

# Appendix 2 – Critical Breach

Supersedes RJC Certification Process Requirements for Certification Bodies and Auditors, clause 14.20 Table 8 d) critical breach.

## CRITICAL BREACH

For COP/LGMS, a critical breach is an event or group of non-acceptable [or zero tolerance] events which materially compromise the integrity of the Responsible Jewellery Council's mission and its principles.

A COP/LGMS critical breach, supported by objective evidence, is raised against any of the COP/LGMS provisions in the case of:

- Deliberate falsification of information presented to support a conformity grading, a claim or public reporting; or
- Deliberate breach of an obligation (regulatory compliance matter or a commitment such as an RJC requirement) that results in an actual impact, or risk of immediate negative impact for the RJC member, the reputation of the RJC or the industry as a whole. This may fall into the following COP/LGMS areas:
  - Labour/Social conditions/Health & Safety:
    - Serious abuse of salient human rights<sup>1</sup>, including (but not restricted to): security (e.g. supporting public or private security forces that have been credibly implicated in the infringement of human rights, breaches of international humanitarian law or the excessive use of force), child labour (e.g. deliberate and knowing use of child labour or endangering young workers' physical or mental well-being), forced labour and human trafficking, health and safety (e.g. an imminent risk to life, limb or function or actions taken that have led to significant impairment or death), freedom of association and the right to collective bargaining, discrimination and gender equality, disciplinary practices, working hours (as per Table 23/18 Tolerance Levels for Assessing Conformance with COP/LGMS Requirements on Working Hours, in the COP 2024/LGMS guidance), remuneration (e.g. non-payment of legal minimum wages), indigenous peoples and sourcing from artisanal and small-scale mining or conflict-affected areas.
  - Environment
    - Causing a significant pollution event with long term consequences or impairment of sensitive ecosystems or impact on the local community
  - Legislation, management/grievance systems, responsible supply chains, human rights, due diligence, mining:
    - A total absence of implementation of certain provisions
    - Deliberately overlooking red flags and continuing trade without taking any steps to mitigate the risk
    - Significant and deliberate bribery, money laundering or financing of terrorism

See examples included in, but not limited to Table A2.1. COP/LGMS Critical Breach Examples and Comparison to Major Nonconformities. The RJC reserves the right to revise this non-exhaustive table based on implementation experience.

For COC, a critical breach, supported by objective evidence, is raised against any of the COC provisions in the case of:

- deliberate falsification of information required to support a conformity grading; or
- a systemic failure of the management system to implement the COC; or
- a total lack of controls needed to manage risks to the COC.

1. Human rights at risk of the most severe negative impact through a company's activities and business relationships. They impact people (rather than businesses) and have the potential to actually occur.

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TABLE A2.1. COP/LGMS CRITICAL BREACH EXAMPLES AND COMPARISON TO MAJOR NONCONFORMITIES

COP/LGMS PROVISION	CRITICAL BREACH EXAMPLE	MAJOR NONCONFORMITY EXAMPLE
COP/LGMS 1 Legal compliance	<p>If the member has not taken any steps to identify legislative or regulatory requirements relevant to the COP/LGMS, OR</p> <p>If it knew about a nonconformity with legislative or regulatory requirements and:</p> <ul style="list-style-type: none"> <li>• did not make any attempts to rectify it; and/or</li> <li>• this situation has resulted in significant harm to workers, the community or the environment or the action/inaction has brought the industry into disrepute.</li> </ul> <p>e.g. The member has not mapped relevant legislation against its business at all or has been prosecuted by local legislators, but has not implemented any corrective actions to avoid recurrence.</p> <p>In this instance, the critical breach would be combined with a critical breach against another COP/LGMS provision, which has a requirement to comply with applicable law.</p>	<p>If the member has not taken adequate steps to identify legislative or regulatory requirements relevant to the COP/LGMS, OR</p> <p>If it knew about a nonconformity with legislative or regulatory requirements and:</p> <ul style="list-style-type: none"> <li>• has not adequately tried to rectify it; and/or</li> <li>• the situation has the potential to pose a risk to workers, the community or the environment or to bring the industry into disrepute.</li> </ul> <p>e.g. The member has a system to map relevant legislation against its business, but has missed some gaps in its systems in relation to significant requirements or has not taken adequate steps to rectify the gaps.</p>
COP/LGMS 2 Policy and management systems	<p>A total absence of management systems and/or grievance mechanisms required by the COP/LGMS, OR</p> <p>The systems implemented have resulted, directly or indirectly, in significant harm to workers, the community or the environment and this has brought the industry into disrepute.</p> <p>In this instance, the critical breach would be combined with a critical breach against another COP/LGMS provision.</p>	<p>The member's management systems and/or grievance mechanisms have significant gaps or are systemically inappropriate for the purpose, nature, scale and impact of the business operations.</p>
COP/LGMS 3 Reporting	<p>The member has been deliberately misleading or untruthful in its public reporting, either by omission of significant impacts or misreporting, OR</p> <p>There is evidence that its verifier is not independent or has been induced to sign off on misleading or inaccurate data.</p>	<p>The member has not publicly reported on its sustainability performance (or, for an initial certification, has no plans to do so).</p>
COP/LGMS 4 Financial accounts	<p>The member has been deliberately misleading or untruthful in its financial accounting, OR</p> <p>There is evidence that its financial auditor is not independent or has been induced to sign off on misleading or inaccurate data.</p>	<p>The member's financial accounts are not in accordance with national or international accounting standards.</p>

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COP/LGMS PROVISION	CRITICAL BREACH EXAMPLE	MAJOR NONCONFORMITY EXAMPLE
COP/LGMS 5 Business partners	<p>The member is knowingly using contractors who do not comply with the member's policies, systems or procedures relevant to the COP/LGMS AND the situation has resulted in significant harm to workers, the community or the environment.</p> <p>e.g. The Member is using a contractor who has forced labour in its pipeline or who is not paying workers minimum wage or is abusing their human rights.</p> <p>In this instance, the critical breach would be combined with a critical breach against another COP/LGMS provision.</p>	<p>The member has not taken adequate steps to ensure that contractors comply with the member's policies, systems or procedures relevant to the COP AND the situation has the potential to pose risks to workers, the community or the environment.</p>
COP/LGMS 6 Human rights	<p>The member has not conducted a human rights due diligence process, OR</p> <p>The member has identified red flags in its due diligence and has not taken any steps to implement corrective actions or mitigate the issues identified.</p>	<p>The member has conducted a human rights due diligence process but there are significant gaps in the process or evidence that systems are not being followed, OR</p> <p>The member has not established or implemented a formal procedure for the periodic review of its human rights policy, as required by the COP/LGMS. The lack of regular review compromises the member's ability to ensure that the policy remains up-to-date, effective, and consistent with regulatory developments and stakeholder expectations.</p>
COP/LGMS 7 Due diligence for responsible sourcing, including from conflict-affected and high-risk areas	<p>The member has not conducted a due diligence process over its COP/LGMS RJC scope materials in accordance with the OECD Due Diligence Guidance for Responsible Business Conduct and, where applicable, the OECD Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas, OR</p> <p>There is an internal/external credible indication<sup>2</sup> of money laundering, financing of terrorism, fraud or serious human rights abuses within a member's supply chain, OR</p> <p>Member has identified red flags in its due diligence but continues to trade with suppliers with red flags without taking any steps to implement corrective actions or mitigate the issues identified.</p>	<p>The member's supply chain due diligence process is ineffective, but there is no internal/external credible indication of money laundering, financing of terrorism, fraud or serious human rights abuses within its supply chain.</p> <p>Some or all of the following are found:</p> <ol style="list-style-type: none"> <li>Supply chain policy is not publicly available</li> <li>Supply chain risk assessment is not evidenced</li> <li>What constitutes a red flag is not clear</li> <li>Public reporting and communication of the origin of mines to the RJC is not available</li> <li>There is no evidence of training being provided to employees on supply chain policy</li> <li>Origin of mine for one of the suppliers was not known</li> </ol>

<sup>2</sup> Sources of external credible indication can be media articles, human rights reports (e.g. from NGOs), compliance databases hits (e.g. Compliance Catalyst, WorldCheck).

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COP/LGMS PROVISION	CRITICAL BREACH EXAMPLE	MAJOR NONCONFORMITY EXAMPLE
COP 8 Sourcing directly from artisanal and small-scale mining (ASM)	<p>The member does not assess risks of money laundering, financing of terrorism, fraud, serious human rights abuses, unsafe working conditions, uncontrolled mercury or cyanide use or significant environmental impacts from ASM producers it sources from that are not under its control, OR</p> <p>The audit identified evidence that the member has knowingly sourced from an ASM producer that causes or contributes to serious human rights abuses and has unsafe working conditions, but has not reported these impacts or attempted to take remedial action to mitigate these adverse impacts.</p> <p>In this instance, the critical breach would be combined with a critical breach against COP/LGMS 6 or COP 24/LGMS 22, for example.</p>	<p>The member's risk assessment of money laundering, financing of terrorism, fraud, serious human rights abuses, unsafe working conditions, uncontrolled mercury or cyanide use or significant environmental impacts from ASM producers it sources from that are not under its control, is ineffective. There is no internal/external credible indication of money laundering, financing of terrorism, fraud, serious human rights abuses, unsafe working conditions, uncontrolled mercury or cyanide use or significant environmental impacts from ASM producers it sources from that are not under its control.</p>
COP 9 Sourcing post-consumer industrial precious metals directly from informal recyclers	<p>The member does not assess risks of money laundering, financing of terrorism, fraud, serious human rights abuses, unsafe working conditions, uncontrolled mercury or cyanide use or significant environmental impacts from informal recyclers it sources from that are not under its control, OR</p> <p>The audit identified evidence that the member has knowingly sourced from informal recyclers that cause serious human rights abuses and have unsafe working conditions, but has not reported these impacts or attempted to take remedial action to mitigate these adverse impacts.</p> <p>In this instance, the critical breach would be combined with a critical breach against COP/LGMS 6 or COP 24/LGMS 22, for example</p>	<p>The member's risk assessment of money laundering, financing of terrorism, fraud, serious human rights abuses, unsafe working conditions, uncontrolled mercury or cyanide use or significant environmental impacts from informal recyclers it sources from that are not under its control, is ineffective. There is no internal/external credible indication of money laundering, financing of terrorism, fraud, serious human rights abuses, unsafe working conditions, uncontrolled mercury or cyanide use or significant environmental impacts from informal recyclers it sources from that are not under its control.</p>
COP 10/LGMS 8 Community development	<p>No critical breaches identified for this Provision unless the community development/support conducted by the member is a bribe to gain advantage from the community or the governing authorities.</p>	<p>The member has taken no steps to support the social, economic and institutional development of the communities in which it operates or has not made sufficient efforts to support any community initiatives, depending on its size and circumstances.</p>
COP 11/LGMS 9 Bribery and facilitation payments	<p>Evidence of bribery was found to be significant and/or systemic throughout the organisation, OR</p> <p>The member has not implemented policies and systems to manage bribery risk in its organisation, OR</p> <p>The grievance mechanisms do not provide protection for employees raising concerns or there is evidence of retaliation against those raising issues.</p>	<p>The member's systems to manage bribery risk in its organisation have significant gaps (e.g. insufficient protection for employees raising concerns) or are insufficiently implemented (e.g. lack of employee training, do not cover all operations etc.) but no instances of bribery were evident.</p>

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COP/LGMS PROVISION	CRITICAL BREACH EXAMPLE	MAJOR NONCONFORMITY EXAMPLE
COP 12/LGMS 10 Know Your Counterparty (KYC): Money laundering and financing of terrorism	<p>The member has no KYC policies or procedures in place, OR</p> <p>The member has ineffective KYC policies or procedures in place and there is evidence or internal/external credible indication of association with counterparties implicated in money laundering, fraud, involvement with prohibited organisations and/or those financing conflict.</p>	<p>The member's KYC policies or procedures have major gaps against the requirements of the COP/LGMS and while there is no evidence or internal/external credible indication of any counterparties implicated in money laundering, fraud, involvement with prohibited organisations and/or those financing conflict, the gaps are sufficiently significant that there are clear risks that such issues could arise.</p>
COP 13/LGMS 11 Security	<p>The member has not ensured that all security personnel respect the human rights and there have been instances of human rights abuses that were not remediated immediately when identified, OR</p> <p>The member has employed security personnel that have knowingly abused human rights of the public and nearby community, OR</p> <p>There is internal/external credible indication or evidence that members with mining or mineral processing operations have been implicated in allegations of abuses, either by private security contractors used by the member or by state sponsored actors with no attempts by the members to mitigate such impacts.</p>	<p>The member has not ensured that all security personnel respect the human rights and dignity of all people and there have been minor instances of human rights abuses that were remediated immediately when identified.</p>
COP 14/LGMS 12 Claims	<p>The member has systemically made claims that were misleading and untruthful and has not revoked them and/or has not informed affected people and groups.</p>	<p>The member has systemically made claims that were untruthful and, in every instance, has revoked the claim and informed affected people and groups, OR</p> <p>The member does not have evidence available to support all claims being made but there is no immediate evidence that these claims are misleading or untruthful.</p>
COP 15/LGMS 13 General employment terms	<p>The member has not (effectively) implemented policies and procedures regarding its approach to managing workers and abuse of workers' rights was systemic throughout the organisation, either at site(s) level or group level.</p>	<p>The member has not implemented policies and procedures regarding its approach to managing workers and no instances of abuse of workers' rights were identified.</p>

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COP/LGMS PROVISION	CRITICAL BREACH EXAMPLE	MAJOR NONCONFORMITY EXAMPLE
COP 16/LGMS 14 Working hours	<p>The member has knowingly not provided workers with annual leave and parental leave in accordance with ILO Convention 132 and ILO Convention 183, OR</p> <p>Working hours are excessive and fall into critical levels as defined in Table 23/18 Tolerance Levels for Assessing Conformance with COP/LGMS Requirements on Working Hours in the COP/LGMS Guidance, OR</p> <p>There is evidence that overtime is not voluntary and workers refusing to work overtime are facing retaliation</p>	<p>The member's systems for checking and recording annual leave and parental leave was not fully aligned with applicable law, but the member had recently employed a third party competent and accredited consultant to rectify this situation, OR</p> <p>Long working hours identified as defined in Table 23/18 Tolerance Levels for Assessing Conformance with COP/LGMS Requirements on Working Hours in the COP/LGMS Guidance, but evidence that these are voluntary and paid in accordance with local law</p>
COP 17/LGMS 15 Remuneration	<p>The member has knowingly not paid wages in accordance with the law, OR</p> <p>The member has not compensated its workers for work-related injuries, and this has resulted in significant adverse human rights impacts for the worker and their dependents, OR</p> <p>A systemic nonconformity has been identified in relation to employee compensation e.g.:</p> <ul style="list-style-type: none"> <li>• Employees are required to arrive 15 minutes early daily, equating to more than one hour of unpaid time weekly.</li> <li>• Salaries, accrued leave and other benefits have been incorrectly calculated based on local law e.g. benefits calculated on net rather than gross salary or wages calculated on a 52-week basis rather than 52.14 weeks as required by the UK law. The same example can be adapted to other jurisdictions, depending on local law requirements.</li> <li>• Some worker contracts stipulate piece-rate payment but based on the rate set and hours worked, this is regularly leading to the hourly calculated rate not meeting minimum wage, OR</li> </ul> <p>The member requires staff to perform unpaid work and misrepresents actual hourly pay for multiple employees, OR</p> <p>Evidence has been found of deductions from wages that are not in line with local law or have not been communicated and agreed with employees e.g.</p> <ul style="list-style-type: none"> <li>• fines applied as disciplinary measure where final salary goes below legal minimum wage</li> <li>• repayment of loans made to employee by member without evidence that terms have been properly communicated and agreed</li> </ul>	<p>The member has paid wages in accordance with the law, however, there is evidence that payments are frequently made late, OR</p> <p>The member has not identified the appropriate level of compensation for work-related injuries, OR</p> <p>Deductions are made for disciplinary purposes, but these are allowed by law and do not take the workers below legal minimum wage</p>

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COP 18/LGMS 16 Harassment, discipline, grievance procedures and non-retaliation	<p>The member has not (effectively) implemented measures to ensure that workers are not subject to violence or harassment, and this has resulted in repeated actual workplace bullying and harassment events, OR</p> <p>There is evidence that employees raising grievances relating to harassment are facing retaliation, OR</p> <p>There have been frequent allegations of harassment or bullying, but these have not been investigated and remediated; or have been investigated and substantiated, but appropriate action has not been taken to deal with the issues and any identified perpetrators</p>	The member has not implemented measures to ensure that workers are not subject to violence or harassment, however, this has not resulted in significant adverse human rights impacts for any workers.
COP 19/LGMS 17 Child labour	The member has knowingly engaged in child labour or young workers are required to undertake hazardous work.	The member has not established or communicated that it shall not engage in child labour. There were no instances of child labour identified.
COP 20/LGMS 18 Forced labour	The member was found to systemically use forced labour practices (e.g. bonded labour, forced overtime, deception during recruitment, contracts do not allow employees to leave if they wish to, bonuses are withheld etc.)	The member has not established or communicated that it shall not engage in, or support, human trafficking, including to labour recruiters it uses. There were no instances of forced labour identified.
COP 21/LGMS 19 Freedom of association and collective bargaining	The member was found to harass and adopt punitive measures against workers engaged in collective bargaining, potentially including physical harm or use of psychological pressure/ threats against those who supported the collective bargaining process.	In countries where collective bargaining and freedom of association are curtailed by local laws, the member has obstructed any alternative means within its business, that are allowable under applicable law.
COP 22/LGMS 20 Non-discrimination	<p>The member has not (effectively) implemented systems, policies or procedures to prevent discrimination and this has resulted in significant and/or systemic discrimination, OR</p> <p>There is evidence of discriminatory behaviour reported to the member that has not been investigated and/or investigated and substantiated but not remediated.</p>	The member did not have any systems, policies or procedures in place to identify and prevent discrimination. However, no instances of significant or systemic discrimination were identified.
COP 23/LGMS 21 Diversity, Equity and Inclusivity	While the member had established a public policy on diversity, equity and inclusivity, internally it deliberately ignored and misled its stakeholders about its diversity, equity and inclusivity performance.	The member did not have any systems, policies or procedures in place to promote diversity, equity and inclusivity.

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COP/LGMS PROVISION	CRITICAL BREACH EXAMPLE	MAJOR NONCONFORMITY EXAMPLE
COP 24/LGMS 22 Health and safety	Evidence that sub-standard or basic workplace occupational standards were adopted by the member leading to repeated work-related injury and ill health with no attempt to address the impacts or improve work standards, OR  There is evidence of imminent risk of injury to the workforce or visitors.	While the member implemented ad hoc actions following a workplace injury, it did not have formal systems, policies or procedures in place to investigate and prevent work-related injury and ill health.
COP 25/LGMS 23 Environmental management	The member has contributed to significant and adverse contamination of the local environment, OR  There is evidence of imminent risk of a serious environmental incident that would impact the local environment.	The member has not conducted an environmental risk assessment of its business activities and has not established environmental management systems and controls. However, no significant or systemic adverse environmental impacts were identified.
COP 26/LGMS 24 Hazardous substances	The member is manufacturing and using banned hazardous substances.	The member has no inventory of hazardous substances at facilities.
COP 27/LGMS 25 Wastes and emissions	The member has not identified significant wastes and emissions to air, water and land and this has led to significant and adverse environmental impacts, OR  The member has deliberately ignored and misled its stakeholders about its greenhouse gas emissions and energy performance	The member has not identified significant wastes and emissions to air, water and land. However, no significant or systemic adverse environmental impacts were identified, OR  The member is not using a legally licensed/ registered contractor to dispose of significant wastes, OR  The member has significant wastes and emissions, but has not reported on Scope 3 emissions
COP 28/LGMS 26 Natural resources	The member has not undertaken a process to identify significant natural resources used in its business and this has led to significant and adverse environmental impacts.	The member has not undertaken a process to identify significant natural resources used in its business. However, no significant or systemic adverse or environmental impacts were identified.
COP 29/LGMS 27 Product disclosure	The member has deliberately not disclosed information required by law to protect members of the public, OR  The member is making incorrect or untruthful claims about products that would mislead consumers and impact their rights, e.g. <ul style="list-style-type: none"> <li>lab-grown diamonds are not clearly declared</li> <li>treatments and other enhancements are not declared</li> </ul>	The member does not have effective systems to ensure product information disclosed to the public is verifiable and in accordance with all applicable law, OR  The member has not implemented effective systems to avoid undisclosed materials entering its product pipeline

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COP 30 Kimberley Process Certification Scheme and World Diamond Council System of Warranties	The member has knowingly bought and/or sold conflict diamonds.	The member has bought and/or sold conflict diamonds.
COP 31/LGMS 28 Grading, analysis and appraisal	The member has produced false and misleading appraisal reports that may have over valued the products it sells.	The member does not have documented policies and procedures in place to ensure the laboratory or business is organised around a formal management system.
COP 32 Extractive Industries Transparency Initiative	While the member has issued a statement in public support of the EITI, it has misled its stakeholders about payments to governments for its mining rights.	The member operates in an EITI-implementing country and has not fully supported the commitments of EITI.
COP 33 Stakeholder engagement	The member has not established a system for engagement with affected people or groups or has not conducted any form of engagement with such groups.	The member's interactions with affected people or groups have not been conducted in a manner that creates a meaningful engagement
COP 34 Indigenous peoples and free prior informed consent	The member did not act in good faith in its attempt to obtain FPIC of Indigenous Peoples. Evidence of unlawful incentives were identified in the FPIC process.	Although the member did not manage to obtain FPIC of Indigenous Peoples during the planning and approval stages, it has not implemented good-faith actions to support positive relationships with the affected Indigenous Peoples.
COP 35 Impact assessment	The member has not redesigned the proposed mineral processing operation or attempted to include mitigate measures for any of the assessed significant environmental, social and human rights impacts associated with the new project.	The member has not completed an ESIA for the entire project scope and life cycle.
COP 36 Artisanal and small-scale mining (ASM)	The member has not engaged directly with the ASM or the community affected by the ASM and there is internal/external credible indication or evidence that this had led to significant and long term environmental, social and human rights impacts.	The member has not engaged directly with each ASM community to understand its legal operating context.
COP 37 Resettlement	No attempt was made to avoid or reduce the impacts associated with the involuntary physical resettlement of the local community.	While the member has a Resettlement Plan with well-defined mitigation measures, these are not consistent with International Finance Corporation Performance Standard 5.

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COP 38 Emergency response	The member has not developed, maintained or regularly tested emergency response plans, OR The response to a recent emergency event contributed to the loss of life and resultant environmental impacts and the member has not implemented processes to avoid recurrence.	While the member has documented an emergency response plan, the plan has not been implemented through training, developed with local emergency response agencies, or not regularly tested as per the APELL requirements.
COP 39 Biodiversity	The member has operations inside a world heritage designated area, OR The member is knowingly contributing to adverse impairment of the sensitive local biodiversity and ecosystem services	The member does not have a process to identify nearby protected areas.
COP 40 Tailings and waste rock	The member uses riverine disposal of tailings or lake or marine disposal with no analysis an implementation of appropriate mitigation measures, OR The member does not have systems to verify the integrity of its tailings storage and has not adopted the Global Industry Standard on Tailings Management (GISTM) or other technical standards for its new tailings storage facilities located in an earthquake prone area, putting the nearby local community at imminent risk in the event of a catastrophic failure.	The member does not have formal systems to carry out physical and geochemical characterisations of mine waste rock or tailings from mining or mineral processing operations.
COP 41 Cyanide	The member uses cyanide in its operation, but it has not certified its sites to the International Cyanide Management Code and there is credible evidence of adverse worker health and environmental impacts.	The member uses cyanide in the recovery of gold, silver or PGMs and has not certified its sites to the International Cyanide Management Code.
COP 42 Mercury	The member has not taken any steps to protect its workers or vulnerable groups (including local communities) from mercury exposure.	The member has not established management plans for all of its sites that use mercury in its operations.
COP 43 Rehabilitation and closure	The member has deliberately understated the financial remediation costs from the known level of soil and groundwater contamination arising from its current and historical operations, leading to insufficient financial provisions.	The member has not prepared a mine rehabilitation and closure plan for all of its mining sites
COP 44 Community health and safety	The member has not communicated or taken all appropriate steps to prevent vulnerable groups from the known significant health and safety impacts it is having on the local community.	The member has not established formalised systems to assess all potential risks on community health and safety relating to mining processing.
COP 45 Cultural Heritage	The member has permanently impacted critical cultural heritage sites and remediation with the affected group is not possible.	The member does not have systems to identify sites of cultural significance involving the local Affected People or Groups and competent professionals