sup> September were approved by Cecilia Gardner and Didier Backaert. The purpose of the meeting is to seek provisional approval from the Standards Committee on the changes and updates to selected COP guidance chapters. A short introduction to the meeting agenda was given. Diana Culillas (Swiss Better Gold Association), Jean-Baptiste Andrieu (BSR), Ian Rowe (DDI), and Yves Bertrand (ARM) were introduced as new members of the Standards Committee (noting that Diana Culillas and Yves Bertran were unable to attend the meeting). The RJC Executive Director also personally thanked the Standards Committee for their contributions to the organisation and welcomed the new members, noting that he will be leaving the RJC in March 2019. The Standards Director presented a number of introductory slides and the approach for summarising, discussing and provisionally approving guidance chapters was agreed.

##### 2. COP Guidance chapters

###### COP 7 – Sourcing from Artisanal and Small-Scale Mining (ASM)

The Standards Director summarised changes since Round 2: the provision wording is updated to include reference to sexual violence and slavery; there is a clearer requirement to implement a measurable risk mitigation plan. The following points were made:

- Include language that encourages member companies to seek opportunities for positive impacts with ASM, rather than focussing only on the risks.
- There was a long discussion on the need for ‘fair commercial terms’ for ASM (pricing and offtake) to ensure positive economic impact. The challenges associated with making explicit pricing requirements were discussed, particularly for diamonds and coloured gemstones. There was agreement to include something on this in the Guidance.
- Change the title of the provision to ‘Sourcing Directly from Artisanal and Small-Scale Mining’.
- The guidance should be more explicit that risks are to be assessed on a regular basis, to mirror the provision wording.

- Provide more practical guidance on what members can do to avoid risks, such as ensuring that they are not sourcing from mines operating on World Heritage Sites, for example. Clear terms of engagement should also be defined.

**Status: To be tabled for approval at next Standards Committee meeting.**

#### COP 33 – Artisanal and Small-Scale Mining and Large-Scale Mining

The Standards Director summarised changes since Round 2: with some adjustments to the wording for this provision; a requirement for members to demonstrate that they are seeking to maintain a continuous dialogue with ASM. The following changes were agreed:

- Simplify the provision title, which is currently unclear.

**Status: To be tabled for approval at January 2019 Standards Committee meeting.**

#### COP Y – Sourcing post-consumer recycled industrial precious metals

The Standards Manager introduced this as a new provision that has been included to recognise the social and environmental risks that are associated with informal recycling of precious metals from post-consumer scrap. It was noted that the provision is very similar to COP 7 on ASM sourcing with regards to the types of risks and approach for identifying and managing those risks. The following was agreed:

- Update the title of the provision to be clear that it is focused on informal recycling only.
- Add language that encourages members to seek positive opportunities to engage with informal recycling actors, as per the suggestion agreed for COP 7.
- Be clearer in the guidance that the focus of the provision is on e-waste recycling.

**Status: provisionally approved**

#### COP 10 – Know Your Counterparty – Money Laundering and Finance of Terrorism

The Standards Director summarised the requirements of the provision but noted that no additional changes to the provision text had been introduced since the round 2 comment period. The following was agreed:

- Re-word sub provision 10.3 to be more explicit that the KYC policy and procedures should always be kept up to date.
- Modify language of sub provision 10.4 to clarify that records of cash like transactions should be kept in accordance with applicable law or where they are above 10,000 Euros / US Dollars, whichever is lower.
- Be clear in the Guidance that counterparties do not include end-consumers (unless required by law).
- Provide clear examples on the types of government issued identification that would be acceptable under sub provision 10.1a. For example this could be a licence, but it could also be a company registration or tax ID number.
- Update the definition of financing terrorism to clarify that this also includes ‘attempts’ to fund terrorism.
- Provide additional information on the risk of transactions involving 3<sup>rd</sup> parties. Specifically, that members should obtain identification of third parties, understand the relationship of the third party with the counterparty, and why they are involved in the transaction.
- Several other minor changes were also discussed.

**Status: provisionally approved**

#### COP 12 – Provenance Claims

The Senior Member and Stakeholder Training Manager noted that the provision has been revised since the round 2 comment period to clarify that all members must now check if they are making any claims that are covered under this provision. Members that sell directly to consumers must now

also make further details available regarding the claims being made, and the systems in place to support them. The following was agreed:

- Update 12.2a to incorporate language that claims must be ‘truthful and substantiated’.
- In the guidance, provide more examples on the types of provenance claims that can be used by members.
- Include ‘company’ as a type of provenance under the origin category.
- Include additional guidance on traceability claims and how to substantiate them.
- Review the use of ‘made-in’ claims and related legislation.

**Status: To be tabled for approval at January 2019 Standards Committee meeting.**

#### COP 27 – Kimberley Process Certification Scheme and World Diamond Council System of Warranties

The Standards Director summarised changes: more emphasis on having internal controls to reconcile records of Kimberley Process certificates and System of Warranties (SoW) invoices. The following was noted:

- Remove the requirement to comply with sanctions since this is already included in COP 10.
- Define more clearly what is meant by ‘reconciliation’.
- Ensure language used in the guidance is in alignment with the Kimberley Process requirements. For example, section C of the Guidance states that all imports and exports of rough diamonds must go through a government approved agency, however this is not a Kimberley Process rule.
- It was agreed that the entire provision should be reviewed once the reformed SoW is released

**Status: To be tabled for approval at January 2019 Standards Committee meeting.**

#### COP 37 – Tailings

The Standards Director summarised changes: more emphasis has been placed on the prevention of catastrophic failures of tailings facilities; updates in the Guidance to align with current best practice from mining standards. There was some discussion amongst participants regarding how tougher standards for mining companies may negatively impact the RJC’s ability to attract new members, but that ultimately it was important to ensure that the standards remain robust. There were no additional comments regarding the provision or guidance.

**Status: provisionally approved**

#### COP 25 – Use of Natural Resources

The Standards Director summarised changes: use of the term ‘cleaner energy’ has now been replaced with ‘renewable energy’; clarification that mining companies should report publicly on water performance. The following was agreed:

- Clarify in the text that the provision is to be implemented in alignment with COP 22 – Environmental Management.
- The definition for renewable energy currently used in the guidance is not clear enough. Update it to align with the Intergovernmental Panel on Climate Change (IPCC) definition.
- Emphasise that collaboration to achieve responsible and sustainable water use should include a consultative process with stakeholders.
- Specify that a risk assessment should be carried out to identify which natural resources are relevant to their operations and activities.
- There was discussion on the need to refer to land, air and water resources. It was agreed to highlight biodiversity issues and reference the relevant COP chapter.

**Status: provisionally approved**

## Day 2 – Thursday 8<sup>th</sup> November

### COP 6 – Human Rights

The Standards Director indicated that a number of amendments have been made to strengthen the overall language of the provision. The Assurance Manager then discussed updates to the guidance: the inclusion of more succinct guidance for small and medium sized businesses, better alignment with the United Nations Guiding Principles on Business and Human Rights (UNGP), and clarity on the differences between this provision and COP X – Due Diligence for Responsible Sourcing. The following was agreed:

- The provision currently uses the term ‘in their operations and supply chain’ when referring to the scope of the requirements. Replace this with ‘in their operations and business relationships’ throughout, which is better aligned with the language used in the UNGP.
- It is important to be very clear on the difference between this provision and the due diligence provision (COP X). Move the explanation for this to the front of the Guidance chapter.
- Clarify that members that are part of a group can report collectively rather than individually, as long as specific company level issues are included in the reporting where applicable.
- The concept of ‘linkage to’ Human Rights risks comes from the UNGPs, but can be challenging for companies to understand. Consider adding more on this in the Guidance
- Consider clarifying that most human rights impacts sit within the scope of the members’ operations, but that it is the responsibility of the member to identify and assess impacts that may occur elsewhere.
- Consider simplifying some sections of the guidance to reduce its length where possible.

**Status: To be tabled for approval at January 2019 Standards Committee meeting.**

### COP 14 – Working Hours

The Standards Director summarised small changes to the sub provisions. The following was agreed:

- Remove ‘defined by local law’ under 14.1 as this is repeated in the provision.
- Update provision 14.2 to including wording emphasising that members should strive for a voluntary based overtime system. Separate out required overtime and voluntary overtime.
- Update sub provision 14.5 on workday breaks to clarify that the work break should be of ‘reasonable duration’.
- Add examples in the Guidance for how members can determine a break of ‘reasonable duration’.
- Clarify that the 17-week peak production period in relation to rest days is not a continuous period and can be split up throughout the year based on individual member circumstances.

**Status: provisionally approved**

### COP 16 – Harassment, discipline, grievance procedures and non-retaliation

The Standards Director summarised changes to strengthen and clarify some the language. The following changes was agreed:

- In 16.1 specify that the examples “include, but are not limited to”. Clarify that both direct and indirect harassment are unacceptable and that employees are to be treated with “dignity and respect”.
- Under 16.4d, amend the text to only require companies to ‘strive’ to incorporate gender balance in selecting individuals who manage grievances as for some companies, it may not be possible to achieve this.
- Include a reference for the need for written procedures in the Guidance.
- Provide more examples in the background section on types of indirect harassment that would also fall under this provision.
- Include ‘people with disabilities’ in the definition of vulnerable people.

- Broaden the definition of grievance procedures so it's not only about management.
- Include guidance on harassment that may happen outside of the workplace. Consider including a definition of 'workplace' that incorporates this concept. Also make reference to applicable law around this.
- Make it clear in the guidance that employers have a responsibility to make it 'safe' for employees to raise concerns related to the issues covered under this provision.
- A number of other smaller changes were discussed which will be reviewed for inclusion in the guidance.

**Status: provisionally approved**

*COP 26 – Product Disclosure (26.1 and 26.2)*

The Assurance and Standards Coordinator provided an overview, noting that this now covers silver and coloured stones. Provision 26.2b has also been revised to align with Federal Trade Commission (FTC) guidelines. The Standards Director then provided a summary of 26.2c-h, noting some changes since Round 2. The following was agreed:

- Be explicit in sub provision 26.2h that the place of origin for coloured gemstones is referring to a 'geographical' area.
- Update 26.1 to clarify that the scope applies to 'diamonds'.
- Review and update definitions used for product disclosure, treated diamond, and reconstructed coloured gemstone based on written feedback already.
- Note in the guidance that member companies using a stamp on products must also have a federal recognised trademark next to the stamp (US only).
- Note to state that Rhodium plating must now be disclosed in the US.
- Remove reference to 'best practice' regarding plating and instead advise members that they should follow FTC guidelines in the absence of applicable law.
- Clarify that place of origin 'can' impact value to emphasise that this may not be the situation in all cases.
- Add a definition for 'diamonds' which is currently missing from the Definitions and Applicability section of the guidance.
- Update the place of origin sidebar to clarify that this requirement for coloured stones constitutes a provenance claim (COP 12).
- Other smaller changes were discussed.

**Status: provisionally approved**

*COP 26 – Product Disclosure (26.3)*

The Standards Manager presented an overview of this new provision, which has been modified quite significantly as a result of feedback from Round 2 workshops. The following was agreed:

- Change the language in 26.3 from 'members sourcing diamonds' to 'handling' (or equivalent) to provide clarity that it does not only apply to sourcing.
- Change 26.3a to 'Obtain a written warranty from their suppliers', removing the rest of the text. Refer to the World Federation of Diamond Bourses (WFDB) statement in the guidance for what the warranty statement should include.
- Use language in 26.3d to make it very clear that testing is only required for diamond sources classified as high risk.
- Add more examples of what are low and high-risk sources.
- Add in a reference to the Diamonds Producers Association (DPA) comparative study of diamond screening and testing technologies currently available.
- Include guidance in relation to error margins when testing and how this should be taken into account by members.

**Status: To be tabled for approval at January 2019 Standards Committee meeting.**

**Actions:** Standards Committee members involved in initial draft guidance review to provide further examples of low and high-risk sources.

#### COP 15 – Remuneration

The Standards Director summarised the provision and minor changes since Round 2. The following was agreed:

- Change text for 15.1 to refer to wage payments for ‘hours worked’ rather than for ‘a normal work week’. Also clarify that this should be paid in accordance with the law.
- Add text to 15.3 to be explicit that pay slips must be presented in an easy to understand format and should be paid into an account controlled by the employee. There was a suggestion to remove the prohibition of payment via vouchers (etc) and only keep this in the Guidance.
- Amend 15.4 to prohibit members from making wage deductions for disciplinary purposes.
- Specify in 15.4 that deductions must be in accordance with the law.
- Replace specific reference to ‘parental and childcare’ benefits under 15.7 to all types of benefits.

**Status: provisionally approved**

#### COP Z – Product Consumer Safety and Intellectual Property

The Standards Director confirmed that the proposed new provision will not be included. Instead, intellectual property will be mentioned under COP 1 – Legal Compliance and Product consumer safety is covered under COP 21 – Health & Safety and COP 26.2 – Product disclosure.

### **3. Update from the Coloured Gemstones Working Group (CGWG)**

Assheton Carter from the Dragonfly Initiative provided a brief update on the work carried out by the CGWG to develop a responsible sourcing tool (due diligence assessment) for coloured stones. This will include a different framework for ASM and LSM and for micro to large enterprises. An MS Excel tool has been developed which will eventually be migrated to an online system, this includes a due diligence questionnaire. The CGWG are currently reaching out to trade associations to consult and collaborate on the tools and have shared the questionnaire with key coloured stone industry players. The committee asked about seeing the tools and the intention to do so was confirmed.

### **4. Next meeting and any other business**

The next Standards Committee meeting will be on the 24<sup>th</sup> & 25<sup>th</sup> January 2019 (face-to-face). Further details regarding the meeting will be shared in due course. Suggested dates for the remaining meetings for 2019 will also be circulated shortly.

**Action:** RJC to circulate doodle polls for 2019 Standards Committee meeting dates.