

Draft Summary Notes
RJC Face-to-face Standards Committee Meeting, Geneva
24-25 Jan 19

Participants: Ainsley Butler (non-industry co-chair), Charlres Chaussepied (industry co-chair), Purvi Shah, Phaedon Stamtopoulos, Joelle Ponelle, Anouchka Didier, Michael Geelhand de Merxem, Ian Rowe, Cecilia Gardner, Estelle Levin-Nally, Assheton Carter, Didier Backaert, Claire Piroddi (by phone), Jean-Baptiste Andrieu (day 2), Eleonora Rizzutto, Stephane Fischler, Marijke Achten (by phone day 2), Yves Bertran, Diana Culillas, Jennifer Hillard

RJC Management Team: Anne-Marie Fleury (Standards, Assurance and Impacts Director), Andrew Cooper (Standards Manager)

Apologies: Jennifer Horning, Michele Bruelhart

Materials circulated prior to meeting:

- Draft COP Standards document
- All draft COP Guidance sections
- Summary notes from previous standards committee meeting (7-8 Nov 2018)
- Standards Committee meeting agenda
- Agenda for the Standards Committee and Diamonds Expert Group discussion
- Proposed approach to due diligence for diamond supply chain document

Day 1 – 24 Jan

1. Opening remarks

The Standards Manager carried out a roll call, noted that we have quorum, and reminded participants of the RJC anti-trust policy. Co-chair Ainsley Butler then welcomed all participants and thanked Richemont for hosting the meeting and generously organising the tour. She noted that Alan Martin had stepped down from the committee as he is leaving IMPACT and formally thanked him for his contribution. She then summarised the purpose of the meeting, which is to review the overall updated COP Standard and Guidance and seek an approval recommendation from the Standards Committee for the RJC Executive Committee and Board. A short introduction to the meeting agenda was given and the minutes from the previous meeting were then approved by Ian Rowe and Didier Backaert.

The Standards Director presented a number of background slides and reminded participants of the approach that will be used for summarising and approving guidance sections. There was agreement to proceed with the 'open session' where provisions with non-substantive changes will be collectively approved at the end of the meeting. Provisions that were provisionally approved at the November Standards Committee meeting will also not be discussed again during this meeting.

The Standards Committee also confirmed approval of the COP sections that were provisionally approved at the November 2018 Standards Committee meeting. These are:

- COP Y - Sourcing post-consumer industrial precious metals directly from informal recyclers
- COP 10 – Know your counterparty (KYC)
- COP 14 – Working hours
- COP 15 – Remuneration
- COP 16 – Harassment, discipline, grievance procedures and non-retaliation
- COP 25 – Use of natural resources
- COP 26.1 & 26.2 – Product disclosure
- COP 37 – Tailings and waste rock

2. COP Guidance sections (with substantive changes)

COP 8 – Community development. Status: Approved

Written comments received from: Ainsley Butler, Purvi Shah, Phaedon Stamatopoulos.

The Standards Director summarised changes since the Round 2 public comment period: the provision wording is updated to remove the text “...through the support of community initiatives ~~over the life of the project~~” as life of project’ is only applicable to mining companies. Clarification of this has now been added to the guidance. The following was agreed regarding the guidance:

- Streamline language to remove repetition.
- Note that tools and methods of communication for community development need to be appropriate to the context.
- Clarify that It is important to identify a formalised community with which to engage.
- Emphasis that employees responsible for community development should have the right expertise.
- Place greater emphasis on the importance of building an ongoing relationship between the mine and the community, rather than just at the start and end of a project. Include a note on mine ownership changes and how community engagement should be covered.
- Clarify that this provision does not just apply to mining companies.
- Include some guidance on how to measure the impact of community development efforts.
- Add that mining companies can leverage community development opportunities through their own core activities e.g. through procurement.
- Include a reference to how the Sustainable Development Goals (SDGs) can be used to develop a monitoring and reporting programme for community development, without placing unnecessary burden on smaller businesses.
- Mention a human rights-based approach to community development (participation, accountability, non-discrimination etc)

COP 30 – Stakeholder engagement. Status: Approved

Written comments received from: Ainsley Butler, Purvi Shah, Phaedon Stamatopoulos.

The Standards Director summarised changes since round 2: provision wording is updated to require companies to identify community development priorities through stakeholder engagement. Women and children are also specifically identified as vulnerable target groups to be included in stakeholder consultation. The following was agreed:

- Update the provision wording to emphasise that this provision is not just about community engagement, which is how it currently reads. It should encompass a broader definition of ‘stakeholder’. This includes government ministries (mining, education, sustainable development, etc), local, national and international stakeholders, media, civil society, even other industries in the same landscape, etc.
- References listed under ‘international standards’ are not all standards, review and change title or list.
- Review the use of the word ‘stakeholder engagement’ and ‘community development’ which are currently used interchangeably.
- Remove the reference in the guidance to the sovereign right to develop minerals as that does not add appropriate context to this section on stakeholder engagement.
- The Guidance overly emphasises the need for stakeholder engagement for risk management purposes and should further establish how stakeholder engagement is an integral part of responsible mining.

COP 22 – Environmental Management. Status: Approved

Written comments received from: Jennifer Hillard, Joëlle Ponnelle.

The Standards Director summarised the requirements of this provision but noted that there had been no changes since round 2. The following was agreed:

- Simplify the provision by replacing current wording for 22.1 with “*Members shall establish an environmental management system*”. Also remove 22.2.
- Add soil pollution to the guidance as one of the environmental impacts to assess.
- Add guidance related to a life cycle approach to align with ISO 14001.
- Clarify in the guidance what is meant by significant adverse impacts, noting that these should be identified using established criteria.
- In guidance for 22.3 clarify definition of on-site contractors.
- Add reference to potential adverse impacts to ocean floors

COP 24 – Waste and emissions. Status: Approved

Written comments received from: Jennifer Hillard, Joëlle Ponnelle.

The Standards Director summarised changes since round 2: provision wording changed to remove reference to cost considerations and to specify that reduction of greenhouse gasses and increasing energy efficiency should be done in alignment with COP 25 – Natural resources. The following was agreed:

- Updating wording for provision 24.1 to note that this should be implemented in accordance with COP 23 – Hazardous substances.
- Remove provision 24.2a (take into account environmental impact considerations alongside cost considerations).
- Add “*continuous*” improvement in provision 24.2b
- Add a reference to plastic pollution in the guidance as this is an important emerging issue.

COP 11 – Security. Status: Approved

Written comments received from: Estelle Levin.

The Standards Director summarised changes since round 2: changes to provision 11.3 to align with the ICM Performance Expectations and to provision 11.4 to clarify that members whose business is to provide security services to the jewellery supply chain must now be certified members of ICoCA.

The following was agreed:

- The provision should prioritise the protection of people over products. Update 11.1 to “[...] protect employees, contractors, visitors and personnel employed by relevant business partners, and protect against product theft [...]”.
- Further expand the scope of 11.1 to cover incidents of product theft, damage or substitution that occur at events, exhibitions and during shipment.
- Remove provision 11.3 regarding ASM communities since they are one of many different examples of potentially vulnerable groups. Update guidance accordingly.

COP 7 – Sourcing directly from Artisanal and Small-Scale Mining. Status: Approved

Written comments received from: Diana Culillas, Estelle Levin, Yves Bertran, Phaedon Stamatopoulos.

The Standards Director summarised changes since November¹ noting the main change as new requirements for members to seek and support development opportunities of ASM communities.

The following was agreed:

- Check that the risks listed in 7.1 are aligned with OECD Guidance.
- Add a new sub provision under 7.1b requiring members to seek to understand and offer “*fair commercial terms*” to ASM suppliers.
- Add a new sub provision under 7.1b requiring members to actively participate in initiatives that enable the professionalisation and formalisation of ASM suppliers.

¹ Note that all COP sections which have been reviewed since November are those which were not provisionally approved at the last Standards Committee meeting in November.

- In the guidance, under ‘fair commercial terms’ add information on consideration of frequency of payments. Also, add a section on capacity building for ASM miners to understand fair commercial terms.
- Add reference in guidance related to ASM mining in protected and key biodiversity areas.

COP 33 – Artisanal and Small-Scale Mining and Large-Scale Mining. Status: Approved

Written comments received from: Diana Culillas, Estelle Levin, Yves Bertran, Phaedon Stamatopoulos.

The Standards Director summarised changes since November: wording of provision strengthened to clarify that engagement with ASM shall be on a continuous basis and that participation in initiatives to enable formalisation should be done ‘actively’. Also adding that certification of ASM is included as an example of such initiatives. The following was agreed:

- Clarify under 33.1b that engagement with ASM is to be done as part of the member’s “ongoing risk management activities”.
- Ensure the COP text requires an ASM related impact assessment and ASM management plan.

COP 27 – KPSC and WDC SoW. Status: Delegated Approval (Cecilia and Stephane to approve on behalf of the committee).

Written comments received from: Cecilia Gardner, Michael Geelhand de Merxem.

The Standards Director summarised changes since round 2: the provision has been substantially revised to align with the updated World Diamond Council System of Warranties (WDC SoW). The following was agreed:

- The provision should be simplified to require compliance with the KPCS and WDC SoW, deferring to the appropriate reference documents.

COP 39 – Mercury. Status: Approved

Written comments received from: Yves Bertran.

The Standards Manager summarised changes since round 2: provision wording updated to emphasise that responsible management practices for mercury should be implemented in accordance with the Minamata Convention and that members using mercury should develop time-bound plans for reducing and, where feasible, eliminating its use. Members are additionally required to take steps to prevent mercury exposure to vulnerable groups (children, women of child bearing age, and pregnant women). The following was agreed:

- Remove reference to only ASM in 39.2 so that the provision applies to all mining members who could potentially be using mercury.
- Re-word provision 39.2 to make it clearer that whole ore amalgamation and open burning of amalgam, or processed amalgam, is not permitted under any circumstances. Current draft of provision is slightly ambiguous in this regard.

Note for COP 23 Hazardous Substances. Status: Approved

Written comments received from: Jennifer Hillard.

The following points were agreed with regard to COP 23:

- Mercury can be present in imported doré and this should be added in the guidance as an issue requiring management. The same applies for residual radioactivity.

COP 17 – Child labour Status: Approved

Written comments received from: Anouchka Didier, Estelle Levin.

The Standards Director summarised changes since round 2: provision wording has been updated to provide more specific requirements related to minimum working age and the child labour remediation process. The following was agreed:

- Remove reference to “low- and middle-income countries” in the provision, which should instead apply globally.

- The guidance seems to imply that ASM is directly associated with child sexual abuses. This should be removed as it is misleading.

COP 31 – Indigenous peoples and free prior informed consent **Status: Approved**

Written comments received from: Ainsley Butler.

The Standards Director summarised changes since round 2: sub-provision 31.2b has been updated to clarify that compensation, where applicable, should be documented as part of the evidence of agreement between the parties. The following was agreed:

- In 31.1 replace ‘provincial’ by ‘local’
- Re-order 31.2 so that the conditions under which this provision applies come first (“This provision applies [...]”)
- In 31.3 add “*In circumstances where FPIC is determined not to apply, members shall [...]*”. Also specify that “*the documentation shall include any compensation, [...]*”
- In the guidance add references to indigenous peoples recognised by law.
- Rather than listing all the mining stages (exploration, etc), refer to the ‘mining lifecycle’.
- Check Iseal guidance on FPIC for inclusion in the guidance as a reference.

Day 2 – 25 Jan

COP 26.3 – testing for undisclosed synthetic diamonds **Status: Approved**

Written comments received from: Michael Geelhand de Merxem.

The Standards Manager summarised changes since November: the provision wording has been updated to clarify that it applies to all members that are selling or purchasing diamonds. The requirement for a warranty statement from suppliers has been simplified in the provision, and the guidance will reference the WFDB warranty statement. Clarifications in the provision wording have also been added to emphasise that testing is only required for stones from high risk sources. The guidance has been updated to reference the Diamond Producers Association (DPA) study on diamond screening/testing technologies, and to provide some guidance around error margins in relation to testing. The following was agreed:

- The provision should not apply to stones that temporarily change hands through the practice of ‘memoing’. Correct point in the guidance to clarify this.
- Minor edits to language in provision 26.3d and 26.3d(iii) but no further substantive changes.

Note for other sections of COP 26 Product Disclosure

- There was a question on whether there is a need to include the sidebar under section 26.2 in the Guidance on US Customs Law. Most countries will have customs disclosure requirements that will differ to product disclosure at sale.
- Some clarification on the difference between an opinion on place of origin and a provenance claim should be added to the guidance.

COP 18 – Forced labour **Status: Approved**

Written comments received from: Jean-Baptiste Andrieu, Claire Piroddi.

The Standards Director summarised changes since round 2 as mostly clarifications. The following was agreed:

- Minor editorial changes to the provision wording and a number of clarifications and corrections in the guidance to strengthen language.
- Make clear in the guidance that employee IDs, including passports, should not be retained by members except for situations where they are needed for transactional purposes (eg, applying for work permits), and then for as short a period as necessary.

COP 6 – Human rights **Status: Approved**

Written comments received from: Jean-Baptiste Andrieu, Claire Piroddi, Eleonora Rizzuto.

The Standards Director summarised changes made since November: provision wording updated to clarify that the requirements apply to potential and actual human rights impacts in the members “operations and business relationships” as well as other edits and additions to the guidance. The following additional was agreed:

- Specify in the guidance more clearly that the due diligence process in 6.1b should be a continuous and ongoing process. Add more detail on regular review of human rights due diligence, how the frequency of this should be risk-based and add examples of what should trigger a review.
- Define “business operations” more clearly in the guidance.

COP 12 – Provenance claims Status: Approved

Written comments received from: Assheton Carter, Purvi Shah.

The Standards Director summarised changes made since November: provision language for 12.2a has been updated to clarify that the purpose of the systems around provenance claims is to ensure that they are “truthful” and “substantiated” by evidence. More examples added to the guidance on the types of provenance claims that can and cannot be made, as well as a clarification that ‘made in’ claims and claims on manufacturing or product quality, are not provenance claims. Further clarity added to the guidance on how claims that do not go above the requirements of other provisions within the COP cannot be provenance claims. The following was agreed:

- Claims about testing for synthetic diamonds (even those that go beyond the requirements of 26.3 such as 100% testing of stones) will be checked as part of COP 26 rather than as provenance claims. This is because testing – to ensure that you are not making any misleading representation on the product you are selling (ie, diamonds) – is covered under 26.1 (“Members shall not make any untruthful, misleading or deceptive representation [...] in the selling [...] of diamonds”). Update guidance accordingly for both COP 12 and 26 guidance sections.

COP 29 – EITI Status: Approved

Written comments received from: Assheton Carter

The Standards Director summarised changes made since round 2: the provision has been amended to outline the requirements for transparency practices (same as what’s articulated in the EITI Company Expectations). This is to provide clarity on RJC expectations in all countries, including non-EITI implementing countries. The following was agreed:

- Separate into two sub-provisions: 29.1 about supporting implementation of EITI in implementing countries and 29.2 about transparency requirements in all countries.
- Add text to provision 29.1b for companies that are unable to carry out public disclosure of taxes and payments in line with EITI language.
- Add in guidance what to do if you are small company without a website for disclosing (reference the approach outlined in COP 3 on reporting).

COP 28 – Grading, analysis and appraisal Status: Delegated Approval (Marijke, Assheton and Cecilia to approve on behalf of the committee).

Written comments received from: Assheton Carter

The Standards Manager summarised the requirements of this provision noting that no changes to the provision requirements have been made since round 2. The following points were discussed:

- Provision 28.1 should also require companies to disclose if detection of synthetic and/or treatments has been carried out for all stones included within the scope of the grading and/or analysis report.
- The provision overall does not currently require systems for ensuring accurate, consistent and reliable results. The provision and guidance should be reviewed for additional requirements on

systems based on sufficiently sound and thorough scientific methodology. Text from ISO standards was suggested as a model.

- The language in 28.3 should clarify that the requirement applies to any report which provides an opinion on monetary value. It should not be limited to “*appraisal*” reports.
- 28.5 should apply to misleading practices more broadly, and not only focus on price inflated independent reports.
- The industry understanding of the term ‘appraisal report’ was questioned. An appraisal can be an opinion on anything, not just value. This should be clarified in the definitions section.
- Add to the guidance that all appraisal reports should be signed by the appraiser.

COP 36 – Biodiversity **Status: Delegated Approval** (Estelle and Purvi to approve on behalf of the committee).

Written comments received from: Estelle Levin.

The Standards Director summarised changes made since round 2: noting that changes to the guidance were mostly minor. The following was agreed:

- Since the guidance section for this provision was not reviewed by a non-industry member of the standards committee, approval will be delegated.

COP 32 – Impact assessment **Status: Approved**

Written comments received from: Estelle Levin.

The Standards Director summarised changes made since round 2: some changes to the wording of the provision have been made to strengthen the overall language throughout. Members are also now required to publicly disclose a report on their Environmental and Social Impact Assessment (ESIA). The following was agreed:

- Add in the guidance how landscape level planning should be part of an impact assessment.
- A general comment to define ‘vulnerable groups’ (this is not just limited to women and children) for the whole COP.

COP X – Due diligence – see summary notes from this session

3. Open session

All the sections in the open session were approved:

- COP 1 - legal compliance
- COP 2 - Policy and implementation
- COP 3 - Reporting
- COP 4 - Financial accounts
- COP 5 - Business partners. There was a comment to review how “contractors on site” are covered under 5.2
- COP 9 - Bribery
- COP 13 - General employment terms
- COP 19 - Freedom of association and collective bargaining
- COP 20 - Non-discrimination
- COP 21 - Health & safety
- COP 23 - Hazardous substances
- COP 34 - Resettlement
- COP 35 - Emergency response
- COP 38 - Cyanide
- COP 40 - Mine closure

4. Next meeting and any other business

Since the current term for all Standards Committee members is due to expire in May 2019, meeting participants were informed that the RJC Standards Committee nomination process would begin in February 2019. The process for nominating industry forum committee members differs from the process used to nominate non-industry members, however all committee members would receive further communications and instructions on this shortly.

Actions:

- RJC to circulate 2019 committee meeting dates.
- RJC to organise discussions with delegated approval volunteers for COP 27 (KPCS and WDC SoW), COP 28 (Grading, etc) and COP 36 (Biodiversity).
- RJC to convene an extraordinary Standards Committee teleconference meeting to agree and approve COP X guidance section.