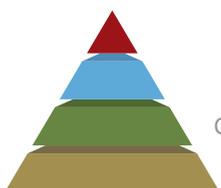




Responsible Jewellery Council

# Standards Guidance



GUIDANCE

## **Standards Guidance**

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December 2009

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# The Responsible Jewellery Council

The Responsible Jewellery Council (RJC) is a not-for-profit organisation founded in 2005 with the following mission:

**To advance responsible ethical, social and environmental practices, which respect human rights, throughout the diamond and gold jewellery supply chain, from mine to retail.**

## About this Guidance

The *Standards Guidance* (the "Guidance") provides general information and advice **about the standards in the RJC's Code of Practices (COP)**.

The Guidance is not a substitute for legal advice.

This is a 'living document' and the RJC reserves the right to revise this Guidance based on implementation experience and emerging good practice. The Guidance posted on the RJC website supersedes all other versions. To verify this document is current, please visit: [www.responsiblejewellery.com](http://www.responsiblejewellery.com)

## Disclaimer

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Please note this *Standards Guidance* gives general guidance only and should not be regarded as a complete and authoritative statement on the subject matter contained herein.

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All websites referenced in this document were accessed in August 2009.

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# Introduction

## 1.1 Responsible Jewellery Council (RJC) certification

The RJC Code of Practices defines the standards on business ethics, human rights, social performance and environmental performance against which RJC Members are to be certified. A key feature of RJC certification is the requirement for independent third party auditing of Member's management systems and performance. The RJC certification system also establishes mechanisms for early identification of issues, corrective action, and enforcement.

For more information on how to achieve RJC certification, see the *RJC Certification Handbook*.

## 1.2 How to use this Guidance

The *RJC Standards Guidance* has been primarily developed as a resource to assist Members to better understand their responsibilities. It will be of most use to Members who may be formally addressing these issues for the first time, or who wish to compare their current approach against the intent of the standards. The guidance for each standard has been designed to stand alone, so that it can be sent to the designated responsible staff within a business if appropriate.

Auditors will also find this document useful as an interpretation of the Code of Practices. It refers to the international standards which underpin RJC certification and should assist in providing some context regarding the jewellery supply chain.

The guidance provided is of a general nature, and should be seen as a starting point for information and support. As its title implies, the guidance does not contain mandatory requirements for Members, and is for informational and interpretive use only. Members and auditors will need access to further information that is relevant to specific businesses and operating contexts.

## 1.3 Content

The RJC Code of Practices comprises the standard for RJC certification. The Code of Practices covers a wide range of sustainable development issues, and is applicable throughout the jewellery supply chain, from mine to retail.

### Code of Practices (COP)

| Business Ethics                                   | Human Rights and Social Performance                  | Environmental Performance               | Management Systems           |
|---|--|---|------------------------------|
| 1.1 Bribery and Facilitation Payments             | 2.1 Human Rights                                     | 3.1 Environmental protection            | 4.1 Legal compliance         |
| 1.2 Money Laundering and Finance of Terrorism     | 2.2 Child Labour and Young Persons                   | 3.2 Hazardous Substances                | 4.2 Policy                   |
| 1.3 Kimberley Process                             | 2.3 Forced Labour                                    | 3.3 Waste and Emissions                 | 4.3 Business Partners        |
| 1.4 Product Security                              | 2.4 Freedom of Association and Collective Bargaining | 3.4 Use of Energy and Natural Resources | 4.4 Impact Assessment        |
| 1.5 Product Integrity                             | 2.5 Discrimination                                   | 3.5 Biodiversity                        | 4.5 Mine Closure Planning    |
| 1.6 Extractive Industries Transparency Initiative | 2.6 Health and Safety                                |   | 4.6 Sustainability reporting |
|   | 2.7 Discipline and Grievance Procedures              |   |                              |
|   | 2.8 Working Hours                                    |   |                              |
|   | 2.9 Remuneration                                     |   |                              |
|   | 2.10 General Employment Terms                        |   |                              |

| Business Ethics | Human Rights and Social Performance       | Environmental Performance | Management Systems |
|-----------------|---|---------------------------|--------------------|
|                 | 2.11 Community Engagement and Development |                           |                    |
|                 | 2.12 Use of Security Personnel            |                           |                    |
|                 | 2.13 Indigenous Peoples                   |                           |                    |
|                 | 2.14 Artisanal and Small-scale Mining     |                           |                    |

#### 1.4 Format of the Guidance

The *Standards Guidance* provides a more detailed introduction to the issues addressed by the Code of Practices. The provisions of the Code of Practices (COP) are the subject of specific sections in the Guidance and numbered accordingly. Each section focuses on the relevant provision and provides guidance on:

- Definition and applicability
- Issue background
- Key regulations
- Suggested management approach
- Further information

#### 1.5 Suggested management approach

For each standard, guidance is offered on a management approach to address the issue/s concerned. However, this advice should not be seen as prescriptive.

The suggested management approach recommends one way for businesses to approach conformance with the standards. The approach has been developed particularly for Members who have not yet formally addressed the standards within their business. However Members may adopt any management approach, appropriate to their own business and circumstances, to achieve the desired performance.

In each standard guidance section, the suggested approach usually contains the following elements:

- **A risk assessment** is a valuable management tool to identify and characterise actual and potential risks. It can be used to prioritise areas requiring additional effort to ensure conformance against all of the standards. It is a useful tool at both the Member and Facility level. For those Members who do not regularly carry out risk assessments, a basic template is provided in Appendix 1. For Members with mature management systems in place, a review or extension of their existing risk assessments should be sufficient to identify and address any outstanding issues.

This first step will help determine whether any of the following measures may assist in managing the risks.

- **A senior manager or officer being assigned responsibility** for meeting the requirements of each provision in the Member organisation. It is considered vitally important for success that the CEO, owner or principal shows clear commitment to meeting these standards and support of the responsible managers.
- **Written policies and procedures** can clarify the business' position on key issues, and identify ways in which to put the position into practice. It is useful to have policies written down, so as to keep a formal record and to provide consistent information to employees. However it may not be necessary or appropriate to have a policy on each and every standard of the Code of Practices. Members may consider having one general policy statement on their commitment to the Code of Practices, or integrating some or all aspects into whole of business management system or other management frameworks. If preparing these materials for the first time, think of ways to be efficient. For example, policies and procedures can be recorded in a presentation that is then used for training purposes.

- **Record keeping** is fundamental to any business as a way of managing important data and information. Reliable record keeping enhances accountability and allows businesses to measure progress over time. It provides an essential source of information for internal reviews and, where appropriate, valuable evidence for external auditing. For the first certification process, records and evidence from the previous 12 months will be required. Records used towards certification should then be kept for a minimum of 3 years (the certification validity) or longer as required by Applicable Law.
- **Training** helps personnel to focus on priorities and understand the policies and procedures of the business. It is an important way for new and existing personnel to learn about and keep pace with a flexible and evolving business. If the business' staff can learn, develop and change, then so can the business.

### 1.6 Objective evidence

To achieve RJC certification, conformance with the standards is assessed on objective evidence. Objective evidence is defined as *verifiable information, records or statements of fact*. Objective evidence includes interviews, documents, observation of activities, existing measurements and test results and the like.

The suggested management approach above will help provide auditors with documented evidence. However auditors will not only look for documents, policies and other records. They will also seek confirmation of practice in interviews conducted with management, workers and interested parties, as well as general observations.

### 1.7 Small businesses

The RJC aims to make RJC certification accessible to both large and small businesses.

In small businesses or production facilities, of 25 or less workers, management systems may be much less formal, but still as effective. For example, it is much easier to communicate policies and programs to a small workforce, thereby reducing the need for extensive documentation. There is often close proximity of senior management with the day-to-day running of the business. This should create a high degree of awareness of the issues and risks which need to be managed.

Achieving RJC certification will not be less stringent for smaller organisations, but some of the examples of evidence of conformance may differ at smaller facilities. Auditors will look for adequate proof of conformance for the size of the organisation. As with all assessments, they will seek evidence of both management systems and performance rather than overly complex procedures and records.

Documentation that is fit for purpose and consistent is usually the foundation for a functional management system. However the documentation required for conformance can be fairly simple for small businesses. Interviews also give an indication of how systems are performing in practice. In small businesses, auditors may rely more on interviews, since they can realistically reach a larger proportion of the workforce than in a larger workplace.

The suggested management approach offered in each standard guidance should thus be interpreted in the context of the size of the organisation. Risk assessments will help determine what measures will be appropriate and useful. Approached in this way, implementation of the RJC system should not be disproportionately challenging to small business.

### 1.8 Further guidance development

The RJC may update this Guidance, or develop further guidance on particular issues in the Code of Practices, or their application in particular contexts. Please check the RJC website for updates or contact the RJC Management Team.

[www.responsiblejewellery.com](http://www.responsiblejewellery.com)

# (COP 1.1) Bribery, Facilitation Payments and Gifts

## A Definition and applicability

Bribes are paid to obtain something the bribe receiver would not otherwise have provided. Facilitation payments are paid to receive preferential treatment for something that the payment receiver is otherwise still required to do. Bribery and facilitation payments are both seen as a form of corruption – an abuse of entrusted power for private gain.

(Source: Transparency International [http://www.transparency.org/news\\_room/faq/corruption\\_faq](http://www.transparency.org/news_room/faq/corruption_faq))

The **Bribery, Facilitation Payments and Gifts** section of the COP is applicable to all Facilities.

## B Issue background

Two decades ago, bribes were a tax deductible business expense in many countries. In the early 1990s, non-government organisations began international campaigns against corruption. It became recognised that corruption hinders economic development, corrodes the fabric of society, and distorts national and international trade. Corruption can also undermine environmental and labour standards, access to human rights and the rule of law.

Bribery is the most widely condemned form of corruption. Today, nearly all countries have criminalised bribery where it occurs domestically. In many countries it can be prosecuted even where the offence takes place overseas. Bribes may take the form of cash, gifts in kind, hospitality, expenses, advantage or promises. In some cases, the briber holds a powerful role and controls the transaction. In other cases, a bribe may be effectively extracted from the person paying.

Facilitation payments have historically attracted a more mixed response. In countries where wages are low or gift-giving is intrinsic to relationships, facilitation payments emerged as more or less acceptable. However, making a clear distinction between a facilitation payment and a bribe can be difficult in practice. For this reason, facilitation payments are often treated as equal to bribes and prohibited in anti-corruption initiatives.

Businesses are increasingly taking a strong stand against corruption. Investor confidence and the reputations of some sectors have been eroded by business ethics scandals. Corruption is now understood to add a financial burden to business. There are estimates that 10% can be added to the costs of doing business in some parts of the world. A consensus is emerging that corruption and bribery damage company integrity, degrade the business environment and fail to create competitive advantage.

## C Key regulations

### International standards

The OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions (1997) was the first international instrument to fight corruption in cross-border business deals. It has since been ratified by all 30 OECD countries and six non-members. National governments and businesses have used the Convention to improve legislation and raise standards. Bribing a foreign official is now a criminal offence in all signatory countries.

Transparency International, a non-government organisation, introduced the Business Principles for Countering Bribery in 2002. These principles aim to provide a model for companies to implement a comprehensive anti-bribery program. The approach ranges from internal policies and practices to how to deal with business partners and the supply chain. The Principles are intended for use by companies of all sizes.

The United Nations (UN) adopted its Convention against Corruption for ratifying states in 2003. It was the first legally binding, international anti-corruption instrument. This paved the way for the 10<sup>th</sup> Principle against corruption to be added to the UN Global Compact in 2004.

## National law

In most jurisdictions, any form of bribery is illegal. In some countries however, facilitation payments are customary to conduct business and personal activities, and may even be legal. It is essential to be fully informed of all relevant legislation and regulations in every jurisdiction of operation.

## D Suggested management approach

**Risk assessment:** Carry out a risk assessment appropriate to the business' circumstances to identify vulnerability to involvement in bribery or facilitation payments. Risks may be higher or more evident in certain countries, industry sectors or with some business partners. See Appendix 1 for a basic risk assessment template.

The risk assessment will help determine whether the following measures may also assist:

- **Management responsibility:** Nominate a senior manager as responsible for anti-corruption programs. Check that senior management is aware of relevant bribery and corruption legislation and key compliance strategies.
- **Written policy and procedures:** Develop a written policy on bribery and facilitation payments. Use the policy to explain the importance of the issue, the aims of the policy, the expectations of employees and agents, and the main processes established. Identify relevant legislation in all jurisdictions of operation and emphasise compliance with the law. Where facilitation payments are not legally prohibited, aim to limit their nature and scope, and ultimately eliminate them. Make clear that employees will not suffer any adverse consequences for voicing a concern or refusing to pay bribes or facilitation payments, even if the enterprise may lose business as a result. Outline appropriate sanctions to be applied to any employee who may engage in bribery or attempted bribery.
- **Record keeping:** If facilitation payments are not prohibited in a country, and have not yet been eliminated by the business, have them fully accounted for and monitored by the responsible manager. Report and record any instances of attempted bribery or inappropriate gifts, along with any applicable sanctions.
- **Training:** Staff involved with customers and suppliers should understand the business' policy on bribery and facilitation payments and any sanctions that may apply for inappropriate action. Tailor training to staff responsibility and repeat regularly. Keep records of the content, extent and recipients of training.

## E Further information

The following websites have further information on bribery and corruption issues:

- Transparency International  
[www.transparency.org/](http://www.transparency.org/)
- OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions (1997)  
[www.oecd.org/document/21/0,3343,en\\_2649\\_34859\\_2017813\\_1\\_1\\_1\\_1,00.html](http://www.oecd.org/document/21/0,3343,en_2649_34859_2017813_1_1_1_1,00.html)
- UN Global Compact – Principle 10 on Anti-Corruption (2004)  
[www.unglobalcompact.org/AboutTheGC/TheTenPrinciples/anti-corruption.html](http://www.unglobalcompact.org/AboutTheGC/TheTenPrinciples/anti-corruption.html)
- UN Convention against Corruption (2003)  
[www.unodc.org/unodc/en/corruption/index.html](http://www.unodc.org/unodc/en/corruption/index.html)
- Publish What You Pay – aimed at natural resource extraction companies  
[www.publishwhatyoupay.org](http://www.publishwhatyoupay.org)
- World Economic Forum – Partnering against Corruption  
[www.weforum.org/en/initiatives/paci/index.htm](http://www.weforum.org/en/initiatives/paci/index.htm)

## STANDARD GUIDANCE

# (COP 1.2) Money Laundering and Finance of Terrorism

### A Definition and applicability

Money laundering is the process by which the financial proceeds of crime are disguised to conceal their illegal origin. The financing of terrorism is any kind of financial support to those who encourage, plan or engage in terrorism.

(Source: World Bank <http://www1.worldbank.org/finance/html/amlcft/referenceguide.htm>)

The **Money Laundering and Finance of Terrorism** section of the COP is applicable to all Facilities.

### B Issue background

Money laundering is the term for a multitude of practices designed to hide illegal or 'dirty' money. The profits from criminal activities – such as illegal arms sales, drug trafficking, prostitution, fraud, insider trading, theft or tax evasion – go through a succession of transfers and deals until the illegal source of the funds is obscured. The money then takes on the appearance of legitimate or 'clean' funds or assets.

The money laundering process usually follows three stages. In the initial – or placement – stage of money laundering, the launderer introduces the illegal profits into the financial system. This is often done by breaking up large amounts of cash into smaller sums. These are then deposited as cash, cheques or money orders directly into bank accounts in various locations.

After the funds have entered the financial system, the second – or layering – stage takes place. In this stage, a series of conversions or movements of the funds are carried out to distance them from their illegal source. The funds might be channelled through the purchase and sales of investments, or wired through a series of international bank accounts. This use of widely scattered accounts is especially prevalent in jurisdictions that do not co-operate in anti-money laundering investigations.

In the third stage – integration – the funds re-enter the legitimate economy. Legitimate and illicit proceeds may be commingled in the accounts of trading companies. The launderer might choose high value assets or goods for purchase and perhaps resale. These items can include real estate, business ventures, or luxury items such as diamonds, jewellery, cars or antiques.

Terrorist financing uses similar kinds of transactions for concealment and disguise, but with differences in stages one and three. In the first stage, funds for terrorist financing may originate from legitimate sources as well as criminal activities. Legitimate sources may include donations to foundations or charities that are in turn used to support terrorist activities or organisations. In the third stage, the distribution of funds is toward illegal organisations or their activities, while money laundering goes in the opposite direction – integrating criminal funds into the legitimate economy.

Money laundering and the financing of terrorism can, and do occur in any country in the world. As dealers in high value goods, various parts of the jewellery supply chain may be targeted during the process of laundering money. It is therefore vital that the sector adopts very strict systems to minimize the risk of becoming involved in money laundering or terrorism financing.

As a guide, any of the following may indicate suspicious transactions:

- Reluctance of customer to provide details of identity, or it is difficult to verify identity;
- Introduction of intermediaries to protect identity or hide involvement;
- Large sums of money paid in cash;
- Payments in used notes and/or small denominations;
- Unknown sources of cash;
- Unusual requests for collection or delivery;

- Manipulation of trade documents;
- Transactions associated with countries without adequate money-laundering laws;
- Abuse of free trade zones for trade based money laundering;
- Inconsistent, changed or unusual size, frequency or pattern of transactions in the context of the normal activities of the customer or supplier.

## C Key regulations

### International Standards

To co-ordinate an international response to money laundering, the Financial Action Task Force on money laundering (FATF) was established by the G-7 Summit in Paris in 1989. In 2001, the FATF mission was expanded to include reducing or eliminating the financing of terrorism.

The FATF has developed 40 Recommendations which set out the measures that national governments should take to implement effective anti-money laundering programs. An additional 9 Special Recommendations on Terrorist Financing have been developed, the ninth adopted in October 2004. Together these constitute the basic framework for preventing, detecting and suppressing both money laundering and terrorist financing.

### National Law

Most countries have enacted strict anti-money laundering legislation and regulations. Because of the criminal nature of the activity, it is essential to be aware of the relevant legislation in every operating jurisdiction. Dealing in high value goods, such as precious metals, stones or jewels, often triggers regulatory requirements to implement internal transaction monitoring and controls. In the case of no national law, the RJC requires Members to comply with the applicable provisions in the FATF 40+9 Recommendations.

Most anti-money laundering requirements are based on a 'know your customer' principle. The main elements are usually: seeking verifiable evidence of identity; keeping records of high value transactions; and having procedures in place for reporting any suspicions to the relevant authorities.

## D Suggested management approach

**Risk assessment:** Carry out a risk assessment appropriate to the business' circumstances to identify vulnerability to involvement in money laundering or the finance of terrorism. Risks may derive from sales practices, the size and type of transactions, or the nature and geographic location of their customer base. Confirm that the business has a process of due diligence in identifying customers, and for any cash, or cash-like, transactions. See Appendix 1 for a basic risk assessment template.

The risk assessment will help determine whether the following measures may also assist:

- **Management Responsibility:** Nominate a compliance officer to be responsible for an internal program of financial controls, staff training and external reporting. Check that senior management are aware of relevant Anti-Money Laundering (AML) and Combating the Finance of Terrorism (CFT) legislation and regulations and key compliance strategies.
- **Written policy and procedures:** Develop a written policy on AML and CFT. Explain the importance of the issue, the aims of the policy, the roles of employees and the main processes established. Identify relevant legislation and regulatory bodies in all jurisdictions of operation and emphasise compliance with the law. Separate procedures for individual countries may be required, according to specific local regulations. For example, financial transactions which exceed regulated thresholds may trigger money laundering monitoring or reporting requirements. Develop a 'know your customer' approach to managing the issues.
- **Record keeping:** Maintain accurate financial records for internal and external reporting. Clearly identify who in the business is responsible for implementing and checking record-keeping procedures. Records may need to include evidence of the identities of customers, details of high value payments or cash transactions, and any disclosures or correspondence with regulatory bodies or law enforcement agencies.
- **Testing and reviewing:** Have an internal auditor or external agency regularly review and test AML/CFT procedures to check they are working properly. Staff normally involved in the types of transaction or the area of business being investigated should not carry out the review.

- **Training:** Staff involved with customers should be aware of and understand the business' policy on AML/CFT. Tailor training according to staff responsibility and repeat regularly. Keep records of the content, extent and recipients of training. Training should include:
  - 'Know your customer' procedures and guidelines on acceptable identification;
  - Recognition and handling of transactions which may be related to money laundering;
  - Internal reporting and record keeping.

## E Further information

The following websites have further information on anti-money laundering and combating the financing of terrorism:

- Financial Action Task Force (FATF) – an international policy making organisation established to counter criminal use of financial systems  
[www.fatf-gafi.org](http://www.fatf-gafi.org)
- World Bank Group – Anti-Money Laundering and Combating the Financing of Terrorism  
[www1.worldbank.org/finance/html/amlcft/index.htm](http://www1.worldbank.org/finance/html/amlcft/index.htm)
- UN Global Programme against Money Laundering  
[www.unodc.org/unodc/en/money-laundering/index.html](http://www.unodc.org/unodc/en/money-laundering/index.html)
- International Money Laundering Information Network (IMoLIN)  
[www.imolin.org/imolin/index.html](http://www.imolin.org/imolin/index.html)
- Basel Committee on Banking Supervision  
[www.bis.org/bcbs/index.htm](http://www.bis.org/bcbs/index.htm)
- Jeweler's Vigilance Committee (USA) – guidance on legal compliance and anti-money laundering issues  
[www.jvclegal.org/](http://www.jvclegal.org/)

## STANDARD GUIDANCE

### (COP 1.3) Kimberley Process

#### A Definition and applicability

The Kimberley Process is a joint government, international diamond industry and civil society initiative to stem the flow of conflict diamonds. Conflict diamonds is a term for rough diamonds that are used by rebel movements to finance wars against legitimate governments.

(Source: <http://www.kimberleyprocess.com/>)

The **Kimberley Process** section of the COP is applicable to Facilities which handle diamonds.

#### B Issue background

The issue of conflict diamonds began gaining public prominence in the late 1990s. Human rights non-governmental organisations (NGOs) drew attention to the illegal trade in rough diamonds. This trade was funding rebel movements in Angola and Sierra Leone and indirectly contributing to human rights atrocities. The diamond industry was brought into the media and consumer spotlight.

In response, the diamond and jewellery industry, through its designated representative organisation the World Diamond Council (WDC), began working with the United Nations, key governments and NGOs to seek a solution. These meetings became known as the Kimberley Process. The outcome was the Kimberley Process Certification Scheme (KPCS) which aims to prevent conflict diamonds from entering the supply chain. The system is implemented by governments and tracks the export and import of shipments of legitimate rough diamonds between participating countries. To support it, the WDC also created a voluntary program of industry self-regulation called the System of Warranties (SoW) which extends to the trade in cut and polished stones.

The diamond industry has made a strong commitment to the Kimberley Process and the effectiveness of the KPCS and the WDC SoW is being closely monitored by NGOs. This includes both the performance of governments and that of the diamond industry. Exposure of ineffective systems or complicity in the sale of conflict diamonds poses a significant risk to the reputation of individual companies and for the industry as a whole. For companies, failure to abide by KPCS or the WDC SoW exposes the Member to expulsion from industry organisations and loss in trade. At an industry level, if self-regulation is seen to be ineffective, the pressure for stronger regulatory action will grow.

#### C Key regulations

##### The Kimberley Process Certification Scheme (KPCS)

The Kimberley Process Certification Scheme came into effect in 2003. The KPCS requires participating nations to keep conflict diamonds out of legitimate channels of commerce. All imports and exports of rough diamonds must be via a government office. This office verifies the source, packs diamond consignments to be transported in tamper-resistant containers and issues the accompanying government-validated Kimberley Process Certificate. Each forgery-resistant certificate must be uniquely numbered and include data describing the shipment's contents and the country of origin. Government signatories to the Kimberley Process are required to implement internal controls on the movement of diamonds and can only export/import diamonds to/from other countries that are part of the KPCS. Note that rough diamonds which are cut and polished within their country of origin do not fall under the KPCS.

##### The World Diamond Council System of Warranties (SoW)

To provide industry support for the KPCS and additional assurance to end-consumers, the World Diamond Council (WDC) created a voluntary program of self-regulation, the System of Warranties (SoW). It requires that all consignments of diamonds, whether rough, polished, or set in jewellery, be accompanied by a written warranty on all invoices through the supply chain. This applies each time the diamonds change hands and extends down to retail jewellers (but not to end-consumers). The official WDC warranty statement reads:

*“The diamonds herein invoiced have been purchased from legitimate sources not involved in funding conflict and in compliance with United Nations resolutions. The seller hereby guarantees that these diamonds are conflict free, based on personal knowledge and/or written guarantees provided by the supplier of these diamonds.”*

Note that the WDC SoW statement is not included on invoices to the final consumer. For retailers, all invoices to buy diamonds and for sales to businesses, as opposed to consumers, have to contain the statement.

Records must be kept of the warranty invoices received and issued, which must be auditable and reconciled on an annual basis. If asked for by a duly authorised government agency, these records must be able to prove compliance with the Kimberley Process for rough diamonds.

### Industry Principles of Self-Regulation

In addition to KP and SoW adherence, all diamond and jewellery industry organisations and their Members have adopted the following principles of self-regulation, obliging them to:

- trade only with companies that include warranty declarations on their invoices;
- not buy diamonds from suspect sources or unknown suppliers, or which originate in countries that have not implemented the Kimberley Process Certification Scheme;
- not buy diamonds from any sources that, after a legally binding due process system, have been found to have violated government regulations restricting the trade in conflict diamonds;
- not buy diamonds in or from any region that is subject to an advisory by a governmental authority indicating that conflict diamonds are coming from or available for sale in such region, unless diamonds have been exported from such region in compliance with the Kimberley Process Certification Scheme;
- not knowingly buy, sell or assist others to buy or sell conflict diamonds;
- ensure that all company personnel that buy or sell diamonds are well informed regarding trade resolutions and government regulations restricting the trade in conflict diamonds.

## D Suggested management approach

**Risk assessment:** Carry out a risk assessment appropriate to the business’ circumstances to identify vulnerability to involvement in the sale of conflict diamonds. Confirm that the business has a process of due diligence in identifying suppliers, and a process for identifying any shipments originating from countries outside the KPCS or for any other suspicious consignments. Check if procedures are potentially deficient for adhering to the KPCS and SoW. See Appendix 1 for a basic risk assessment template.

The risk assessment will help determine whether the following measures may also assist:

- **Management responsibility:** Nominate a senior manager as responsible for managing the KPCS/SoW implementation, including the internal program, staff training and any external reporting. The manager should be in a position within the business to have access to necessary information and sufficient authority to implement the required processes.
- **Written policy and procedures:** Develop a written policy on conflict diamonds. Explain the importance of the issue, the aims of the policy, the role expected of employees and the main processes established. Include procedures for checking supplier warranties, record keeping, reconciliation and auditing of KPCS/SoW invoices and internal reporting. Make a clear statement on how to proceed should a supplier fail to provide an adequate warranty. Communicate the policy relating to KPCS and WDC SoW to the business’ suppliers and stakeholders.
- **Record keeping:** Maintain accurate records. Clearly identify who in the business is responsible for implementing and checking record-keeping procedures (normally the senior manager responsible for KPCS/SoW). Keep records of all warranties obtained or issued for five years and ensure they are available for audit. Aim to build record-keeping related to the SoW into normal internal control procedures – don’t create an additional process.
- **Testing and reviewing:** Have an internal auditor or an external agency regularly review and test the KPCS/SoW procedures. Staff normally involved in the types of transaction or the area of business being investigated should not carry out the testing (however in a small business there may be no alternative). Develop an audit plan where periodic audits of the internal records of warranties are conducted by external auditors or an independent internal team of auditors. Auditing and reconciliation involves taking a representative sample of all invoices (in and out) to confirm that they all contain the statement.

- **Training:** Staff involved with the movement of diamonds should understand the business's policy on conflict diamonds. Sales staff should be able to explain the policy in response to enquiries. Tailor training according to staff responsibility and repeat regularly. Keep records of the content, extent and recipients of training. Training should include:
  - the Kimberley Process Certification Scheme;
  - the World Diamond Council System of Warranties;
  - the company's procedures for warranty record-keeping, rejecting shipments and external audits;
  - penalties and consequences of engaging in the practice of conflict diamonds.

## E Further information

The following websites have further information on the Kimberley Process:

- The Kimberley Process Certification Scheme:  
[www.kimberleyprocess.com](http://www.kimberleyprocess.com)
- Information by the World Diamond Council on KPCS and SoW:  
[www.diamondfacts.org](http://www.diamondfacts.org)
- Jewelers of America, information for retail jewellers:  
[www.jewelers.org](http://www.jewelers.org)
- The Diamond Development Initiative  
[www.ddiglobal.org](http://www.ddiglobal.org)
- Global Witness  
[www.globalwitness.org](http://www.globalwitness.org)

## STANDARD GUIDANCE

### (COP 1.4) Product Security

#### A Definition and applicability

Product refers to gold and/or diamonds at any stage during the jewellery supply chain. Security relates to precautions taken to ensure against theft, damage or substitution.

*(Source: RJC Code of Practices)*

The **Product Security** section of the COP is applicable to Facilities which handle diamond and/or gold materials or products.

#### B Issue background

Protecting the security of diamond and gold products makes clear business sense and helps prevent high value products from financing criminal activities. Because of their high value, security measures are required when they are within the premises and while they are being transported.

From a business ethics perspective, it is vital to consider the security of staff and customers when putting security measures in place. Priority must be placed on the security of people over the security of product.

Most businesses would hold insurance policies to cover loss or damage to these valuables. The terms and conditions of insurance usually lay out clear requirements on the business for physical security measures and general risk management.

#### C Key regulations

##### National law

Legislation on occupational health and safety often includes a legal responsibility for a 'duty of care' by employers. This means providing a safe working environment for employees, contractors and visitors. Under such legislation, potential risks to people in the workplace need to be considered in developing systems and procedures such as product security measures. Members should ensure that they maintain up to date knowledge of the relevant legislation in all their areas of operation.

#### D Suggested management approach

- **Risk assessment:** Carry out a risk assessment appropriate to the business' circumstances to identify what is lacking in the management of product security and where people may be at risk. Risks may be higher or more evident in certain countries or locations, industry sectors, in transit or with some business partners. Review whether insurance is adequate. Identify opportunities to improve security measures and the physical safety of employees. See Appendix 1 for a basic risk assessment template.

The risk assessment will help determine whether the following measures may also assist:

- **Management responsibility:** Nominate a senior manager to be responsible for overseeing product security.
- **Written policies and procedures:** Develop policies and procedures for product security that detail the expectations of employees, agents and contractors and the main processes established. A priority should be placed on human life over valuables. Note that it is often good security practice not to document all or part of the security procedures, as the documentation itself may pose a security risk.
- **Record keeping:** Clear records on product handling, storage and transportation will assist in identifying anything irregular. Regular audits of these records can form part of the ongoing risk assessment process.
- **Training:** Staff involved with the movement and security of product should be trained in the business' procedures. It is important that they understand that their lives are more important than the products.

## E Further information

The following websites have further information on product security issues:

- Jewelers' Security Alliance (US) – Crime Prevention Bulletin  
[www.jewelerssecurity.org](http://www.jewelerssecurity.org)
- Stolen Jewellery Tracking System (US)  
[www.stolenjewelry.org/](http://www.stolenjewelry.org/)
- JM University – Jewelry industry education about safety, security and insurance  
<https://services.jewelersmutual.com/JMUniversity/>
- Crime Prevention Network for the Jewellery and Watch Trade in Europe  
<http://www.warndienst.com/>

## STANDARD GUIDANCE

# (COP 1.5) Product Integrity

### A Definition and applicability

Product integrity in the jewellery industry concerns proper and accurate disclosure of all relevant information about diamond, treated diamond, synthetic, simulant, and gold products.

A treated diamond has undergone a process to enhance its quality.

A synthetic diamond has been man-made, rather than mined, but has the same physical properties.

A diamond simulant is a non-diamond material that is used to imitate the appearance of a diamond.

*(Source: Summarised from RJC Code of Practices)*

The **Product Integrity** section of the COP is applicable to Facilities which handle diamond and/or gold products.

### B Issue background

Product integrity within the jewellery industry depends on honesty and transparency about the nature and quality of products being bought and sold. It is of particular importance to the gold and diamond supply chain, since jewellery is often a high value discretionary purchase. End consumers frequently have limited technical knowledge of the articles they are buying and rely on the advice of sellers. New technologies, such as for the treatment of stones, creation of synthetic and simulant stones and development of new alloys, are making the supply chain and consumer market even more complex.

To protect consumers and to assist the gold and diamond industry, industry guidelines and legal requirements in individual countries have been established in the following areas:

- Gold assaying, quality marking or hallmarking to indicate fineness;
- Diamond grading for larger stones through independent gemmological laboratories; and
- Standards of terminology and classification for the communication of product attributes.

Misinformation about articles sold, at any level of the supply chain through to the end consumer, poses a significant risk to the reputation of individual companies and the industry as a whole. At a company level, failure to disclose all relevant information, or false statements about articles sold, exposes the Member to risk of expulsion from industry organisations and loss of trade.

There is also a substantial legal risk. Selling diamond and/or gold jewellery articles without disclosing full and accurate information about the product or providing misleading information, even unknowingly, is illegal under most jurisdictions. Offenders can face penalties including fines and prison sentences.

### C Key regulations

#### International standards

The main international standards for product integrity have been developed by industry organisations as part of a self-regulatory approach. The World Jewellery Confederation, CIBJO, hosts the Blue Book: a publication outlining terminology, classification and ethical guidelines for diamonds (contained in the Diamond Book section of the Blue Book). It is considered an important standard for product disclosure and, while voluntary, is directed to wholesalers, suppliers, manufacturers and retailers at all points in the trade internationally. The standards are designed to apply to all methods of marketing and sales and both direct and indirect assertions about the products.

In 2008, the International Diamond Council launched new Rules for Grading Polished Diamonds. Since their publication, the IDC rules have been recognised by CIBJO and become the reference point for clear diamond terminology aimed at benefiting consumer confidence in diamonds. The revised IDC rules include terminology that broadens the range of descriptors that can be used for gem-quality diamonds that have been created in laboratory or factory, and to date have been referred to as "synthetic." This revision has been reflected in the 2008 RJC Code of Practices.

The World Gold Council (WGC) hosts information about international standards for gold fineness. There are also detailed summaries of national requirements for gold jewellery fineness and marking online. The WGC publishes several handbooks and manuals on gold jewellery manufacture, including technical guidance on assaying and refining gold.

### National law

Relevant national law and regulations will vary according to the country concerned, but tend to be in the areas of consumer protection, trading standards or fraud. Most countries have laws regulating trading that make it unlawful to wrongly describe any goods in terms of their composition, physical characteristics, or history. In addition, some countries have specific laws or regulations relating to gemstones and precious metals. For example, the United States Federal Trade Commission (FTC) has Guides for the Jewelry, Precious Metals and Pewter Industries. Members should use the terms set down in national legislation, and in the case of no applicable law, follow the Code of Practices.

Legal obligations may cover knowingly, as well as unknowingly, providing wrongful or misleading information in the sale of goods. Members should ensure that they maintain up to date knowledge of the relevant legislation in all their areas of operation.

## D Suggested management approach

**Risk assessment:** Carry out a risk assessment appropriate to the business' circumstances to identify potential breaches of product integrity standards. Review procedures for product information disclosure in buying, supplier assessment, and sales. See Appendix 1 for a basic risk assessment template.

The risk assessment will help determine whether the following measures may also assist:

- **Management responsibility:** Confirm that responsible senior managers are aware of the legal requirements, industry guidelines and key risk areas across all areas of the business accountable for compliance.
- **Written policy and procedures:** Develop a written policy on product integrity. Explain the importance of product integrity and detail relevant national and local laws, regulations and industry standards. Outline the legal and company-specific penalties for inappropriate action. Develop procedures that are adequate for achieving compliance with applicable law and/or regulations. Procedures should include a clear statement on how to proceed should a supplier fail to provide appropriate product information.
- **Record keeping:** Record keeping is a key element to product integrity, especially at the stage where resources are being transformed (gold refined, or diamonds cut for example). Clearly identify who in the business is responsible for implementing and checking record-keeping procedures.
- **Training:** Staff buying, selling or providing information on diamond and/or gold jewellery products should understand the policy and procedures for ensuring product integrity. Tailor training according to staff responsibility and repeat regularly. Keep records of the content, extent and recipients of training. Training should include:
  - Diamond identification through the '4 Cs' of colour, cut, clarity and caratage;
  - Basic understanding of applicable Gold Quality Marks and Hallmarks identification;
  - CIBJO Blue Book (or equivalent standards) for disclosure and communication relating to diamond product integrity.

## E Further information

The following websites have further information on the issue of product integrity:

- World Jewellery Confederation CIBJO – The Blue Book:  
[www.cibjo.com](http://www.cibjo.com)
- International Diamond Council – Rules for Grading Polished Diamonds  
<http://www.internationaldiamondcouncil.org/books/idc-rule-book/idc-rule-book>
- World Gold Council:  
[www.gold.org](http://www.gold.org)
- Jewelers Vigilance Committee  
[www.jvclegal.org](http://www.jvclegal.org)
- US Government – Federal Trade Commission Guidelines for Jewellery:  
[www.ftc.gov/os/statutes/jewelryjump.shtm](http://www.ftc.gov/os/statutes/jewelryjump.shtm)
- Federal Trade Commission 2008 Decision on petition regarding use of term ‘cultured’ for gemstones  
[www.ftc.gov/opa/2008/07/jvc.shtm](http://www.ftc.gov/opa/2008/07/jvc.shtm)

## STANDARD GUIDANCE

# (COP 1.6) Extractive Industries Transparency Initiative

### A Definition and applicability

The Extractive Industries Transparency Initiative sets a global standard, implemented by signatory countries and companies, for companies to publish what they pay for resource extraction rights and for governments to disclose what they receive from the extractives sector.

*(Source: Extractive Industries Transparency Initiative <http://eitransparency.org/>)*

The **Extractive Industries Transparency Initiative** section of the COP is applicable to all Members with Mining Facilities.

The COP 1.6 **Extractive Industries Transparency Initiative** provisions should be implemented in conjunction with COP 4.6 **Sustainability Reporting**.

### B Issue background

For resource-rich countries, the management of a country's natural resource revenues for the benefit of a country's citizens is the domain of sovereign governments. Revenues from mining companies in the form of taxes, royalties, signature bonuses and other payments should help drive economic growth and social development in developing and transition countries. However, if not managed well, these resource revenues can create negative economic and social impacts. A lack of accountability and transparency in these revenues can worsen poor governance and lead to corruption, conflict and poverty.

The Extractive Industries Transparency Initiative (EITI) aims to strengthen governance by improving transparency and accountability in the extractives sector. It is a multi-stakeholder initiative comprised of governments, companies, civil society groups, investors and international organisations. The EITI sets a global standard for companies to publish what they pay and for governments to disclose what they receive. Although it is government-led, the private sector and civil society organisations both play significant roles in how the initiative is implemented.

The basic concept is straightforward: mining companies should declare in participating host countries the payments they make to the government – either individually or aggregated by an independent third party. Once audited to international standards, these figures are then available for comparison against the host government's own separate declaration of the revenues received. This two-pronged process of independent validation provides assurance for the reporting and reduces opportunities for revenue leakage.

While implementation is the responsibility of governments, mining companies can formally sign up to support EITI implementation. The benefits to companies centre on mitigating political and reputational risks. In extractive industries, investments are capital intensive and depend on long-term stability to generate returns. Political instability generated by opaque governance is a threat to these investments. Transparency of payments can help prevent conflict around mining activities and demonstrate the contribution that mining investment makes to a country.

Resource transparency is also addressed in the Global Reporting Initiative (GRI), a requirement under COP 4.6 Sustainability Reporting for Members with Mining Facilities. Under the GRI Mining and Metals Sector Supplement, payments to governments and EITI implementation are disclosed under the GRI reporting framework.

## C Key regulations

### International standards

The EITI was announced at the World Summit on Sustainable Development in Johannesburg, September 2002. The EITI Board and International Secretariat were established in 2006, and the EITI validation methodology agreed in 2008. EITI implementation is the responsibility of individual signatory countries.

To become an EITI supporter, a mining company declares its support publicly and helps promote the initiative internationally and in countries where they operate. Being a supporter of the EITI does not require any additional reporting or disclosure requirements to those for all companies operating in the relevant sectors in countries implementing the EITI. Extractive companies are also asked to fill in an international-level self-assessment form within a year of becoming an EITI Supporting Company. All companies in EITI implementing countries will be asked to fill in a country-level self-assessment form when the country is undergoing Validation.

In summary, a company supporting the EITI:

- has made a statement where it endorses the EITI Principles and Criteria, and made the statement available on its website;
- contributes to implementation in EITI implementing countries;
- is asked to make an annual contribution to the international management of the EITI.

### National law

The EITI is a voluntary initiative that is implemented by countries whose governments sign up to do so. To date, approximately 20 countries have signed up to become an EITI Candidate country.

EITI implementation needs to be documented in country workplans. To achieve EITI Compliance status, a country must complete an EITI Validation within 2 years of becoming an EITI Candidate country. Once a country is Compliant, the country must undergo Validation at least every 5 years. To date, one country has completed EITI Validation, and preparations are well advanced in another 22 EITI Candidate countries.

## D Suggested management approach

- **Management responsibility:** Nominate a senior manager with strategic responsibility for supporting EITI through:
  - helping promote the EITI internationally and in countries where the company operates;
  - taking part in or supporting the multi-stakeholder process internationally or in EITI implementing countries;
  - alongside all other companies operating in EITI implementing countries, disclosing data, audited to international standards.

The responsible senior manager should nominate a lead contact person and oversee implementation at a country level.

- **Written policy:** EITI supporter companies must make a statement endorsing the EITI Principles and Criteria, in the form of a policy or similar, and make this available on the company website.
- **Record keeping and reporting:** Revenues paid to governments in the form of taxes, royalties, signature bonuses and other payments must be recorded. The EITI Business Guide provides advice as to EITI reporting requirements. Voluntary disclosure of payments to governments in non-EITI countries is also encouraged, where contract confidentiality provisions allow such disclosure. Note that the Global Reporting Initiative component of the RJC Standard (COP 4.6 on Sustainability Reporting) requires public reporting of payments to governments at the international, national and local levels, including a breakdown by country. A summary of the company's contribution to EITI should be included in the company's public reporting, as well as on their external website.
- **Training and communication:** Staff involved with external affairs, political risk analysis, public reporting and government revenues should understand and act on the business' commitment to the EITI. Tailor training to staff responsibility and provide regular communication as to EITI developments in country implementation.

## E Further information

The following websites have further information on transparency in the extractive industries:

- Extractive Industries Transparency Initiative  
<http://eitransparency.org/>
- EITI Fact Sheet – How to become a supporting company  
<http://eitransparency.org/files/page/How%20to%20Support%20-%20Extractive.pdf>
- EITI Business Guide – How companies can support implementation  
<http://eitransparency.org/files/document/EITI%20Business%20Guide.pdf>
- EITI – Advancing the EITI in the Mining Sector  
[www.eiti.org/document/mining](http://www.eiti.org/document/mining)
- ICMM – EITI  
<http://www.icmm.com/page/1549/our-work/who-we-work-with/articles/extractive-industries-transparency-initiative>
- ICMM Resource Endowment Initiative  
<http://www.icmm.com/page/1409/resource-endowment-initiative>
- Transparency International  
[www.transparency.org/](http://www.transparency.org/)
- Publish What You Pay  
[www.publishwhatyoupay.org](http://www.publishwhatyoupay.org)

## STANDARD GUIDANCE

### (COP 2.1) Human Rights

#### A Definition and applicability

Human rights are rights inherent to all human beings, regardless of nationality, place of residence, sex, national or ethnic origin, colour, religion, language, or any other status.

(Source: <http://www.ohchr.org/EN/Issues/Pages/WhatareHumanRights.aspx>)

The **Human Rights** section of the COP is applicable to all Facilities with employees.

#### B Issue background

Claims for human rights depend on three interlocking qualities. Human rights must be:

- Natural – inherent in human beings;
- Equal – the same for everyone; and
- Universal – applicable everywhere.

In other words, for rights to be *human* rights, all humans everywhere in the world must possess them equally and only because of their status as human beings.

The kinds of rights which are regarded as human rights include:

- Civil and political rights – such as the right to life and liberty, freedom of expression, and equality before the law; and
- Social, cultural and economic rights – such as the right to participate in culture, the right to food, the right to work, and the right to education.

Universal human rights are often expressed and guaranteed by law, in the forms of treaties, customary international law, general principles and other sources of international law. While human rights principles were originally intended to limit government action towards individuals or groups, many of the principles relate directly or indirectly to private sector actions.

A wide range of non-government organisations (NGOs) have focused increased attention on the actions of businesses, particularly those working internationally. Businesses are now seen to play a critical role in how human rights are respected globally. Leading businesses have responded by developing more rigorous approaches to human rights, such as risk assessment, corporate monitoring and public reporting.

#### C Key regulations

##### International standards

Human rights law is a system of laws, both domestic and international, designed to promote human rights. The most well known international human rights instrument is The Universal Declaration of Human Rights (UDHR), adopted by the United Nations General Assembly in 1948. Although the UDHR is a non-binding resolution, it is now considered to be a central component of international customary law.

The UDHR has 30 Articles. The most relevant to the private sector relate to:

- Employment rights, such as conditions of work, rest and leisure, and standard of living (Articles 23, 24, 25);
- Freedom of movement, opinion and association (Articles 13, 19 and 20);
- Freedom from slavery or servitude, or degrading treatment or punishment (Articles 4 and 5);
- Civil rights to be free and equal in dignity and free from discrimination (Articles 1 and 2).

In addition to the UDHR, there are nine core international human rights treaties, implementable by nation states (see <http://www2.ohchr.org/english/law/>). These include:

- International Covenant on Civil and Political Rights (CCPR)
- International Covenant on Economic, Social and Cultural Rights (CESCR)
- Convention on the Elimination of Racial Discrimination (CERD)
- Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW)
- Convention on the Rights of the Child (CRC)

In 2003, the UN Human Rights Commission produced draft *Norms on the responsibilities of transnational corporations and other business enterprises with regard to human rights*. The draft Norms identify the responsibilities of business to promote human rights throughout their supply chain and to take steps to make themselves knowledgeable about the impact of their activities on human rights.

### National law

Human rights principles are also enshrined in the national law of the majority of countries. It is essential to ensure that all business operations are aware of and consistent with these legal principles. In recent years, some national courts have accepted or instigated lawsuits alleging that multinational companies have contributed to human rights violations in other countries.

## D Suggested management approach

**Risk assessment:** Carry out a risk assessment appropriate to the business' circumstances to assess where there may be a risk of human rights violations. Consider the relevant Articles of the Universal Declaration of Human Rights outlined above. See Appendix 1 for a basic risk assessment template.

The risk assessment will help determine whether the following measures may also assist:

- **Management responsibility:** Confirm that senior managers are aware of human rights issues, as well as the key risk areas across all areas of the business accountable for compliance.
- **Written policy and procedures:** Develop a written policy outlining the business' commitment to respecting human rights. Explain the importance of the issue, the aims of the policy, and the expectations of employees and contractors. Develop procedures for considering human rights in business decision-making, where relevant.
- **Training:** Where relevant, employees and contractors should be trained in the human rights policy and issues of the business. Tailor training according to staff responsibility and repeat regularly. Keep records of the content, extent and recipients of training.

## E Further information

The following websites have further information on human rights:

- United Nations – Universal Declaration of Human Rights  
<http://www.un.org/Overview/rights.html>
- United Nations Office of the High Commissioner for Human Rights  
<http://www.ohchr.org/EN/Issues/Pages/WhatareHumanRights.aspx>
- Business and Human Rights – Jewellery  
<http://www.business-humanrights.org/Categories/Sectors/Consumerproductsretail/Jewellery>
- Human Rights Watch – Business and Human Rights  
<http://www.hrw.org/doc/?t=corporations>
- 2008 Report of the Special United Nations Representative on the issue of human rights and business, John Ruggie.  
[www.reports-and-materials.org/Ruggie-report-7-Apr-2008.pdf](http://www.reports-and-materials.org/Ruggie-report-7-Apr-2008.pdf)
- Human Rights Translated: A Business Reference Guide  
<http://www.law.monash.edu.au/castancentre/publications/human-rights-translated.pdf>
- ICMC publication 'Human Rights in the Metals and Mining Industry' (2009)  
[www.icmm.com/document/642](http://www.icmm.com/document/642)

## STANDARD GUIDANCE

# (COP 2.2) Child Labour and Young Persons

### A Definition and applicability

Child labour is often defined as work that deprives children of their childhood, their potential and their dignity, and that is harmful to their social, physical and mental development. A Young Person is any worker over the minimum age for work and under the age of 18 years.

(Source: <http://www.ilo.org/ipec/facts/lang--en/index.htm>)

The **Child Labour and Young Persons** section of the COP is applicable to all Facilities with employees.

### B Issue background

Child labour is one of the most high profile and widely-condemned social performance issues. It is deemed to be widespread, with estimates of more than 200 million child labourers aged 5-17 globally. Child labour usually refers to work that interferes with children's schooling. It may deprive children of the opportunity to attend school, oblige them to leave school prematurely, or require them to combine school attendance with demanding work. Whether or not particular forms of 'work' are prohibited as 'child labour' depends on a number of factors. These can include the child's age, the type and hours of work performed, the conditions under which it is performed and the legal framework of individual countries and sectors.

It is important to understand the context in which child labour occurs and the impacts it can have. There are various reasons why children are employed, but the main reason is one of economic necessity. Families in marginal economic circumstances may depend on children earning incomes. However, child labour ultimately impedes economic growth and development. It deprives children of the opportunity to be educated for productive and decent work, consigning them to low-paying and unskilled jobs in adulthood at best. Child labour can also have a negative effect on adult working conditions, creating a downward pressure on wage levels and leading to increased adult unemployment rates. This in turn reinforces the problems of poverty and lack of development that drive child labour in the first place. As a result, addressing child labour is a complex issue and unfortunately not always simply a matter of removing children from the workforce. It must be approached with an understanding of its economic drivers and sensitivity to the alternatives.

### C Key regulations

#### International conventions

The International Labour Organisation (ILO), a tripartite United Nations agency, has passed two major conventions on child labour. These are the Minimum Age Convention 138 (1973) and the Worst Forms of Child Labour Convention 182 (1999). These Conventions take two main approaches to defining child labour: age and activity. According to the age-based definition, children under a certain age should not work. According to the activity-based definition, child labour is further characterised according to its negative effects on children.

ILO's age-based definition is outlined in ILO Convention 138 which sets the minimum working age at 15 years (14 years in developing countries), or statutory school-leaving age, whichever is higher. The two main exceptions are:

- a lower minimum age of 13 (12 in developing countries) for 'light work' which neither harms a young person's development nor prejudices school attendance; and
- a higher minimum age of 18 for 'hazardous work'.

ILO Recommendation 146 referred to in the RJC Code of Practices recommends that states should move towards a minimum age of 16 (where they still have 15 or below).

ILO's activity-based definition describes types of work in terms of 'hazardous work' and 'light work', and proscribes the worst forms of child labour.

- **Hazardous work:** work which puts at risk children’s physical or psychological well-being, due to the nature of the work, or because of the conditions under which it is carried out. Examples of hazardous work include:
  - work underground, underwater, at dangerous heights or in confined spaces;
  - work with dangerous machinery or tools, or which involves heavy loads;
  - work in unhealthy environments which may expose children to hazardous substances (such as chemicals or pesticides), temperatures, noise or vibrations;
  - work requiring dangerous or unsafe manual handling practices (for example, children requiring to lift heavy loads);
  - work under particularly difficult conditions such as long hours, during the night or where a child is confined to the premises of the employers.
- **Light work:** ILO Convention 138 permits countries to set a special category age of at least 13 years (12 years in developing countries) for young persons (who are over the age of a child but under 18) to engage in ‘light work’. Factors to consider in determining whether a particular job constitutes ‘light work’ for a young person are: hours of work, school attendance and performance, and the working environment. While not stated explicitly, ‘light work’ is generally understood to exclude industrial work. ‘Light work’ is defined as:
  - work not likely to be harmful to a young person’s health or development; and
  - work not such as to prejudice their attendance in school.
- **Worst forms of child labour:** ILO Convention 182 calls for the immediate elimination of ‘unconditional worst forms of child labour’ and defines a child as anyone under 18. ‘Worst forms of child labour’ are defined as slavery, trafficking and other forms of forced labour, forced recruitment for use in armed conflict, prostitution, pornography and other unlawful activities.

In summary:

|                   | The minimum age at which children can start work | Possible exceptions for developing countries |
|-------------------|--|--|
| Hazardous work    | 18 (or 16 under strict conditions)               | 18 (or 16 under strict conditions)           |
| Basic minimum age | 15   | 14   |
| Light work        | 13-15  | 12-14  |

Source: ILO International Programme on Elimination of Child Labour (IPEC) – About Child Labour.

Conventions 138 and 182 are included in a small group of ‘core conventions’ by the ILO, under the 1998 Declaration of Fundamental Principles and Rights at Work. All ILO Member countries are bound to promote and respect the core conventions, regardless of whether they have ratified them.

### National law

Most countries have national legislation dealing with minimum ages for working, often with particular provisions for different sectors. For example, Indian labour law does not establish a general minimum age for employment, but the Child Labour (Prohibition and Regulation) Act (1986) prohibits employment of under-18s in a series of hazardous occupations and processes including mining and gem cutting and polishing. RJC Members should follow the requirement of national law where this sets a tougher standard than the ILO.

## D Suggested management approach

**Risk assessment:** Carry out a risk assessment appropriate to the business’ circumstances to assess where there may be a risk of child labour. As a minimum, identify areas of hazardous labour and map current worker ages against tasks. Confirm that no worker under 18 is involved in hazardous work. See Appendix 1 for a basic risk assessment template.

The risk assessment will help determine whether the following measures may also assist:

- **Management responsibility:** Ensure that awareness of and responsibility for child labour issues is part of a senior management function, such as human resources.
- **Written policy and procedures:** Develop a written policy against child labour. Explain the importance of the issue, the aims of the policy, and the expectations of employees and contractors. Develop effective procedures for verifying age prior to recruitment.

- **Record keeping:** Maintain copies of documentary evidence of worker ages on file. Investigate any potential discrepancies.

#### **Where any children are found to be in employment:**

- Remember that instances of child labour require considered responses that take account of local circumstances.
- Ensure that any light work undertaken by children does not interfere with schooling. A structured formal education program should be supported for young people found to be in employment.
- Ensure that any child workers found to be in employment receive fair payment for their work, at least 12 hours nightly rest time and weekly rest days, and do not work overtime.
- Develop appropriate remediation strategies to deal with instances of non-conformance with the ILO conventions and/or applicable state laws.
  - If children are found to be performing hazardous tasks, good practice is that they be removed from these functions immediately.
  - If not engaged in hazardous work, children should be supported rather than withdrawn from labour until adequate alternative sources of support for their families are available. The key is for children to have access to good quality education with real prospects of meaningful employment when they leave school. This is especially important where there is the risk that those children, if withdrawn from employment, may work for other organisations with uncontrolled working conditions.
  - Under the RJC system, remediation of child labour through the above will not be considered a situation of Critical Breach. However the business must immediately develop procedures to prevent any additional children being employed.
- Consider supporting community development programs aimed at eradicating the root causes of child labour. These can usually only be implemented in co-operation with other agencies such as national or local government, trade unions, NGOs and community groups.

## **E Further information**

The following websites have further information on child labour issues:

- International Programme on the Elimination of Child Labour (IPEC):  
[www.ilo.org/ipec/index.htm](http://www.ilo.org/ipec/index.htm)
- United Nations Global Compact – Principle 5 on Child Labour:  
[www.unglobalcompact.org/AboutTheGC/TheTenPrinciples/principle5.html](http://www.unglobalcompact.org/AboutTheGC/TheTenPrinciples/principle5.html)
- ILO Convention 138 on Minimum Age (1976):  
[www.ilo.org/ilolex/cgi-lex/convde.pl?C138](http://www.ilo.org/ilolex/cgi-lex/convde.pl?C138)
- ILO Recommendation 146 on Minimum Age (1976):  
[www.ilo.org/ilolex/cgi-lex/convde.pl?R146](http://www.ilo.org/ilolex/cgi-lex/convde.pl?R146)
- ILO Convention 182 on the Worst Forms of Child Labour (1999):  
[www.ilo.org/ilolex/cgi-lex/convde.pl?C182](http://www.ilo.org/ilolex/cgi-lex/convde.pl?C182)
- UNICEF UK's Child Labour Resource Guide  
<http://www.unicef.org.uk/campaigns/publications/clrg/index.asp>
- SA 8000 Social Accountability International Standard (2001)  
[www.sa-intl.org/index.cfm?fuseaction=Page.viewPage&pageID=710](http://www.sa-intl.org/index.cfm?fuseaction=Page.viewPage&pageID=710)

## STANDARD GUIDANCE

### (COP 2.3) Forced Labour

#### A Definition and applicability

Forced labour is any work or service exacted by governments, companies or individuals under the menace of penalty, and which a person has not offered voluntarily to do. It also refers to work or service that is demanded as a means of repayment of debt.

*(Source: Social Accountability 8000 International Standard, 2001)*

The **Forced Labour** section of the COP is applicable to all Facilities with employees.

#### B Issue background

It is now generally accepted that forced labour can take many forms and is widespread. There are estimates that more than 12 million people globally are trapped in these conditions. Providing wages or other compensation to a worker does not necessarily mean that the labour is not forced or compulsory. Forced labour also includes situations where workers are threatened with severe deprivations. These can include withholding wages or food, threatening or inflicting physical or sexual violence, or restricting workers' movements.

Some specific examples of forced labour that might be relevant for the diamond and gold jewellery supply chain include:

- **Withholding and keeping of documentation:** Where an employer takes away identity documents and/or passports, making it difficult for an employee to leave employment. Where such documents are surrendered for security purposes, this should only be a temporary arrangement.
- **Debt-bondage:** This can arise from a pledge by a debtor of his/her personal services (or those of a person under his/her control) as security for a debt over a period of time. Sometimes workers are allowed to gradually increase debts, such as salary advances, store credit and loans, beyond their wage capacity. This can create a continuous state of bondage over many years, where workers are earning wages only to pay off debts or the interests arising from those debts. In many cases, the value of services pledged is not reasonably assessed and/or is not fairly applied towards the settlement of the debt.
- **Indentured labour:** Indentured labour arises when a third party, often a parent or guardian, offers a worker in exchange for a sum of money. In this situation, workers must work for either a defined period of time, or until the proprietors determine that they have received fair value.
- **Compulsory work:** This can occur where local people have to provide substantial help in public works, in the face of menace by government or local authorities. Another form of compulsory work is forced overtime, where workers are unable to decline overtime without fear of retaliation.
- **Physical confinement and/or verbal or physical intimidation:** Physically confining workers within the workplace, or unreasonable prohibitions on workers leaving factory grounds and dormitories, are infringements on workers' freedom. Forms of intimidation include threats of physical punishment or non-payments of salary in case of the worker leaving employment.

Situations where the above forms of forced labour may arise include:

- **Trafficking:** Traffickers can put themselves in a threatening position to workers by seizing identity papers or by entrapping their charges through cash advances or loans. Traffickers, the persons linked to them, or the employers at the point of destination, may give their victims no choice as to what work to perform and under which conditions.
- **Migrant labour:** Migrant workers may have illegal or restricted employment status, may be economically vulnerable, and/or may be Members of an ethnic group subject to discrimination. These factors can be used unfairly by coercive recruiters or labour intermediaries, who remove identity documents and threaten workers with public exposure or deportation. Faced with these threats, migrant workers may accept sub-standard conditions of work such as debt-bondage or indentured labour.

- **Prison labour:** Under the International Labour Organisation (ILO) Conventions prison labour can sometimes amount to forced labour, but in some cases can be acceptable. Under the RJC COP, no prison labour is allowable.

From the above it will be clear that assessing whether forced labour is present can be a difficult exercise.

## C Key regulations

### International conventions

The right to give work freely is enshrined in Article 4 of the Universal Declaration of Human Rights (1948), which states no one shall be held in slavery or servitude.

The International Labour Organisation (ILO), a tripartite United Nations agency, has adopted two major conventions on forced labour. These are Conventions No.29 on Forced Labour (1930) and No.105 on Abolition of Forced Labour (1957). Key aspects of the definition in Convention 29 are that there is some form of menace or penalty involved and that the worker has not voluntarily agreed to work.

Conventions 29 and 105 are included in a small group of 'core conventions' by the ILO, under the 1998 Declaration of Fundamental Principles and Rights at Work. All ILO Member countries are bound to promote and respect the core conventions, regardless of whether they have ratified them.

### National law

Relevant national and applicable local laws and regulations may be in the areas of trafficking, involuntary servitude, prison labour or bonded labour. It is essential to be aware of all relevant legislation and regulation in the jurisdictions of all operations.

## D Suggested management approach

**Risk assessment:** Carry out a risk assessment appropriate to the business' circumstances to assess where there may be a risk of forced labour. Issues to consider may include:

- Carefully regulate the use of agencies or labour providers. Ensure they are not associated with trafficking organisations. Check that they do not charge excessive fees, offer loans to the workers or engage in other practices which have the potential to bind the worker to the agency.
- Where migrant workers are employed, examine the process of recruitment to ensure that there is no form of coercion involved.

See Appendix 1 for a basic risk assessment template.

The risk assessment will help determine whether the following measures may also assist:

- **Management responsibility:** Confirm that awareness of and responsibility for forced labour issues is part of a senior management function, such as human resources.
- **Written policy and procedures:** Develop a written policy against forced labour. Explain the importance of the issue, the aims of the policy, the expectations of employees and contractors, and the main processes established. For example:
  - Use standard employment contracts, including statutory and collectively-agreed terms, working hours and wages. Standard regular wage payments made directly to the worker should not be supplanted by in-kind remuneration.
  - Formally prohibit the use (or threat) of violence, use (or threat) of penalties, or intimidating practices, such as bullying, by any employee or contractor. Training in the policy for key employees and contractors, especially security personnel, may be required.
  - Provide a mechanism for employees to anonymously report instances of threats, violence or other infringements of policy.
- **Record keeping:** Keep only copies of identity documents and passports. Where the original documents are kept for security purposes, this should be a temporary arrangement. The worker should have ready access to their documents and the right to take them back into his or her possession.

## E Further information

The following websites have further information on forced labour issues:

- SA 8000 Social Accountability International Standard (2001)  
[www.sa-intl.org/index.cfm?fuseaction=Page.viewPage&pageID=710](http://www.sa-intl.org/index.cfm?fuseaction=Page.viewPage&pageID=710)
- United Nations Global Compact – Principle 4 on Forced and Compulsory Labour  
[www.unglobalcompact.org/AboutTheGC/TheTenPrinciples/Principle4.html](http://www.unglobalcompact.org/AboutTheGC/TheTenPrinciples/Principle4.html)
- ILO Special Action Programme to Combat Forced Labour – information resources  
[www.ilo.org/sapfl/Informationresources/lang--en/index.htm](http://www.ilo.org/sapfl/Informationresources/lang--en/index.htm)
- ILO Convention 29 on Forced or Compulsory Labour (1930)  
[www.ilo.org/ilolex/cgi-lex/convde.pl?C029](http://www.ilo.org/ilolex/cgi-lex/convde.pl?C029)
- ILO Convention 105 concerning the Abolition of Forced Labour (1957)  
[www.ilo.org/ilolex/cgi-lex/convde.pl?C105](http://www.ilo.org/ilolex/cgi-lex/convde.pl?C105)

## STANDARD GUIDANCE

# (COP 2.4) Freedom of Association and Collective Bargaining

### A Definition and applicability

Freedom of association is the right of workers and employers to freely form and join groups for the promotion and defence of occupational interests. Collective bargaining is a process through which employers (or their organisations) and workers' associations (or in their absence, freely designated workers' representatives) negotiate terms and conditions of work.

(Source: *International Labour Organisation Declaration on Fundamental Principles and Rights at Work*  
<http://www.ilo.org/dyn/declaris/DeclarationWeb.IndexPage>)

The **Freedom of Association and Collective Bargaining** section of the COP is applicable to all Facilities with employees.

### B Issue background

The right to freedom of association is proclaimed in the Universal Declaration of Human Rights. At work, this means the right to freely form organisations such as independent workers' unions or employers' organisations. Those workers who do not wish to join such associations also have their rights protected, and may not be coerced into doing so against their will. Freedom of association does not mean that companies should organise workforces or invite unions into the workplace. It means that employers must not interfere in an employee's decision whether to join an association or discriminate against the employee for their choice.

Collective bargaining is a voluntary process that takes place between representatives of workers and representatives of employers. It usually focuses on the negotiation of terms and conditions of employment, such as wages, working hours, conditions, grievance procedures and the rights and responsibilities of each party. The main principle for the negotiation is that it should be carried out in good faith, where genuine effort is made to reach agreement in reasonable time. The parties often refer to the mutually acceptable result of the negotiation as a 'collective bargaining agreement'. Where agreement is not reached, dispute settlement procedures range from conciliation, through mediation to arbitration.

Freedom of association is sometimes restricted for political and/or economic reasons. In some countries or their special economic zones, or for some categories of workers such as migrants, independent trade unions are completely banned. Employers in developing countries sometimes discourage unionisation because they believe that unions may deter foreign investors. In developed countries, too, employers have sometimes worked against freedom of association in an effort to bypass the negotiating power of trade unions.

On the whole, freedom of association has probably not yet received the same attention from companies as health and safety or abolition of child labour. However international attention on freedom of association has recently been magnified by trends such as globalisation, privatisation, and legal actions against companies. It continues to be a critical issue for companies because it forms part of the framework of basic human rights. Worker representation facilitates local responses to a globalised economy, and ultimately serves as a basis for sustainable growth and investment.

### C Key regulations

#### International standards

Freedom of association is enshrined in Article 20 of the Universal Declaration of Human Rights (1948), which states that everyone has the right to freedom of peaceful assembly and negotiation, and that no one may be compelled to belong to an association. Article 23.4 specifically provides for the right to join a trade union.

These rights have been most defined and elaborated in international labour law. The International Labour Organisation (ILO), a tripartite United Nations agency, has adopted two major conventions on freedom of association and collective bargaining:

- Convention 87 on Freedom of Association and Protection of the Right to Organise (1948)
- Convention 98 on the Right to Organisation and Collective Bargaining (1949)

Conventions 87 and 98 are included in a small group of 'core conventions' by the ILO, under the 1998 Declaration of Fundamental Principles and Rights at Work. All ILO Member countries are bound to promote and respect the core conventions, regardless of whether they have ratified them.

### National law

Most national labour and employment laws have very specific provisions on freedom of association, collective bargaining and the structures which support these. It is essential to be aware of all relevant legislation in the jurisdictions of operation.

Countries where freedom of association is restricted or denied include China, Burma, Vietnam, Saudi Arabia, Syria and Cuba. Where freedom of association is curtailed by law, RJC Members should facilitate parallel means for independent and free association and bargaining. This may be by supporting the establishment of worker committees on specific issues.

## D Suggested management approach

**Risk assessment:** Carry out a risk assessment appropriate to the business' circumstances to identify where freedom of association or collective bargaining rights may be at risk. Risks may be higher or more evident in certain countries, industry sectors or with some business partners. Potential instances of the rights of freedom of association or collective bargaining not being supported will require careful responses that take account of local circumstances. See Appendix 1 for a basic risk assessment template.

The risk assessment will help determine whether the following measures may also assist:

- **Management responsibility:** Confirm that awareness of and responsibility for freedom of association and access to collective bargaining is part of a senior management function, such as human resources.
- **Written policy and procedures:** Develop a written policy on freedom of association and collective bargaining. Explain the importance of the issues, the aims of the policy, the expectations of employees and unions, and the main procedures established. Relevant procedures may include:
  - Where a union or unions exist, the business or its representative should enter into negotiation for the purposes of reaching a collective agreement. Once a collective agreement is reached – whether at a company, sector or national level – it should be implemented within the business.
  - The business should not promote any particular union or workers' association, nor should it coerce workers to join one. Election of union representatives should be without obstruction or intervention from the employer.
  - Procedures for hiring, termination and performance review must not discriminate against union members. Grievance mechanisms should be established which allow workers to raise any concerns.
  - In countries, or for categories of workers, where freedom of association is restricted or banned, parallel means of engagement should be developed which do not breach local law. These may be in the form of worker committees for health and safety, wages or production. These committees should create a forum for employer and employees to discuss issues that directly affect daily work.

## E Further information

The following websites have further information on freedom of association and collective bargaining:

- Universal Declaration of Human Rights – Article 20  
[www.un.org/Overview/rights.html](http://www.un.org/Overview/rights.html)
- ILO Declaration on Fundamental Principles and Rights at Work  
[www.ilo.org/dyn/declaris/DeclarationWeb.IndexPage](http://www.ilo.org/dyn/declaris/DeclarationWeb.IndexPage)
- ILO Convention 87 – Freedom of Association and the Right to Organise (1948)  
[www.ilo.org/ilolex/cgi-lex/convde.pl?C087](http://www.ilo.org/ilolex/cgi-lex/convde.pl?C087)
- ILO Convention 98 – Right to Organise and Collective Bargaining (1949)  
[www.ilo.org/ilolex/cgi-lex/convde.pl?C098](http://www.ilo.org/ilolex/cgi-lex/convde.pl?C098)

- UN Global Compact Principle 3 – Freedom of Association and Collective Bargaining  
[www.unglobalcompact.org/AboutTheGC/TheTenPrinciples/principle3.html](http://www.unglobalcompact.org/AboutTheGC/TheTenPrinciples/principle3.html)
- Ethical Trading Initiative – Base Code  
[www.ethicaltrade.org/Z/lib/base/code\\_en.shtml](http://www.ethicaltrade.org/Z/lib/base/code_en.shtml)
- Business and Human Rights Resource Centre  
[www.business-humanrights.org/Home](http://www.business-humanrights.org/Home)

## STANDARD GUIDANCE

# (COP 2.5) Discrimination

### A Definition and applicability

Discrimination is where people are treated differently because of certain characteristics – such as race, colour, sex, religion, political opinion, national extraction or social origin – which results in the impairment of equality of opportunity and treatment.

*(Source: International Labour Organisation – Workplace Discrimination*

*[http://www.ilo.org/global/Themes/Equality\\_and\\_Discrimination/WorkplaceDiscrimination/lang--en/index.htm](http://www.ilo.org/global/Themes/Equality_and_Discrimination/WorkplaceDiscrimination/lang--en/index.htm))*

The **Discrimination** section of the COP is applicable to all Facilities with employees.

### B Issue background

Discrimination in occupation and employment takes many forms and occurs in all kinds of work settings. It can occur in developed or developing countries, in rural or city settings, and in low or high technology workplaces. It may affect people gaining access to employment or particular occupations. Or once at work, it can result in different treatment of employees in their responsibilities, conditions, training, promotion, or job security. Ultimately, discrimination creates and reinforces inequalities and is a breach of human rights.

Non-discrimination means that employees are selected on the basis of their ability to do a job, without exclusion or preference on any other grounds. Distinctions based strictly on the inherent requirements of particular work are not discrimination.

Globally, women continue to be the largest discriminated group according to International Labour Organisation reports. Gender disparities are evident in labour force participation rates, unemployment rates, remuneration and the types of jobs performed. New forms of discrimination are also being recognised, such as unfair treatment of both young and older persons, people with disabilities and those with HIV/AIDS. However, monitoring levels of discrimination can be hampered by a lack of available data. Privacy protection and ideological or political barriers often prevent the collection of data on certain groups.

For employers, discrimination can be difficult to identify in practice. Discriminatory practices may be direct, such as when laws, rules or customs explicitly cite a reason such as sex or race to deny equal opportunity. However, indirect discrimination is much more common and consequently more difficult to pinpoint. It arises where rules, practices or attitudes have the appearance of being neutral but in fact lead to exclusions or preferential treatment. Where discrimination exists informally or is culturally ingrained, it requires a conscious effort from employers to identify and address in a purposeful way.

### C Key regulations

#### International standards

Non-discrimination principles are enshrined in the Universal Declaration of Human Rights (1948). Article 2 states that everyone is entitled to the rights and freedoms of the Declaration, without distinction of any kind. Article 7 states that all are equal before the law and are entitled to equal protection against any discrimination in violation of the Declaration. Article 23 states that everyone has the right to equal pay for equal work.

These rights have also been defined in international labour law. The International Labour Organisation (ILO), a tripartite United Nations agency, has adopted two major conventions against discrimination:

- Convention 100 on Equal Remuneration (1951)
- Convention 111 on Discrimination (Employment and Occupation) (1958)

Conventions 100 and 111 are included in a small group of 'core conventions' by the ILO, under the 1998 Declaration of Fundamental Principles and Rights at Work. All ILO Member countries are bound to promote and respect the core conventions, regardless of whether they have ratified them.

## National law

Most national labour and employment laws have provisions for non-discrimination. However there are jurisdictions where discrimination is legally permitted. In some countries, there is provision for 'positive' discrimination that seeks to redress historical inequalities such as gender or race. It is essential to be aware of all relevant legislation in the jurisdictions of operation.

## D Suggested management approach

**Risk assessment:** Carry out a risk assessment appropriate to the business' circumstances to identify where discriminatory practices may occur. Risks may be higher or more evident in certain countries, industry sectors or in particular occupations. Potential instances of discrimination will require careful responses that take account of local circumstances.

The risk assessment will help determine whether the following measures may also assist:

- **Management responsibility:** Confirm that awareness of and responsibility for discrimination issues is part of a senior management function, such as human resources.
- **Written policy and procedures:** Develop a written policy on non-discrimination and equality at work. Explain the aims of the policy, the expectations of employees, and the main procedures established. Make qualifications, skill and experience the basis for the recruitment, placement, training and advancement of staff at all levels. Establish grievance procedures that allow employees to raise complaints, and that handle disputes and appeals in a culturally appropriate and sensitive process.
- **Record keeping:** Records of recruitment, training and promotion should, where possible, provide some transparency on opportunities for employees and their progression within the organisation. Identify indicators for determining the potential existence of discrimination: for example, unequal pay levels, a comparatively under-represented workforce, or an absence of pregnant women.
- **Training:** Provide diversity and anti-discrimination training at all levels of the organisation. Refer to the policy, and focus on areas where discrimination is most likely to occur such as hiring and promotion practices. Use the training to raise awareness of formal and informal practices of discrimination. Tailor training according to staff responsibility and repeat regularly. Keep records of the content, extent and recipients of training.

## E Further information

The following websites have further information on the issue of discrimination:

- Universal Declaration of Human Rights – Articles 2, 7 and 23  
[www.un.org/Overview/rights.html](http://www.un.org/Overview/rights.html)
- International Labour Organisation (ILO) – Equality and Discrimination  
[www.ilo.org/global/Themes/Equality\\_and\\_Discrimination/lang--en/index.htm](http://www.ilo.org/global/Themes/Equality_and_Discrimination/lang--en/index.htm)
- ILO – Database on Conditions of Work and Employment Laws (information on maternity protection legislation in more than 100 countries)  
<http://www.ilo.org/public/english/protection/condtrav/database/>
- United Nations Global Compact Principle 6 - Discrimination  
[www.unglobalcompact.org/AboutTheGC/TheTenPrinciples/principle6.html](http://www.unglobalcompact.org/AboutTheGC/TheTenPrinciples/principle6.html)
- Business and Human Rights Resource Centre  
[www.business-humanrights.org/Home](http://www.business-humanrights.org/Home)
- International Finance Corporation – Good Practice Note on Non-Discrimination and Equal Opportunity (2006)  
[www.ifc.org/ifcext/enviro.nsf/AttachmentsByTitle/p\\_NonDiscrimination/\\$FILE/NonDiscrimination.pdf](http://www.ifc.org/ifcext/enviro.nsf/AttachmentsByTitle/p_NonDiscrimination/$FILE/NonDiscrimination.pdf)

## STANDARD GUIDANCE

### (COP 2.6) Health and Safety

#### A Definition and applicability

The aim of health and safety initiatives is to prevent accidents and injury to personal wellbeing arising out of, linked with or occurring in the course of work. This is done by minimising, as far as is reasonably practicable, the causes of hazards inherent in the working environment.

*(Source: ILO Convention 155 <http://www.ilo.org/ilolex/cgi-lex/convde.pl?C155>)*

The **Health and Safety** section of the COP is applicable to all Facilities.

#### B Issue background

The safety of work varies enormously between countries, economic sectors and social groups. Every year more than 2 million people globally die from occupational injuries or diseases. Often it is the poorest and least protected, such as women, children and migrants, who are the most affected by unsafe and unhealthy workplaces.

Most countries have legislation relating to employee health and safety. It has become a fundamental responsibility of business to ensure that workers are not harmed as a result of their work. Health and safety management systems and programs are usually designed to cover direct employees, any contract or agency workers, and Members of the public (such as visitors and local communities) who may be impacted by a company's operations.

A preventative health and safety culture can deliver substantial productivity benefits. These include reductions in injuries, illnesses and consequently sick days, insurance claims, premiums and regulatory fines, and improvements in staff motivation and performance. By contrast, poor management of health and safety has the potential to undermine reputation and commercial performance. Most importantly, it directly increases the risk of work place injuries, illnesses and fatalities.

Company health and safety programs focus primarily on the prevention of workplace injuries and diseases. However, some businesses are finding it strategic to develop programs for the general health and wellbeing of workers. These businesses are addressing broader aspects of health, such as stress, obesity, fatigue, fitness for work, substance addiction and abuse, and work-life balance.

Specific types of occupational health and safety risks that may be present in the diamond and gold jewellery supply chain are outlined below.

#### Mining

Mines can be hazardous workplaces. Some of the most common occupational health and safety risks are:

- Exposure to substances, such as dust which can cause silicosis, or hazardous chemicals, such as cyanide and mercury;
- Noise, vibration, heat, poor ventilation, over-exertion and inadequate workspace, particularly in underground operations;
- Exposure to natural elements including extreme heat and cold climates;
- Injuries or deaths due to mine collapse, rock falls or subsidence through instability of excavations or misuse of explosives;
- Risks from working at heights and objects dropped from heights;
- Use of poorly maintained, outdated or otherwise inappropriate equipment;
- Transport-related accidents, including passenger vehicles and specialised mining vehicles;
- Lack of knowledge or training, particularly among workforces with low levels of general education;
- Vector-borne diseases such as malaria, yellow fever, dengue and others.

Emergency response is a key issue for Mining Facilities and local communities that requires a collaborative approach to planning. Potential types of emergencies may relate to:

- High volume materials management – including tailings and waste rock;
- Ground subsidence;
- Chemical emissions;
- Transportation of product, by-product, waste or supplies;
- Pipelines;
- Natural hazards such as weather and seismic events;
- Non-operational facilities such as closed mine sites;
- Long-term environmental or health impacts;
- Social unrest and other hazards.

### **Gold Processing and Refining**

Gold metal processing and refining may expose workers to risks including:

- Molten metal including radiation and other high temperature sources;
- Exposure to toxic chemicals including hydrochloric acid and chlorine fumes.

### **Cutting and polishing**

Cutting and polishing risks include dust inhalation, eye strain, poor posture leading to back and shoulder problems, long working hours and accidents with machinery. Specific examples include:

- Lack or misuse of personal protective equipment (PPE): Goggles, rubber gloves, boots, respirators, and dust masks may all be needed at different stages of production;
- Locked emergency exits: Some factories have all their doors, including the emergency exit doors, locked. The main reason is to avoid theft and/or higher insurance premiums. This practice is illegal in most jurisdictions;
- Unsanitary working conditions: In polishing factories, large amounts of dust may be produced. Factories that do not have proper ventilation systems in place risk contributing to serious or fatal respiratory problems;
- Exposure to chemicals: There is often a lack of training on chemical substances and protective measures for workers.

### **Jewellery Manufacturing**

Similar risks are associated with jewellery manufacturing, including PPE and emergency exits, toxic fumes and chemicals (for example, cadmium used in solders for gold manufacture or silica dust from the casting process), eye strain, lack of machinery safety, and unhealthy working conditions.

### **Trading and retail**

General workplace risks apply to this part of the supply chain. These include, for example, slips and trips, manual handling, workstation ergonomics, basic hygiene or transport. More specifically, there are risks from occupational overuse problems such as repetitive strain or eye strain from the handling of products.

Retailers also need to consider the health and safety of their customers:

#### **Gold**

In its natural solid or metallic state, gold is inert and considered non-hazardous. However it is commonly used in varying levels of purity and can be sold in jewellery in fineness ranging from 9 carat (usually 37.5% Au w/w) to 24 carat (usually 99.9% Au w/w). On skin, gold may cause contact dermatitis, while ingestion is generally non-toxic.

Gold jewellery that is formed of alloys containing nickel has been documented to cause nickel allergies. Nickel allergies usually appear first in the form of a red itchy rash, normally wherever nickel is in close contact with the skin. While nickel is a common component in many metal alloys found in everyday life, an allergy is most often triggered by metal jewellery containing nickel. It is thus sometimes referred to as 'jewellery dermatitis'. Treating nickel allergy requires affected people avoiding contact with anything containing nickel.

#### **Diamond**

Diamonds in their natural crystalline state are the hardest known natural material and chemically inert. The only potential health hazards that may arise are through treatments designed to improve the stone's gemmological characteristics and value.

Irradiation of diamonds is a treatment used to enhance colour. Irradiation can make stones slightly radioactive, and they are usually set aside for a period of time to allow the radioactivity to decay. Distribution of irradiated stones usually undergoes a regulated process to check that radioactivity is below regulatory limits. Under COP provision 1.5, treated diamonds must be disclosed as such at the point of sale.

## C Key regulations

### International standards

The International Labour Organisation (ILO) has more than 70 Conventions and Recommendations dealing with health and safety issues. These cover specific industries, risks that affect a variety of sectors, and preventative or protective measures. ILO Convention 176 (1995), for example, deals with health and safety in mines. Part III provides general recommendations on issues such as handling of chemicals, emergency preparedness, and the right of employees to report accidents to local authorities. Article 8 requires the preparation of an emergency response plan specific to each mine, while ILO Recommendation 183 provides more detail on what these plans should contain. Other general ILO health and safety conventions, such as Conventions 155 (1981) and 187 (2006), lay out standards and recommendations regarding identification of hazards, education and training, and provision of clothing and personal protective equipment. While these recommendations are usually addressed in government regulation, they may be referred to by companies for additional guidance.

There are also a number of voluntary self-regulatory initiatives such as the International Council on Mining and Metals (ICMM) Sustainability Framework, which has a health and safety component, and the International Cyanide Management Code (addressed in COP 3.2 Hazardous Substances). International finance corporations and major banks have also developed standards that can be used for guidance when developing health and safety programs. Examples of such standards are the World Bank/International Finance Corporation's Environment, Health, and Safety Guidelines and the Equator Principles for project financing.

The Awareness and Preparedness for Emergencies at the Local Level (APELL) for Mining program is an initiative of the United Nations Environment Programme (UNEP). Its primary purpose is to raise awareness of the need for local communities to be aware of the risks associated with mining operations and to provide guidance on how to effectively engage local communities in emergency preparedness. APELL for Mining was developed in collaboration with the International Council on Mining and the Environment (ICME) and released in 2001 with the aim of enhancing public involvement in emergency response planning. The APELL for Mining Handbook provides guidance to mine management and other stakeholders on how to approach the development of emergency plans.

The International Council on Mining and Metals (ICMM), the successor to the ICME, has also collaborated with UNEP to produce the Good Practice on Emergency Preparedness and Response (2005) publication. This publication acts as a companion to UNEP's APELL for Mining (2001) and provides a number of case studies that illustrate application of the APELL process.

While an APELL process can be initiated by any party, companies are expected to take the lead. Establishing a formal Co-ordinating Group is a key part of APELL implementation. The Co-ordinating Group provides a mechanism for interaction and cooperation between the many players involved in preventing or responding to emergencies – mine management, local authorities and emergency response agencies, community leaders and workers representatives. It provides a means to achieve a coordinated approach to emergency response planning and to communications within the community.

### National law

Regulation on health and safety issues largely resides at a national or even regional level. It is therefore vital to be aware of local standards, reporting requirements, enforcement processes and potential penalties for non-compliance. Legislative frameworks usually define the roles, responsibility, and rights of authorities, employers, and workers. Many countries have government departments set up specifically to oversee occupational health and safety. These standards and guidelines can assist in the development of in-house programs. Applicable legislation for consumer health and safety may fall under consumer protection, fair trading or nuclear regulation agencies.

Methods of enforcement vary from country to country, as do sanctions for non-compliant employers. In some countries, local law may require rehabilitation and/or compensation for injured workers. Serious accidents at work often incur significant fines or compensation costs and can jeopardize operating licences and other permits. There are usually substantial penalties attached to any criminal conviction. In some jurisdictions, these can include personal criminal liability for the relevant senior managers or directors of a business.

## D Suggested management approach

**Risk assessment:** Carry out a risk assessment appropriate to the business' circumstances to identify where issues may arise, the likelihood of occurrence and potentially deficient procedures. In the gold and diamond sectors, issues of security may complicate both the assessment and choice of preventative or protective measures. For Mining Facilities, local community participation in the risk assessment should follow UNEP's APELL for Mining guidance.

A common approach is to identify improvement opportunities in the following order of priority:

- *Eliminate* the hazards by removing or modifying the activity from the work process. Examples include substitution with less hazardous chemicals and other hazardous substances, or using different manufacturing processes;
- *Control* the hazard at the point where it starts. Examples include local exhaust ventilation, isolation rooms, machine guarding or acoustic insulating and noise control;
- *Minimize* the hazard through design of safe work systems and administrative or institutional measures. Examples include provision of information such as Material Safety Data Sheets, job rotation, training safe work procedures, workplace monitoring and limiting exposure or work duration.
- Provide appropriate *personal protective equipment (PPE)*. Personal protective equipment (PPE) refers to protective clothing and other garments such as gloves, protective footwear, helmets, goggles and ear plugs, all designed to protect the wearer from exposure to job related occupational hazards. PPE, such as foot, eye, ear and respiratory protection where required, must be provided to employees for free (where not in conflict with any collective agreements). Some businesses may also stipulate requirements for general attire in the workplace, for example long sleeves or closed footwear. The Member must provide information about where PPE must be worn, when personal protective equipment must be provided and the standards governing its use. PPE must be appropriate to each individual, properly maintained, clean and hygienic, and properly stored to avoid any damage. The person using the PPE must be trained in its use and have any limitations of the PPE explained to them. Signs should be posted in the workplace wherever it is necessary to use PPE. These signs serve as a useful reminder to workers of the kind of PPE that should be used. PPE selection processes should include:
  - Detailed evaluation of the risk and performance requirements for the PPE;
  - Consultation with users;
  - Ensuring compatibility of PPE items where more than one type of PPE is required (eg ear muffs with a hard hat);
  - Consideration of workers' medical conditions and fitting requirements;
  - Preference for PPE that complies with recognised standards.

See Appendix 1 for a basic risk assessment template.

The risk assessment will help determine whether the following measures may also assist:

- **Management responsibility:** Nominate a senior manager responsible for health and safety at each workplace. Keep up to date on key legislation, regulatory guidance, compliance issues and procedures, and reporting/record-keeping requirements in all jurisdictions of company operations. Make sure employees know their obligation to follow workplace rules and that their activities must not place themselves or colleagues at risk. Ensure that employers and employees are aware that they can stop or refuse work in situations that may cause harm. Where relevant, ensure that health and safety responsibilities cover management of potential health hazards from diamond and/or gold jewellery products. For mine sites, overall responsibility for emergency response planning and co-ordination, in collaboration with local communities and stakeholders, should be clearly assigned.
- **Written policy and procedures:** The RJC Code of Practices contains extensive requirements on health and safety relating to the working environment, management systems, hazardous substances, potential health hazards from the business' diamond and/or gold jewellery products, fire safety, first aid and sanitation and hygiene. Develop appropriate company documentation on health and safety. Develop operational procedures, such as regular planning and drills, to address those issues which are relevant to the business. Communicate procedures to all appropriate employees, taking education levels into account. Consider displaying procedures and information for reference in areas where high risk activities are undertaken, using simple signs and symbols

where appropriate. Set targets to encourage employees to follow key procedures. For mine sites, develop and maintain an up to date written emergency response plan with the participation of local communities, workers and their representatives, and relevant agencies, pursuant to UNEP's APELL for Mining guidance, and ensure all stakeholders understand and can implement the plan. Potentially affected communities should know what to do in case of an emergency.

- **Record keeping:** Maintain accurate records of health and safety incidents and trends. Record all incidents (including near misses) and investigate their cause. Determine the steps that can be taken to reduce the risk of repetition. Record the details of improvement measures taken to address issues identified. Keep these records for a period consistent with local regulations, or where regulations do not exist, for at least 3 years. Where there is the potential for long latency diseases, such as noise induced hearing loss or occupational cancers, occupational health data may need to be kept for 30 years.
- **Employee engagement:** Employee ownership of health and safety policy, procedures and emergency plans is imperative in creating a health and safety-aware culture. Create a formal process for employees to discuss health and safety issues or raise concerns with management. This may be via a trade union or a formal health & safety committee. Develop informal processes, too, such as suggestion boxes or team meetings, for consulting workers about health and safety issues or improvements. Make employees aware of how to raise a health and safety concern with the company. Employees should be able to report immediately to a supervisor in any situation they believe presents a risk to life or health.
- **Training:** Employees should be regularly trained in the risks and hazards involved in their tasks and the responsibilities and procedures for addressing them. Provide an effective Health and Safety induction to all new employees to ensure they are familiar with a company's operations and policies. Include clear instructions on what to do in an emergency. Where appropriate, organise joint training sessions on emergency response with local emergency response agencies and local communities. Tailor training according to staff responsibility and education levels and repeat regularly. Keep records of the content, extent and recipients of training.

## E Further information

The following websites have further information on health and safety issues:

- International Labour Organisation (ILO) – list of health and safety conventions  
[www.ilo.org/ilolex/english/subjectE.htm#s12](http://www.ilo.org/ilolex/english/subjectE.htm#s12)
- ILO SafeWork programme – information and resources  
[www.ilo.org/public/english/protection/safework/](http://www.ilo.org/public/english/protection/safework/)
- ILO Convention 176 Safety and Health in Mines (1995)  
[www.ilo.org/ilolex/cgi-lex/convde.pl?C176](http://www.ilo.org/ilolex/cgi-lex/convde.pl?C176)
- ILO Code of Practice on Safety and Health in Opencast Mines  
[www.ilo.org/public/english/protection/safework/cops/english/download/e920175.pdf](http://www.ilo.org/public/english/protection/safework/cops/english/download/e920175.pdf)
- ILO Recommendation 183 on Safety and Health in Mines (1995)  
[www.ilo.org/ilolex/cgi-lex/convde.pl?R183](http://www.ilo.org/ilolex/cgi-lex/convde.pl?R183)
- ICMM Sustainable Development framework – Health and Safety principle 5  
[www.icmm.com/our-work/sustainable-development-framework](http://www.icmm.com/our-work/sustainable-development-framework)
- World Bank/International Finance Corporation – Environment, Health, and Safety Guidelines  
[www.ifc.org/ifcext/sustainability.nsf/Content/EnvSocStandards](http://www.ifc.org/ifcext/sustainability.nsf/Content/EnvSocStandards)
- Equator Principles  
[www.equator-principles.com/principles.shtml](http://www.equator-principles.com/principles.shtml)
- Material Safety Data Sheets – information  
[www.materialsafetydatasheetssearch.info/](http://www.materialsafetydatasheetssearch.info/)
- National Skin Centre - Nickel Allergy  
<http://www.nsc.gov.sg/showpage.asp?id=137>
- Material Safety Data Sheet – Gold  
[www.cise.columbia.edu/clean/msds/gold.pdf](http://www.cise.columbia.edu/clean/msds/gold.pdf)

- United States Nuclear Regulatory Commission – Fact Sheet on Irradiated Gemstones  
[www.nrc.gov/reading-rm/doc-collections/fact-sheets/irradiated-gemstones.html](http://www.nrc.gov/reading-rm/doc-collections/fact-sheets/irradiated-gemstones.html)
- Awareness and Preparedness at the Local Level (APELL) for Mining - Background  
[www.unep.fr/scp/sp/publications/brochures/pdf/APELLmining.pdf](http://www.unep.fr/scp/sp/publications/brochures/pdf/APELLmining.pdf)
- APELL for Mining Handbook (2001) (available in English, Romanian, Spanish and Swedish)  
[www.unep.fr/scp/publications/details.asp?id=WEB/0055/PAUNEP](http://www.unep.fr/scp/publications/details.asp?id=WEB/0055/PAUNEP)
- ICMM – Good Practice in Emergency Preparedness and Response  
[www.icmm.com/page/1169/library/documents/good-practice-in-emergency-preparedness-and-response](http://www.icmm.com/page/1169/library/documents/good-practice-in-emergency-preparedness-and-response)
- Mining Association of Canada – Crisis Management Guide  
[www.mining.ca/www/media\\_lib/TSM\\_Documents/TSM\\_Publications/2007/Crisis\\_Man\\_03\\_2007.pdf](http://www.mining.ca/www/media_lib/TSM_Documents/TSM_Publications/2007/Crisis_Man_03_2007.pdf)
- ICMM Guidance on Health Risk Assessment  
<http://www.icmm.com/page/14733/new-guidance-on-health-risk-assessment>

## STANDARD GUIDANCE

# (COP 2.7) Discipline and Grievance Procedures

### A Definition and applicability

Workplace discipline is a means to correct or improve job-related behaviour or performance. Grievance procedures are a means for employees to raise concerns about management practices or decisions and have these investigated and resolved.

(Source: [http://www.smartmanager.com.au/web/au/smartmanager/en/pages/115\\_work.html](http://www.smartmanager.com.au/web/au/smartmanager/en/pages/115_work.html))

The **Discipline and Grievance Procedures** section of the COP is applicable to all Facilities that have employees working under supervision.

### B Issue background

Discipline in the workplace should be viewed as a way to correct problem behaviours or performance issues. It should not be viewed simply as a way to punish employees. Supervisors and other persons in authority should be aware that the object of disciplinary action is to correct the problem, action, or behaviour, not the person.

Unfortunately, in some workplaces discipline can take an extreme form. This can include physical (corporal) punishment and mental, psychological, or sexual abuse. Examples of unreasonable practices that have been documented in workplaces include: being forced to do push-ups or run laps; standing in the sun for extended periods; being beaten or hit over the head; threats of violence; sexual or racial harassment; or withholding of wages, food or services. These and similar actions are considered to be violations of basic human dignity and human rights.

Disciplinary measures, if required, should be applied consistently and fairly among all employees. Supervisors, and contractors such as security forces, should be trained in how to appropriately manage any disciplinary issues. When subject to disciplinary action, workers should have access to the details of the allegations and have the right to respond to and/or appeal any disciplinary decisions without any negative consequences in return. Security guards and the military should not be allowed to take part in disciplining the workforce. Their role must be clearly limited to safeguarding the premises and the personnel and product located in the premises.

Where disciplinary procedures take place at a workplace, it is essential to put grievance procedures in place. These should permit workers to report unfair treatment to someone other than their supervisor. The procedures need to establish confidentiality, so as to respect employee privacy and protect against possible retaliation. Workers should be able to be accompanied by a fellow worker or union official during formal processes. It is important to establish that workers who do report problems or abuses should not suffer negative consequences.

### C Key regulations

#### International standards

Both the Universal Declaration of Human Rights (1948) and the International Covenant on Civil and Political Rights (1966) prohibit torture or "cruel, inhuman or degrading treatment or punishment." Article 23 of the UDHR further states that everyone has the right to "just and favourable conditions of work."

The Declaration on the Protection of All Persons from Being Subjected to Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (1975) states that "any act of torture or other cruel, inhuman or degrading treatment or punishment is an offence to human dignity and shall be condemned as a denial of the purposes of the Charter of the United Nations and as a violation of the human rights and fundamental freedoms proclaimed in the Universal Declaration of Human Rights."

These treaties and declarations have been ratified by most of the United Nations Member states.

#### National law

Many countries prohibit corporal punishment, usually within their constitutional framework. In addition, some countries have elaborated specific legislation for employers regarding disciplinary practices, abuse, harassment, and grievance procedures. Members should be aware of the local legal requirements in countries where they operate.

## D Suggested management approach

**Risk assessment:** Carry out a risk assessment appropriate to the business' circumstances to assess where they may be a risk of inappropriate or unacceptable discipline or grievance procedures. Security forces can present particular risks and should be included in the assessment. See Appendix 1 for a basic risk assessment template.

The risk assessment will help determine whether the following measures may also assist:

- **Management responsibility:** Confirm that responsibility for discipline and grievance procedures is part of a senior management function, such as human resources. Nominate a trusted person, who may be outside of the business, as responsible for administering grievances.
- **Written policy and procedures:** Develop a written policy for discipline and grievance procedures. Explain the aims of the policy, the expectations of employees, and the main procedures established. Outline the legal and company-specific penalties for different types of inappropriate action – both in terms of worker and supervisor behaviour. Consider establishing a series of escalating steps for disciplinary procedures, according to the seriousness of the behaviour. Security forces should be prohibited from disciplining employees. Establish procedures for workers to raise grievances that do not put them at risk of retaliation.
- **Record keeping:** Record keeping is a key element to demonstrating fair and consistent disciplinary and grievance procedures. Keep records of verbal and written warnings, suspensions and dismissals. Confidentiality should be maintained during grievance procedures.
- **Training:** Provide training on appropriate disciplinary and grievance procedures, particularly to personnel who supervise workers or have other forms of authority such as maintaining security. Refer to the policy and emphasise the appropriate procedures for disciplining workers. Make sure workers are aware of the disciplinary procedures allowed by the business. Ensure that workers know how to raise grievances and can do so without negative consequences. Tailor training according to staff responsibility and repeat regularly. Keep records of the content, extent and recipients of training.

## E Further information

The following websites have further information on the issue of discipline and grievance procedures:

- ACAS – Advisory Handbook on Discipline and Grievances at Work (UK):  
[www.acas.org.uk/index.aspx?articleid=890](http://www.acas.org.uk/index.aspx?articleid=890)
- CIPD – Discipline and Grievances at Work (UK):  
[www.cipd.co.uk/subjects/emplaw/discipline/disciplingrievprocs.htm](http://www.cipd.co.uk/subjects/emplaw/discipline/disciplingrievprocs.htm)
- Smart Manager – Workplace discipline:  
[www.smartmanager.com.au/web/au/smartmanager/en/pages/115\\_work.html](http://www.smartmanager.com.au/web/au/smartmanager/en/pages/115_work.html)

## STANDARD GUIDANCE

### (COP 2.8) Working hours

#### A Definition and applicability

Hours of work are the time during which the persons employed are at the disposal of the employer. Rest periods are time during which the persons employed are not at the disposal of the employer. Overtime is hours worked in addition to those of a regular schedule.

(Source: <http://www.ilo.org/ilolex/cgi-lex/convde.pl?C030>)

The **Working Hours** section of the COP is applicable to Facilities with employees.

#### B Issue background

Working hours are a fundamental component of safe and humane working conditions. The first ever International Labour Organisation (ILO) Convention in 1919 was on working hours – stipulating a maximum of 48 hours per working week. Excessive working hours in manufacturing and extractive industries remains one of the most regularly raised issues by civil society and trade unions. In addition to concerns about exploitation and impact on family life, there are workplace health and safety risks from excessive working hours.

Long working hours are common in the mining industry. A combination of remote sites, migrant or expatriate workers, and premiums paid for long shifts contribute to these. Long working hours and a lack of breaks or leave has also been documented in manufacturing industries such as diamond cutting. Customer demands, the ability of the business to deal with those demands, and the desire of workers to work overtime can contribute. Arrangements where workers are paid by the piece, rather than by the hour, can also result in excessive working hours.

All hours worked beyond the legislated or agreed working week is considered overtime. In most cases, overtime attracts a premium above the ordinary rate of pay. As this varies between sectors and countries, overtime pay should be calculated in accordance with the rates specified in national legislation or any applicable collective agreements. Overtime should be voluntary and not enforced. Many agreements between employers and workers require that workers be available to work reasonable overtime. Requests to work overtime should take into account health and safety considerations as well as the workers' personal circumstances, including family responsibilities.

Rest from work is a critical part of a work-life balance. Weekly rest and paid annual leave are a normal part of most worker agreements and must be provided. Where rotational shifts, such as at mine sites, mean that one rest day in seven consecutive working days is not met, alternative arrangements should be agreed in compensation. Special leave, such as maternity and paternity leave and compassionate leave should be provided for in compliance with applicable national laws.

#### C Key regulations

##### International standards

The International Labour Organisation has a number of conventions on working hours, weekly rest and annual leave. ILO Convention 1 on Hours of Work (Industry) 1919 set the basic principle for the 8 hours day or 48 hour week. The subsequent ILO Convention 30 on Hours of Work (Commerce and Offices) 1930 reinforced this principle. This has become the basis of many nations' legislation for weekly working hours of 48 hours or less.

Both Conventions 1 and 30 do allow for some departure from these limits in defined circumstances. For example, there are exceptions for categories of employees whose work is by nature intermittent or must be done outside the limits laid down for other employees. There is recognition of the need for temporary exceptions, which should take place under guidelines from national regulators. These include, for example, exceptional or urgent pressures for work or repairs, and arrangements for alternative working hours that are agreed between workers' and employers' organisations and by the Government. There are also exceptions for work that must be carried out continuously by a succession of shifts. In these cases, the weekly maximum is prescribed as 56 hours per week, with weekly rest days compensated by a process secured under national law.

ILO Convention 14 on Weekly Rest (Industry) 1921 and Convention 106 on Weekly Rest (Commerce and Offices) 1957 provides that all workers should be entitled to at least 24 hours consecutive rest each week. Employers may agree to exceptions in consultation with trade unions or other worker representatives.

ILO Convention 132 on Holidays with Pay (Revised) 1970 provides that workers should have a guaranteed minimum holiday period per year. This annual leave should be no less than three weeks for one year of service.

ILO Convention 183 on Maternity Protection 2000 provides that women should have access to maternity leave following childbirth. On women's return to work, Convention 183 also makes provision for time during the day to breastfeed.

The RJC Code of Practices requires Members to adhere to maximum working hours, weekly rest and annual leave in accordance with ILO Conventions 1, 14 and 132. Overtime should be limited to a maximum of 12 hours per week on a non-regular basis. Exceptions for special circumstances, such as fly-in fly-out sites, are recognised. However arrangements should be in compliance with applicable laws and should still provide safe and humane working conditions.

### National law

Nearly all countries have legislation determining appropriate hours of daily and weekly work, for the country as a whole and/or for specific sectors or jobs. In many countries there will be a fixed number of hours per week maximum, which may vary from 40 to 48 hours per week. This may be a fixed maximum or an average over a period of time. Legislation will also usually stipulate a maximum number of overtime hours that can be worked, along with requirements for weekly rest days and annual holiday entitlements. Many countries make provision for employers to provide maternity and/or paternity leave to workers for the birth of a child.

National law applicable to the business' circumstances may vary from the above ILO Conventions and takes precedence under the RJC System. It is essential to be aware of all relevant legislation and regulation in the jurisdictions of all operations. A failure to comply with laws on working hours, rest and leave can lead to penalties ranging from fines to imprisonment of individuals.

## D Suggested management approach

**Risk assessment:** Carry out a risk assessment appropriate to the business' circumstances to assess where there is a risk of maximum working hours being exceeded or leave entitlements being breached. The business should understand the laws related to working hours and leave in the countries of operation. Establish whether there are any issues relating to excessive working hours, lack of rest breaks or mandated leave, or related matters. See Appendix 1 for a basic risk assessment template.

The risk assessment will help determine whether the following measures may also assist:

- **Management responsibility:** Responsibility for setting and overseeing working hours and other rest and leave entitlements should be part of a senior management function. Policy setting and oversight should be the responsibility of a function such as human resources, with due consideration of regulatory requirements. Day to day management of working hours, under the direction of the policy, should fall to those responsible for production and operations.
- **Written policy and procedures:** Develop a written policy on working hours, rest and leave entitlements. Explain the aims of the policy, the regulatory requirements for working hours, overtime and leave, the expectations of employees and contractors, and the procedures established. Any collective agreement with trade unions or other worker organisations should deal with working hours, overtime, breaks and leave. Ensure that the level and timing of payment related to hours and overtime is clear and transparent.
- **Record keeping:** Develop an effective system for recording the amount of hours each worker days, and tracking overtime and leave entitlements. Make sure that managers and workers understand the system so that they can easily record hours and any changes to regular working hours.
- **Training:** Provide training on the business' policy and recording system to those responsible for the day to day management of working hours. Tailor training according to staff responsibility and repeat regularly. Keep records of the content, extent and recipients of training.

## E Further information

The following websites have further information on working hours, rest and leave:

- ILO – Database on Conditions of Work and Employment Laws (information on working time legislation in more than 100 countries)  
[www.ilo.org/public/english/protection/condtrav/database/](http://www.ilo.org/public/english/protection/condtrav/database/)
- Links to text of ILO Conventions 1, 14, 30, 132 and 183:  
[www.ilo.org/ilolex/english/convdisp1.htm](http://www.ilo.org/ilolex/english/convdisp1.htm)
- ILO – Working Time around the World Report (2007)  
[www.ilo.org/global/About\\_the\\_ILO/Media\\_and\\_public\\_information/Press\\_releases/lang--en/WCMS\\_082827/index.htm](http://www.ilo.org/global/About_the_ILO/Media_and_public_information/Press_releases/lang--en/WCMS_082827/index.htm)
- Employers and Work-Life Balance (UK):  
[www.employersforwork-lifebalance.org.uk/](http://www.employersforwork-lifebalance.org.uk/)

## STANDARD GUIDANCE

### (COP 2.9) Remuneration

#### A Definition and applicability

Remuneration is paid by employers to workers. It includes wages or salaries and any other benefits in cash or in kind.

(Source: <http://www.ilo.org/ilolex/cgi-lex/convde.pl?C100>)

The **Remuneration** section of the COP is applicable to all Facilities with employees.

#### B Issue background

Wage-related benefits vary by country, but often include items such as holiday, overtime pay, sick pay, health benefits, incentives and bonuses, limited family leave benefits with pay, and savings plans. In some cases, non-wage benefits may be provided to workers such as health care, accommodation, employee education, and basic services such as water and electricity.

The minimum wage is the minimum amount that must be paid to the workers of a country. It is generally set on an hourly, daily or monthly basis. Ideally, this wage is determined to cover the minimum needs of the worker and his/her family, in light of the country's prevailing economic and social conditions. There is legislation for minimum wage fixing in more than 90% of countries.

In addition to the amount of wages, it is important that workers receive their payments regularly. The frequency of payments – weekly, fortnightly or monthly, for example – should be pre-determined and respected. Wages should be paid either as a bank transfer, in cash or as a cheque, as agreed with workers. It is usually a legal requirement for employers to provide clear information to workers on how their wages are calculated and keep certain time, wage and leave records. Regular wage slips should be provided to workers that clearly show the rates of pay, any benefits paid, and any applicable deductions.

Any amounts deducted from wages must be determined by due process. Legitimate deductions include income taxes, pension contributions and union membership, for example. Examples of unacceptable deductions under the RJC Code of Practices are recruitment fees either to the employer or agencies, charges for personal protective equipment, and any form of deposit or advance on equipment. Deductions should not be made as a disciplinary measure for employee behaviour, except where explicitly provided for in employee contracts or collective agreements. Workers must not be forced to buy provisions or services from their employer or workplace. Overall, it is important to ensure that deductions do not result in workers' payments being below the minimum wage.

#### C Key regulations

##### International standards

In 1928, the International Labour Organisation (ILO) adopted Convention 28, which required signatory nations to establish a minimum wage fixing body that should "take account of the necessity of enabling the workers to maintain a suitable standard of living." In 1970, the ILO adopted Convention 131, which delineated the factors that must be included in the calculation of a minimum wage: "the need of workers and their families, their general level of wages in the country, the cost of living, social security benefits, relative living standards of other social groups, requirements of economic development, the country's level of productivity and maintenance of high levels of employment."

The right to just and favourable remuneration is also enshrined in Article 23.3 of the Universal Declaration of Human Rights (1948). This states that remuneration should ensure for the worker and his/her family an existence worthy of human dignity.

SA8000, a system of international labour standards, contains a provision on Remuneration. This states that wages paid for a standard working week must meet the legal and industry standards and be sufficient to meet the basic need of workers and their families. The SA8000 standard also requires regular and clearly detailed wage payments, in a manner convenient to workers, with no disciplinary deductions.

## National law

Nearly all countries have a national body which determines minimum wages nationally, or for sectors and/or occupations. Wages and other benefits (usually above the minimum) may also be directly negotiated through collective agreements between employers and workers. It is essential to be aware of all relevant wage conditions in all jurisdictions of operation.

## D Suggested management approach

**Risk assessment:** Carry out a risk assessment appropriate to the business' circumstances to assess where there is a risk of inadequate or inappropriate remuneration. The business should understand the laws related to minimum wage and statutory benefits in the countries of operation. If there is no applicable law, then determine the prevailing wage via a study on the business's sector in the relevant geographic location. See Appendix 1 for a basic risk assessment template.

The risk assessment will help determine whether the following measures may also assist:

- **Management responsibility:** Responsibility for remuneration should fall to a management function such as human resources, with due consideration of regulatory requirements.
- **Written policy and procedures:** Develop a written policy on remuneration, if appropriate. Ensure that relevant information, such as wage levels, frequency of payment, procedures for allowable deductions, is included in workers' contracts and/or collective bargaining agreements. Clearly establish the due process for any disciplinary procedures and ensure that it is understood by managers and workers.
- **Record keeping:** Develop an effective system for recording entitlements, wages and deductions.

## E Further information

The following websites have further information on remuneration:

- ILO – Database on Conditions of Work and Employment Laws (information on minimum wages legislation in more than 100 countries)  
<http://www.ilo.org/public/english/protection/condtrav/database/>
- ILO – Minimum Wages Policy  
<http://www.ilo.org/public/english/protection/condtrav/pdf/infosheets/w-1.pdf>
- SA 8000 Social Accountability International Standard (2001) – Compensation  
[www.sa-intl.org/index.cfm?fuseaction=Page.viewPage&pageID=710](http://www.sa-intl.org/index.cfm?fuseaction=Page.viewPage&pageID=710)

## STANDARD GUIDANCE

# (COP 2.10) General Employment Terms

### A Definition and applicability

Employment relationships are the legal link between employers and employees that exist when a person performs work or services under certain conditions in return for remuneration.

(Source: <http://www.ilo.org/public/english/dialogue/ifpdial/areas/legislation/employ.htm>)

The **General Employment Terms and Practices** section of the COP is applicable to all Facilities with employees.

### B Issue background

The employment relationship is the legal link between employers and employees. It exists when a person performs work or services under certain conditions in return for remuneration. The corresponding legal instrument is a contract of employment, which may be expressed or implied, in writing or verbal.

It is through the employment relationship, however contractually defined, that reciprocal rights and obligations are created between the employee and the employer. It is also the main vehicle through which workers gain access to the rights and benefits associated with employment in the areas of labour law and social security.

The traditional employment relationship was based on full time work with a single employer, under a contract of employment for unlimited duration, with protection against unjustified dismissal. Over the last twenty years, new patterns of employment have emerged in the global economy. These include an increasing use of fixed term contracts and contractual arrangements where workers are not strictly employees. Some workers under these arrangements have weak protection under labour or social security law. The Code of Practices requires that labour or social security obligations should not be avoided by the use of these types of alternative employment relationships.

### C Key regulations

#### International standards

In recognition of the increasing number of workers who lack protection in their employment relationships, the International Labour Organisation (ILO) adopted Recommendation 198 on the Employment Relationship in 2006. This provides guidance to Member States on reforming national law and practice to protect workers against the circumvention of obligations through contractual and/or other legal arrangements. Recommendation 198 can be expected to influence national law in a number of jurisdictions in coming years.

#### National law

National laws and regulations, as well as collective agreements, offer protections to workers which are linked to the existence of an employment relationship between an employer and an employee. It is essential to keep up to date on the legal requirements for employment contracts in all jurisdictions of operation.

### D Suggested management approach

**Risk assessment:** Carry out a risk assessment appropriate to the business' circumstances to assess where there may be a risk of employment practices or labour rights violations. Evaluate whether all employment relationships uphold labour and social security obligations. See Appendix 1 for a basic risk assessment template.

The risk assessment will help determine whether the following measures may also assist:

- **Management responsibility:** Confirm that senior managers are aware of legal requirements for employment relationships, as well as the key risk areas across all areas of the business accountable for compliance.
- **Written policy and procedures:** Develop procedures for ensuring that workers' rights are protected under employment relationships with the business. Ensure that contracting arrangements and fixed-term contracts are not used as a means to avoid social security obligations established under applicable law.

- **Record keeping:** Maintain records of employee relationships, including copies of contracts and other legal documents relating to employment, working hours and payments for all staff employed.

## E Further information

The following websites have further information on general employment terms and practices:

- International Labour Organisation (ILO) – Employment relationship  
<http://www.ilo.org/public/english/dialogue/ifpdial/areas/legislation/employ.htm>
- International Labour Organisation (ILO) – Contracts of employment  
<http://www.ilo.org/public/english/dialogue/themes/ce.htm>
- International Labour Organisation (ILO) – The Employment Relationship: An Annotated Guide to Recommendation 198  
<http://www.ilo.org/public/english/dialogue/ifpdial/downloads/guide-rec198.pdf>

## STANDARD GUIDANCE

# (COP 2.11) Community Engagement and Development

### A Definitions and applicability

Community is a term generally applied to the inhabitants of immediate and surrounding areas who are affected in some way by a company's activities; these effects may be economic and social as well as environmental in nature.

Community engagement is a two way information sharing and decision making process covering community issues and priorities as well as the concerns and needs of the business. Beyond just listening, the aim is to ensure mutual understanding and responsiveness by all parties to enable them to manage decisions that have the potential to affect all concerned.

Community development is the process whereby people increase the strength and effectiveness of their communities, improve their quality of life, enhance their participation in decision making and achieve greater long term control over their lives.

*(Source: Community Engagement and Development [www.minerals.org.au/\\_\\_data/assets/pdf\\_file/0003/176431/CED.pdf](http://www.minerals.org.au/__data/assets/pdf_file/0003/176431/CED.pdf))*

In the **Community Engagement and Development** section of the COP, provision 2.11.1 is applicable to Facilities that operate within a community as defined above; and provisions 2.11.2, 2.11.3 and 2.11.4 are applicable only to Mining Facilities. Provisions 2.11.2 and 2.11.3 shall not apply retrospectively.

The **COP 2.11 Community Engagement and Development provisions** should be implemented in conjunction with the **COP 2.1 Human Rights** and, where applicable, **COP 2.13 Indigenous Peoples** provisions and **COP 2.14 Artisanal and Small-scale Mining**.

### B Issue background

#### Community Development

Community development encompasses economic, social and cultural development and is closely linked with principles of human rights. Voluntary company contributions to community development can vary markedly across different settings, for example in developed or developing countries, or in rural or city areas. A company's approach should be determined by local conditions, including the nature and scale of the business, available resources and partners, and most importantly, local people's needs and priorities.

Community consultation, regional cooperation and partnering with other agencies are essential parts of designing sustainable community development. Businesses should seek to work in support of local community priorities, national development goals and existing programs wherever possible. Programs often have a long term focus and can address issues such as education, health, gender, environment, economic development and cultural activities. Where practical, businesses should avoid filling roles which are the responsibility of others, especially governments, and should instead take a partnership or collaborative approach to community development.

Practical approaches to community development can include:

- Designing programs for training, employing and retaining underutilised workers;
- Offering supplier diversity programs;
- Supporting community-based and minority-owned businesses;
- Investing in community development financial instruments and institutions;
- Siting retail stores, headquarters, manufacturing, warehouses or logistics facilities in underserved markets;
- Liaising with local and regional educational centres to promote excellence in educational opportunities;
- Training local community members in environmental monitoring and natural resource management.

In a mining context, the existence of a mine and its associated community development programs can play a significant, perhaps dominant, role in local, regional or even national development. This calls for greater rigour in program planning and design. The following may need to be addressed:

- Baselines, monitoring and regular evaluations of socio-economic impacts, working with development partners and local community members as appropriate;
- Skills and capacity building for community participation and ability to take up program opportunities during the life of an operation;
- Multi-stakeholder planning and capacity development for post-mining livelihoods.

Community development can be a challenging concept to apply in practice. Issues to consider include creating opportunities so that women can participate more meaningfully in decision-making processes and development opportunities; sharing control with communities; reaching marginalised and vulnerable people in communities; balancing expert knowledge with community knowledge; and contributing to longer term local sustainable development strategies. In some cultures, businesses may be active in community development activities but reluctant to promote them publicly, as this is considered contrary to the spirit of the giving.

Despite the challenges, successful community development efforts can help to address workforce recruitment and retention, enhance brand image and employee loyalty and contribute to healthier communities.

### **Community Engagement in Mining**

The time taken to plan, finance and regulate any mining operation has increased substantially in the past few decades, particularly in the case of large-scale mines. Communities now expect to be able to participate in a dialogue about risks, impacts and benefits of mining developments. As a result, community engagement approaches have become a critical ingredient in building a 'social licence to operate'.

The interests and development aspirations of communities affected by mining should be a major consideration throughout the mining process. Members should seek broad community support for new projects or activities. Broad community support is a collection of expression by the affected communities, through individuals and/or their recognized representatives, in support of the project. Support may take a range of forms depending on the situation, such as a formal agreement between the company and community, or expressed during community participation in an ongoing dialogue about impacts and benefits of a project. There may be broad community support even if some individuals or groups object to the project; conversely, community participation in a dialogue with the company does not necessarily equate to support. The right to grant development consent usually rests with the sovereign state, and is a matter between the state and its citizens. RJC recognises that following consultation with local people and relevant authorities, a decision may sometimes be made not to proceed with developments or exploration even if this is legally permitted.

Community engagement can take a range of forms, depending on what is appropriate for a given situation. The various approaches can be considered as part of a spectrum, where each step along represents increasing public impact and power in the process. Practical approaches to community engagement include:

- Information delivery: fact sheets, website information, open days
- Consultation: focus groups, surveys, public meetings
- Involvement: workshops, deliberative polling
- Collaboration: community advisory committees, consensus-building processes
- Empowerment: citizens juries, ballots, delegated decision-making

When planning community engagement approaches, particular attention should be given to making sure that they are:

- Inclusive: making sure that women, minority, vulnerable and other marginalised groups have access;
- Equitable: being aware of power imbalances and attempting to mitigate these;
- Culturally appropriate: considering issues such as authority structures, language and gender;
- Rights-compatible: approaches that respect and support human rights.

Members are encouraged to engage beyond community representatives and leaders to enable equitable engagement through a 'whole-of-community' approach. Key stakeholders representing broad issues or groups, such as civil society or non-government organisations (NGOs), employees, unions or worker organisations, and other interested parties, including women, should also be identified and engaged. Approaches should be conflict-sensitive and seek to manage expectations of the process and outcomes.

Benefits of successful community engagement can include increased community awareness and trust, reduced time in negotiating agreements, an improved corporate risk profile, and potentially the ability to secure access to capital on more favourable terms. However community engagement and development can be challenging as well as rewarding and may need to operate in situations of conflicting perspectives and relationships. Communities are complex and dynamic and there are unfortunately no simple solutions for success. One of the keys to operating effectively is to have good systems and processes in place, including regular evaluations, and the capacity to learn and adapt when circumstances change.

### **Resettlement due to mining activities**

Resettlement encompasses both physical displacement (relocation or loss of shelter) and economic displacement (loss of assets or access to assets that leads to loss of income sources or means of livelihood) as a result of project-related land acquisition. Resettlement is considered involuntary when affected individuals or communities do not have the right to refuse land acquisition that results in displacement.

Involuntary resettlement can result in long-term hardship for affected persons and communities. Unless properly managed, involuntary resettlement may result in long-term impoverishment, as well as environmental damage and social stress in areas to which they have been displaced. For these reasons, involuntary resettlement should be avoided or at least minimized. However, where it is unavoidable, appropriate measures to mitigate adverse impacts on displaced persons and host communities need to be carefully planned and implemented.

Negotiated settlements help avoid expropriation and eliminate the use of governmental authority to remove people forcibly. Negotiated settlements can usually be achieved by providing fair and appropriate compensation and other incentives or benefits to affected persons or communities, and by mitigating the risks of asymmetry of information and bargaining power. Members are encouraged to acquire land rights and/or access through negotiated settlements wherever possible. However consideration should be given to the rights of vulnerable people, such as those renting land from a landholder who is involved in negotiations.

On the issue of compensation for resettlement, land for land should be a starting point for agricultural based livelihood communities, rather than cash based compensation. Resettlement should ensure that re-settlers have improved livelihoods and economic well being and not undermine local food security. Resettlement negotiations should take place with the participation of all affected persons and communities, including women, and be based on full impact assessments.

All resettlement decisions and plans should be informed by the views and needs of the affected communities, including any artisanal miners operating within the concession. Key issues to consider include compensation, livelihoods, housing and living conditions at new sites, as well as social and cultural continuity of the community. There may also be a need to develop agreed strategies for protection or safe movement of sites or objects of special historical, spiritual or cultural significance. Gender is a critical dimension of the above issues and women's interests, expectations and participation should be sought. Resettlement and mine closure planning should consider the possibility of individuals and/or communities returning to post-mining land.

### **Operational-level complaints and grievance mechanisms – mining**

Complaints and grievances can be expected to arise where a company's activities have a complex set of impacts on stakeholders, however benign that company's intentions. An effective complaints and grievance mechanism is thus an essential tool in a company's community and stakeholder engagement approach.

The focus of the RJC requirement is on mechanisms that a company can credibly establish, ideally in cooperation with key stakeholders. This does not include adjudicative processes (judicial or non-judicial), which should be situated at least one step away from all parties, including the company. Instead, the emphasis here is on dialogue-based processes at the local or operational level. This does not mean that every complaint or grievance can be processed through a non-judicial mechanism, but many can.

Company complaints and grievance mechanisms should be situated within a wider understanding of society's vehicles for raising, resolving and remedying disputes. Available avenues may include judicial systems (through the courts), public administrative systems (through government, quasi-governmental or independent statutory agencies), traditional or local dispute processes, and private non-judicial mechanisms. The operational level complaints and grievance mechanism should encourage early resolution of issues at the local-level wherever possible, without precluding access to other mechanisms. Companies should also consider providing access to complaints mechanisms run by external services, which can enable complaints to be de-identified so they can be

presented anonymously to the company. The intent is to encourage concerns to be raised by legitimate stakeholders who may otherwise remain silent in some circumstances.

Human rights are an important dimension of complaints and grievance mechanisms, both in terms of process of dealing with disputes, and in the potential scope of complaints. A rights-compatible mechanism is one that provides a vehicle for addressing complaints and grievances – whether or not they relate to substantive human rights issues – in a manner that respects and supports human rights. There is no one-size-fits-all approach for companies. Complaints and grievance mechanisms should be developed in consultation with stakeholders and tailored to suit the industry, country and culture for which they are designed. Gender may be an important consideration in some grievances and/or in the design of mechanisms. Impacted stakeholder groups may request access to independent information and/or expertise, or a facilitator/mediator to support the dialogue process for some grievances. Company funding for these resources should be transparent.

Effective, rights-compatible complaints and grievance mechanisms offer a channel for individuals and communities affected by a company's activities to raise concerns early, openly, on an informed basis, with due protection and in an atmosphere of respect. They have the potential to limit dispute escalation, facilitate dispute resolution and contribute to the prevention of future disputes by enabling learning and enhancing relationships. Wherever possible, a complaints and grievance mechanism should be in place before disputes arise, not in reaction to their occurrence. Where appropriate, mechanisms should be integrated with negotiated agreements with affected communities. Relationships between mine sites and stakeholders will continue after a mine has ceased operation, so the continuation of a complaints and grievance mechanism should be an integral part of closure planning.

## C Key initiatives and frameworks

Community engagement and development is in most cases a voluntary business activity. However it is increasingly a component of agreements with communities or governments, or a regulatory requirement as part of development approvals for new or expanding industrial projects. It is essential to be aware of applicable law in all jurisdictions of operation.

A key international framework for development is the Millennium Development Goals (MDGs) program of the United Nations Development Programme (UNDP). There are eight MDGs – end poverty and hunger, universal education, gender equality, child health, maternal health, combat HIV/AIDS, environmental sustainability, and global partnerships. Together these MDGs form a blueprint agreed to by all the world's nations and all the world's leading development institutions, with a timeframe to 2015. While the MDGs are committed to by governments, they provide an important framework for community development planning by the private sector and civil society organisations.

For the mining industry, the International Council on Mining and Metals (ICMM) has developed a Community Development Toolkit. The Toolkit provides practical guidance for all stages of the community development process, from exploration through construction, operations, and eventually decommissioning and closure, including post closure. This includes processes for community engagement as a tool for supporting community development, and for proactive rather than reactive approaches to conflict identification and management.

### Resettlement

The International Finance Corporation (IFC) Performance Standard 5 (April, 2006) provides an international standard for Land Acquisition and Involuntary Resettlement that is referenced in the RJC standard. The objectives of IFC Performance Standard 5 are to:

- avoid or at least minimize involuntary resettlement wherever feasible by exploring alternative project designs;
- mitigate adverse social and economic impacts from land acquisition or restrictions on affected persons' use of land by:
  - (i) providing compensation for lost assets at replacement cost; and
  - (ii) ensuring that resettlement activities are implemented with appropriate disclosure of information, consultation, and the informed participation of those affected;
- improve or at least restore the livelihoods and standards of living of displaced persons; and
- improve living conditions among displaced persons through provision of adequate housing with security of tenure at resettlement sites.

IFC Guidance Note 5 (July 2007) corresponds to Performance Standard 5 and provides additional guidance on the requirements of the standard. Note that IFC Performance Standard 5 does not apply to resettlement resulting from voluntary land transactions (i.e., market transactions in which the seller is not obliged to sell and the buyer cannot resort to expropriation or other compulsory procedures if negotiations fail).

### Complaints and grievance mechanisms

The 2008 Ruggie report on a framework for business and human rights has given fresh impetus to work in this field, and the subject can be expected to play an important part in future work on business and human rights. Ruggie's framework comprises three core principles: the State duty to protect against human rights abuses by third parties, including business; the corporate responsibility to respect human rights; and the need for more effective access to remedies.

A 2008 guidance tool for rights-compatible complaints and grievance mechanisms by Harvard University has become a key reference for establishing mechanisms at the operational level. It offers the following as principles (with associated guidance) for rights-compatible grievance mechanisms, which should be:

- 1) Legitimate and trusted
- 2) Publicised and accessible
- 3) Transparent
- 4) Based on engagement and dialogue
- 5) Predictable in terms of process
- 6) Fair and empowering
- 7) A source of continuous learning.

## D Suggested management approach

**Risk assessment:** The role of the business in community engagement and development programs should be the subject of a risk assessment and stakeholder mapping exercise. The assessment should map stakeholders and review social and environmental impact assessments, assess current engagement and dispute resolution strategies as appropriate, and consider local development priorities and needs, existing programs, and strategies for partnership.

The assessment should help determine whether the following measures may also assist:

- **Management responsibility:** Responsibility for community engagement and development programs should fall to a senior management function. For mining operations, a senior manager should be given oversight and responsibility for the complaints and grievance mechanism and the name/s of company contacts for raising questions, complaints or grievances made available to stakeholders. If resettlement of local communities is considered for the construction of a mine and its infrastructure, then experienced community development expertise will be required to assess, plan and manage the process.
- **Written policy, plans and procedures:** Maintain written documentation on the business' approach to community engagement and role in community development. Outline the aims of community programs, the key principles to be followed, and the expectations of staff and other stakeholders. For mine sites, maintain clear documentation on the company's or site's complaints and grievance mechanism and make this available to affected communities and stakeholders. If resettlement is considered, ensure that it is managed pursuant to IFC Performance Standard 5. Carefully monitor the progress of engagement approaches, complaints and grievance mechanisms, development-focused projects and participation in collaborative programs, and evaluate impacts in conjunction with key stakeholders, including women. Seek to continually improve plans, policies and procedures based on evaluation outcomes.
- **Training:** Ensure that staff relating with communities receive relevant training to ensure sufficient knowledge of key principles, local issues and appropriate conduct with stakeholders. Good community engagement and development depends on having people with suitable skills and understanding to run programs and on giving community development staff the training support they need to perform their jobs well. For mining operations, consideration should be given to the need for cultural awareness and gender training, training in engagement processes and practices, dispute resolution training and understanding of community and regional development approaches.

## E Further information

The following websites have further information on community engagement and development issues:

- Community Driven Development – World Bank  
[web.worldbank.org/WBSITE/EXTERNAL/TOPICS/EXTSOCIALDEVELOPMENT/EXTCDD/0,,menuPK:430167~pagePK:149018~piPK:149093~theSitePK:430161,00.html](http://web.worldbank.org/WBSITE/EXTERNAL/TOPICS/EXTSOCIALDEVELOPMENT/EXTCDD/0,,menuPK:430167~pagePK:149018~piPK:149093~theSitePK:430161,00.html)
- Millennium Development Goals  
<http://www.un.org/millenniumgoals/>
- Diamond Development Initiative  
[www.ddiglobal.org/](http://www.ddiglobal.org/)
- Diamond Area Community Development Fund – Sierra Leone  
[www.sfcg.org/programmes/sierra/sierra\\_encouraging.html](http://www.sfcg.org/programmes/sierra/sierra_encouraging.html)
- ICMM Community Development Toolkit  
[www.icmm.com/page/236/community-development](http://www.icmm.com/page/236/community-development)
- International Association of Public Participation (IAP2) – Participation Spectrum  
[www.iap2.org/associations/4748/files/spectrum.pdf](http://www.iap2.org/associations/4748/files/spectrum.pdf)
- Association for Mineral Exploration British Columbia – Mineral Exploration, Mining and Aboriginal Community Engagement: A Guidebook (Canada)  
[commdev.org/content/document/detail/843/](http://commdev.org/content/document/detail/843/)
- Sustainable Communities: Mining and Indigenous Governance (Americas)  
<http://www.focal.ca/pdf/Policy%20Document%2003192008.pdf>
- World Resources Institute – Breaking Ground: Engaging Communities in Extractive and Infrastructure Project (2009)  
<http://www.wri.org/publication/breaking-ground-engaging-communities>
- Community Engagement and Development – Leading Practice Sustainable Development Program for the Mining Industry (Australia)  
[www.minerals.org.au/\\_\\_data/assets/pdf\\_file/0003/17643/CED.pdf](http://www.minerals.org.au/__data/assets/pdf_file/0003/17643/CED.pdf)
- Working with Indigenous Communities – Leading Practice Sustainable Development Program for the Mining Industry (Australia)  
[www.ret.gov.au/resources/Documents/LPSDP/LPSDP-IndigenousCommunitiesHandbook.pdf](http://www.ret.gov.au/resources/Documents/LPSDP/LPSDP-IndigenousCommunitiesHandbook.pdf)
- Mining Association of Canada – Outreach and Dialogue – A Field Guide for Building Shared Understanding (2003)  
[http://www.mining.ca/www/media\\_lib/TSM\\_Documents/outreachguide.pdf](http://www.mining.ca/www/media_lib/TSM_Documents/outreachguide.pdf)
- International Finance Corporation (IFC) Guidance Note 5 – Land acquisition and involuntary resettlement (2007)  
[www.ifc.org/ifcext/sustainability.nsf/AttachmentsByTitle/pol\\_GuidanceNote2007\\_5/\\$FILE/2007+Updated+Guidance+Note\\_5.pdf](http://www.ifc.org/ifcext/sustainability.nsf/AttachmentsByTitle/pol_GuidanceNote2007_5/$FILE/2007+Updated+Guidance+Note_5.pdf)
- MMSD Report: Avoiding New Poverty: Mining-Induced Displacement and Resettlement (2002)  
<http://www.iiied.org/pubs/pdfs/G00549.pdf>
- Basic Principles and Guidelines on Development-Based Evictions and Displacement – Guidance for States  
[http://www2.ohchr.org/english/issues/housing/docs/guidelines\\_en.pdf](http://www2.ohchr.org/english/issues/housing/docs/guidelines_en.pdf)
- Rights-Compatible Grievance Mechanisms – Guidance Tool – Harvard University (2008)  
[http://www.hks.harvard.edu/m-rcbg/CSRI/publications/Workingpaper\\_41\\_Rights-Compatible%20Grievance%20Mechanisms,%20January%202008.pdf](http://www.hks.harvard.edu/m-rcbg/CSRI/publications/Workingpaper_41_Rights-Compatible%20Grievance%20Mechanisms,%20January%202008.pdf)

- Protect, Respect and Remedy: A Framework for Business and Human Rights – Report of the Special Representative of the UN Secretary-General on the issue of human rights and transnational corporations and other business enterprises, John Ruggie (April 2008)  
[www.unglobalcompact.org/docs/issues\\_doc/human\\_rights/Human\\_Rights\\_Working\\_Group/29Apr08\\_7\\_Report\\_of\\_SRSG\\_to\\_HRC.pdf](http://www.unglobalcompact.org/docs/issues_doc/human_rights/Human_Rights_Working_Group/29Apr08_7_Report_of_SRSG_to_HRC.pdf)  
[www.reports-and-materials.org/Ruggie-protect-respect-remedy-framework.pdf](http://www.reports-and-materials.org/Ruggie-protect-respect-remedy-framework.pdf) (1 page version)
- ICMM guidance note on mining and human rights (2009)  
[www.icmm.com/page/14855/icmm-presents-new-guidance-note-on-mining-and-human-rights](http://www.icmm.com/page/14855/icmm-presents-new-guidance-note-on-mining-and-human-rights)
- ICMM publication 'Human Rights in the Metals and Mining Industry: Handling and Resolving Local Level Concerns and Grievances' (2009)  
[www.icmm.com/document/691](http://www.icmm.com/document/691)
- International Finance Corporation (IFC) Office of the Compliance Advisor/Ombudsman – A Guide to Designing and Implementing Grievance Mechanisms for Development Projects (2008)  
[www.cao-ombudsman.org/howwework/advisor/documents/implemgrieveng.pdf](http://www.cao-ombudsman.org/howwework/advisor/documents/implemgrieveng.pdf)
- Anglo American – Speak Up program – independent grievance mechanism  
[www.anglospeakup.com](http://www.anglospeakup.com)
- Rio Tinto – Why Gender Matters  
[www.riotinto.com/documents/ReportsPublications/Rio\\_Tinto\\_gender\\_guide.pdf](http://www.riotinto.com/documents/ReportsPublications/Rio_Tinto_gender_guide.pdf)

## STANDARD GUIDANCE

### (COP 2.12) Use of Security Personnel

#### A Definition and applicability

Security personnel are formally employed to protect property, assets and/or people.

The **Use of Security Personnel** section of the COP is applicable to Facilities that use security guards or engage public security for security services or support.

#### B Issue background

The primary role of security personnel is the protection of the company's people, property, product and reputation. Whilst carrying out this role, security personnel require a wide range of procedures and associated training to ensure that security is provided in an effective and responsible manner. In some cases, security personnel are trained to enforce company rules, though under the Code of Practices this should not include disciplining employees. At all times, and particularly when armed, security personnel should use the minimum force proportionate to a threat.

Ongoing social unrest and conflict create a very difficult environment for business. Company personnel, assets or strategic facilities can be the target for violent action. Private security forces will generally be used to protect premises people and property. Where justified by threat and risk assessments, public security may also be engaged to provide security support.

Some public security organisations have a troublesome history, particularly in repressive societies. There are many documented cases where public security forces have been implicated in serious human rights abuses, or have pursued corrupt policies or practices. There have been examples where public security groups engaged to protect personnel and assets have become involved in corrupt activity, profit from criminal activity, resort to inappropriate use of force or firearms, or otherwise create conflict.

Companies have a legitimate responsibility to staff and shareholders to ensure that their personnel and property are protected from violent or illegal acts. Security threats can emanate from criminal groups, local communities, company employees, artisanal miners and migrant workers. Potential security threats include:

- General theft
- Fraud
- Violent disturbances
- Sabotage of pipelines and other installations
- Illegal mining (armed entry to a mine to steal ore)
- Organized theft of fuel and other commodities
- Organized theft of ore or product (gold/platinum/diamonds)
- Kidnapping, intimidation or assassination of staff.

The security strategy deployed by the company will have an impact on all stakeholders, both internal and external. To avoid increasing the potential for conflict, a security strategy must be risk based and for Members with Mining Facilities, include compliance with the Voluntary Principles on Security and Human Rights.

#### Public security

Although governments have the primary role of maintaining law and order, security and respect for human rights, companies have an interest in ensuring that actions taken by public security, such as the police and military, are consistent with the protection and promotion of human rights. In some cases where there is a need to supplement private security, companies may be required or expected to contribute to the costs of protecting company facilities and personnel borne by public security. While public security is expected to act in a manner consistent with local and national laws as well as with human rights standards and international humanitarian law, abuses may nevertheless occur.

In particular, mining operations in some locations may have police and/or military personnel protecting mine property or concessions who are located on site, using mine facilities or otherwise supported by the mine. In these situations, the potential for corruption, conflict and political violence is increased and companies must be vigilant to the risks of human rights abuses. While the issues can be complex, companies should seek commitment to the Voluntary Principles on Security and Human Rights in formal agreements with governments, wherever possible.

### **Mining in conflict zones**

Human rights abuses are more likely to occur in conflict zones. Extractive industries in particular can find themselves close to the front-line of conflict when operating in conflict prone zones. Mining activities can inadvertently trigger or sustain violence, or become the focus of resentment. The range of costs imposed by conflict on companies can be direct and indirect. Direct costs most obviously relate to the increased cost of protecting staff and property. Indirect costs are those that impact the operating environment, only to rebound as costs on the company. A 'conflict-sensitive' approach to doing business is one that seeks to avoid these costs by developing informed conflict-management strategies. Companies need to avoid any complicity in harms committed in conflict situations.

Observation of national law in host societies is a primary obligation for RJC Members. However in a conflict zone, laws may be inadequately enforced or fail to create the correct enabling environment for conflict-sensitive business practices. Companies should actively uphold relevant international instruments, ensuring their operations are in line with international law and good practice, even when governments are too weak to do so. No single overarching, legal or voluntary instrument has emerged to date on how to conduct business in unstable states in a way that minimises conflict risk. However for the extractive industries, key instruments include the Voluntary Principles on Security and Human Rights and the Extractive Industries Transparency Initiative (EITI). These are both requirements for RJC Members with Mining Facilities.

Beyond compliance, companies should be aware of their ability to create or exacerbate conflict and develop mitigation measures to avoid or minimise negative impacts. Through improved conflict risk and impact assessment, stakeholder engagement and relationship building processes, conflict-sensitive business practices help companies to identify conflict issues directly or indirectly impacted by a project. This informs the design of mitigating strategies to alleviate them and contribute to peace, in partnership with others, through core business, social investment or policy dialogue activities.

## **C Key initiatives**

### **International standards and initiatives**

The Voluntary Principles on Security and Human Rights were developed through collaboration between four national governments, non-government organisations, and companies in the energy and extractive sectors. The Principles seek to guide companies in maintaining the safety and security of their operations within a framework of respect for human rights and fundamental freedoms. The Principles fall into three categories: risk assessment; relations with public security; and relations with private security. They call for a regularly updated security risk assessment and the engagement of local communities in security issues. The Principles stipulate that private security should provide only preventative and defensive services and should not engage in activities exclusively the responsibility of state military or law enforcement authorities. The full text of the Voluntary Principles on Security and Human Rights can be found at: [www.voluntaryprinciples.org/](http://www.voluntaryprinciples.org/)

International Alert, in collaboration with companies, governments, inter-governmental agencies and other NGOs, has developed a guide to Conflict-Sensitive Business Practices for extractive industries from pre-feasibility to closure. It provides guidance and toolkits for doing business in societies at risk of conflict for field managers working across a range of business activities, as well as headquarters staff in political risk, security, external relations and social performance departments.

### **National law**

Most countries have legislation and regulation regarding the appropriate role of security and military forces in the society. Many national and state jurisdictions require training and licenses for carrying weapons such as firearms, batons or pepper sprays. Police or military certification may be required for certain security duties.

## D Suggested management approach

**Risk assessment:** A security risk assessment should be conducted in order to understand the security risk environment. The assessment should identify security risks from political, economic, civil, social or environmental factors. The risk assessment should also consider the potential for violence; available human rights records of security forces; local capacity to enforce the rule of law; root causes and nature of local conflicts; risks of exacerbating any existing conflicts; and the risks of equipment transfers.

The risk assessment will help determine whether the following measures may also assist:

- **Management responsibility:** Responsibility for managing security, including liaison with public security should fall to a management function. Activities of security personnel (both private and public) should be formally and consistently monitored.
- **Written policy and procedures:** Develop a written policy on the conduct of security personnel. Clearly establish the importance of respect for human rights, the boundaries for security activities, appropriate procedures for managing security issues and conflicts, and the consequences of any human rights abuses.

Members with Mining Facilities should ensure that security personnel comply with the Voluntary Principles on Security and Human Rights. Security arrangements should be designed and regularly reviewed on the basis of ongoing analysis of the conflict risks and context. Members require a process to identify structural and emergent security threats and address them at various levels, including effective security management strategies and through community engagement and development activities.

- **Training:** Ensure that all company and subcontractor security personnel receive relevant training to ensure the respect of human rights and appropriate conduct. For security personnel at Mining Facilities, this should be in accordance with the Voluntary Principles on Security and Human Rights.

## E Further information

The following websites have further information on the use of security personnel:

- Voluntary Principles on Security and Human Rights  
[www.voluntaryprinciples.org/](http://www.voluntaryprinciples.org/)
- International Committee of the Red Cross – training resources for armed police and security forces  
[http://www.icrc.org/WEB/ENG/siteeng0.nsf/html/armed\\_forces!Open](http://www.icrc.org/WEB/ENG/siteeng0.nsf/html/armed_forces!Open)
- BHP Billiton – human rights training course case study  
[www.bhpbilliton.com/bb/sustainableDevelopment/caseStudies/2007/humanRightsTrainingProgramAtCerrejonCoal.jsp](http://www.bhpbilliton.com/bb/sustainableDevelopment/caseStudies/2007/humanRightsTrainingProgramAtCerrejonCoal.jsp)
- International Alert – Conflict sensitive business practice – guidance for extractive industries (2005)  
[http://www.international-alert.org/pdfs/conflict\\_sensitive\\_business\\_practice\\_all.pdf](http://www.international-alert.org/pdfs/conflict_sensitive_business_practice_all.pdf)
- UN Global Compact (2002) Business Guide to Conflict Impact Assessment and Risk Management.  
[http://www.unglobalcompact.org/docs/issues\\_doc/7.2.3/BusinessGuide.pdf](http://www.unglobalcompact.org/docs/issues_doc/7.2.3/BusinessGuide.pdf)
- Business and Human Rights Resource Centre, security and conflict page.  
[www.businesshumanrights.org/Categories/Issues/Security](http://www.businesshumanrights.org/Categories/Issues/Security)
- International Business Leaders Forum, conflict and security page  
[http://www.iblf.org/what\\_we\\_do/Economic\\_Development/Conflict\\_Zones.jsp](http://www.iblf.org/what_we_do/Economic_Development/Conflict_Zones.jsp)
- OECD Risk Awareness Tool for Multinational Enterprises in Weak Governance Zones  
<http://www.oecd.org/dataoecd/26/21/36885821.pdf>
- OECD Watch Fact Sheet 3: Assessing Adherence to the OECD Guidelines' Human Rights Provisions (See section on security issues)  
[http://oecdwatch.org/publications-en/Publication\\_2402](http://oecdwatch.org/publications-en/Publication_2402)

## STANDARD GUIDANCE

# (COP 2.13) Indigenous Peoples

### A Definitions and applicability

There is no universally accepted definition of “Indigenous Peoples”. The term “Indigenous Peoples” is used here in a generic sense to refer to a distinct social and cultural group possessing the following characteristics in varying degrees:

- Self-identification as members of a distinct indigenous cultural group and recognition of this identity by others;
- Collective attachment to geographically distinct habitats or ancestral territories in the project area and to the natural resources in these habitats and territories;
- Customary cultural, economic, social, or political institutions that are separate from those of the dominant society or culture;
- An indigenous language, often different from the official language of the country or region.

(Source: International Finance Corporation (IFC) Performance Standard 7 – Indigenous Peoples [http://www.ifc.org/ifcext/sustainability.nsf/AttachmentsByTitle/pol\\_PerformanceStandards2006\\_PS7/\\$FILE/PS\\_7\\_IndigenousPeoples.pdf](http://www.ifc.org/ifcext/sustainability.nsf/AttachmentsByTitle/pol_PerformanceStandards2006_PS7/$FILE/PS_7_IndigenousPeoples.pdf))

The **Indigenous Peoples** section of the COP is applicable only to Mining Facilities.

**COP 2.13 Indigenous Peoples** should be implemented in conjunction with **COP 2.11 Community Engagement and Development**. COP 2.11 covers approaches to community development, engagement, resettlement and grievance mechanisms. Engagement, wherever possible, should be undertaken through traditional authorities within Indigenous communities and with respect for traditional decision-making structures and processes. **COP 4.4 Impact Assessment** and **COP 4.5 Mine Closure Planning** are also relevant. Social impact assessments, or other social baseline analyses, and closure planning for projects which may impact on Indigenous Peoples must examine their interests and perspectives and be based on consultation with them.

### B Issue background

Establishing which groups of people are considered Indigenous is not always straightforward. Indigenous Peoples may be referred to in different countries by such terms as “Indigenous ethnic minorities”, “aboriginals”, “hill tribes”, “minority nationalities”, “first nations” or “tribal groups.” Ascertaining whether a particular group is considered as Indigenous Peoples may require informed judgement, taking into account the characteristics outlined in Section A above.

In the context of the mining industry, Indigenous Peoples can be generally (but not universally) understood as communities whose people are the descendants of the original inhabitants of a country or region, with a distinct social or cultural identity that may be vulnerable or disadvantaged in the current social and economic context.

Many Indigenous Peoples’ cultures and identities are inextricably linked to the lands on which they live and the natural resources on which they depend. In many cases, their cultures, identities, traditional knowledge and oral histories are connected to these lands and natural resources. Project impacts on lands, forests, water, wildlife, and other natural resources may affect their institutions, livelihoods, economic development, and their ability to maintain and develop their identities and cultures. In many parts of the world, Indigenous Peoples suffer from a history of discrimination and exclusion that has left them on the margins of larger societies. Many often still experience discrimination, high levels of poverty, and other forms of political and social disadvantage.

The interests of Indigenous Peoples in mining projects can be one or more of the following:

- owners of formal title to land or recognised legal interests in land or resources;
- claimants for ownership of land or resources;
- customary owners of land or resources but without formal legal recognition of customary ownership;
- occupants or users of land either as customary owners or as people whose customary land are elsewhere;
- in material objects or resources of cultural significance;
- in landscapes which have special significance because of association, tradition or beliefs;

- members of host communities whose social, economic and physical environment may be affected by mining and associated activities.

The rights of Indigenous Peoples are being addressed under both national and international law. Under international law, key UN human rights conventions and declarations provide the core rights framework for the world's Indigenous Peoples. In addition, some countries have passed legislation, or ratified other international or regional conventions for the protection of Indigenous Peoples such as ILO Convention 169. While such legal instruments establish responsibilities of states, it is increasingly expected that private sector companies conduct their affairs in a way that would uphold these rights and not interfere with states' obligations under these instruments.

Not all governments in the past, or today, have recognised Indigenous Peoples' distinct identity, legitimate interests or their rights as articulated in relevant international conventions. In this context, agreement making between companies and affected communities has emerged as an important vehicle for dialogue on Indigenous Peoples' development aspirations, negotiation of development benefits and mitigation of impacts. Formally documented support for development projects can take the form of written agreements or other types of records that are recognized by the appointed leaders, spokesperson or representatives of the community. A process of free, prior and informed consultation, which recognises broad-based or collective decision-making processes, should underpin development of relationships, agreement making, program delivery and regular reviews of progress with Indigenous Peoples.

Free, prior and informed consent (FPIC) is an evolving standard for project-related decision making with Indigenous Peoples. While specific definitions vary, and continue to evolve in different jurisdictions, FPIC envisages consent that is:

- obtained free of coercion or manipulation;
- secured prior to commencement of activities affecting Indigenous Peoples' lands, territories and resources;
- informed by meaningful participation and consultation, and based on the full disclosure of relevant aspects of the proposed project in a form that is understandable and accessible; and
- enabled by Indigenous Peoples participating through their own freely chosen representatives and customary or other institutions.

FPIC has been incorporated into the United Nations Declaration on the Rights of Indigenous Peoples, the International Labour Organization's Indigenous and Tribal Peoples Convention 169, and the report of the World Commission on Dams. Each of these instruments relates to the relationship between Indigenous Peoples and nation-states. However the implementation of FPIC by the private sector, and its verification, remains challenging. First, most nations reserve the right of development consent to the sovereign state and do not see it as a matter to be brokered by third parties. The interaction of an FPIC process with other peoples' rights is clearest where there is domestic legislation for companies to be able to put it into practice. Such legislation, and statutory authorities to oversee the process, exists in countries such as the Philippines and some parts of Australia. Where such legislation does not exist, RJC recognises that following engagement with Indigenous Peoples, companies may still make a decision not to proceed with developments or exploration, even if this is legally permitted. Second, there are potentially a wide variety of views around the specific definition of "consent". In the democratic tradition it means a majority of adult community members agree in an unfettered, secret ballot. In some customary societies it can mean the consent provided by a single authoritative leader, or conversely, full consensus, or variations in between. Further, the role of supporting processes – such as defining the affected community or communities who have the right to grant or withhold consent, customary law, public hearings and referenda – will vary considerably depending on the social and historical context. For these reasons – the role of the sovereign state and the lack of an internationally-applicable definition of how a non-statutory FPIC process is to be verified – RJC has not adopted a standard based on FPIC at this time.

Successful mining and metal projects require the broad support of the communities in which they operate, including of Indigenous Peoples, from exploration through to closure. Without the support of affected Indigenous Peoples, underpinned by free, prior and informed consultation, projects face significant social and financial risk. Interactions between mining companies and Indigenous Peoples should occur in the context of broader community engagement but at the same time, giving special attention to the particular histories, capacities, priorities and interests of Indigenous Peoples. It is recognized that Indigenous Peoples play a vital role in sustainable development; that mineral development projects can help advance the economic development of Indigenous communities; and these communities in turn can play a vital role in the development of natural resources.

## C Key international instruments

### International

The United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) was adopted by the UN General Assembly in September 2007 after 22 years of development and negotiation. The Declaration sets out the individual and collective rights of Indigenous Peoples, as well as their rights to culture, identity, language, employment, health, education and other issues. Declarations are not subject to ratification by States and do not have legally binding status. A Declaration adopted by the General Assembly reflects the collective views of the United Nations which must be taken into account by all member States in good faith.

The International Labour Organisation (ILO) Convention 169 on Indigenous and Tribal Peoples was adopted in 1989, and has been ratified by 20 countries as of 2009. Genuine and effective consultation with Indigenous Peoples about their priorities is fundamental to ILO 169. However the Convention does not grant the right of veto over projects that affect them. Article 15 directs that Indigenous and Tribal Peoples benefit from extractive industries by requiring states to ensure companies deliver such benefits in the form of royalty payments, employment generation, provision of services, etc.

As with other ILO Conventions, 169 is aimed at governments and is binding only on states that have ratified it. Many states consider the Convention problematic because it clashes with their constitutional provisions that require that all ethnic groups are treated equally before the law. This is particularly the case in African states (none of which have ratified ILO169) with diverse, ethnically heterogeneous national populations. While private companies do not have any direct obligations under the Convention, it has clear implications for their activities and operations. Further, there may be legal obligations for companies arising from national legislation implementing the Convention or similar frameworks.

Both UNDRIP and ILO169 are significant landmarks in the recognition and protection of the rights of Indigenous Peoples at the international level. They are aligned in spirit and many of the key provisions are mutually reinforcing. The Declaration's provisions deal with all the areas covered by the Convention and addresses a number of additional subjects that are not covered by the Convention.

The International Finance Corporation (IFC) Performance Standard 7 – Indigenous Peoples – provides a detailed standard and associated guidance for the private sector. The objectives of the standard are to:

- Ensure that the development process fosters full respect for the dignity, human rights, aspirations, cultures and natural resource-based livelihoods of Indigenous Peoples.
- Avoid adverse impacts of projects on communities of Indigenous Peoples, or when avoidance is not feasible, to minimize, mitigate, or compensate for such impacts, and to provide opportunities for development benefits, in a culturally appropriate manner.
- Establish and maintain an ongoing relationship with Indigenous Peoples affected by a project throughout the life of the project.
- Foster good faith negotiation with and informed participation of Indigenous Peoples when projects are to be located on traditional or customary lands under use by the Indigenous Peoples.
- Respect and preserve the culture, knowledge and practices of Indigenous Peoples.

### National

National law is the vehicle for implementing international instruments such as ILO Convention 169 or similar frameworks. The legal framework for Indigenous Peoples varies significantly from country to country, depending on the history of colonisation, migration and/or conflict, and continues to evolve. Some countries may not recognise indigeneity or ethnicity as an acceptable category for making distinctions in terms of relative entitlements. It is essential that Members maintain an understanding of, and act in accordance with, applicable law in all jurisdictions of operation.

## D Suggested management approach

**Risk assessment:** The potential impact of the business on Indigenous Peoples should be assessed. The business should utilise the services of qualified social scientists and other professionals to carry out:

- ethnographic and archival research;
- participatory approaches with the affected communities of Indigenous Peoples, including women;
- assessment of the traditional institutions; and

- investigation of the applicable national and regional laws and regulations, including customary laws, and laws reflecting host country obligations under international law.

The following measures may also assist:

- **Management responsibility:** Responsibility for relationships with Indigenous Peoples should fall to a senior management function, often the person responsible for community engagement and development programs. Draw on experienced and expert assistance to develop policies, training, strategies, plans and actions.
- **Written policy and procedures:** Develop written policy and related documentation that includes the business' approach to Indigenous Peoples. Outline the aims of the policy, the key principles to be followed, and the expectations of staff and other stakeholders. This should include:
  - Acknowledging and respecting the diversity and rights of Indigenous Peoples;
  - Clearly identifying and fully understanding the interests and perspectives of Indigenous Peoples regarding a project and its potential impacts;
  - Engaging and consulting with Indigenous Peoples in a fair, timely and culturally appropriate way throughout the project cycle to seek broad-based support for mining activities;
  - Arrangements to protect cultural property or sites of religious significance for Indigenous People;
  - The role of affirmative action and partnerships to build the participation of Indigenous people in the mine workforce or associated businesses;
  - Seeking to build long-term partnerships with Indigenous Peoples to support self-empowered regional and community development such as through education, training, healthcare, and business enterprise support;
  - Gender considerations and their intersections with the above;
  - Where appropriate, encouraging governments to participate in alleviating and resolving any problems or issues faced by Indigenous Peoples near mining operations;
  - Monitoring the progress of engagement approaches, agreements, and evaluating impacts in conjunction with key stakeholders.
- **Training:** Ensure that all staff relating with Indigenous Peoples receive relevant training to ensure sufficient knowledge of key principles, local issues and appropriate conduct. To provide employment opportunities for Indigenous people, opportunities for training and education may need to be made available to qualify indigenous workers who might otherwise not meet usual employability criteria. Where Indigenous people are also mine workers, consideration should be given to the need for cultural awareness training for all staff. The objective should be building cross-cultural understanding: for company personnel to understand Indigenous Peoples' culture, values and aspirations, and for Indigenous Peoples to understand a company's principles, objectives, operations and practices.

## E Further information

The following websites have further information on Indigenous Peoples:

- United Nations Declaration on the Rights of Indigenous Peoples (2007)  
[www.un.org/esa/socdev/unpfii/documents/DRIPS\\_en.pdf](http://www.un.org/esa/socdev/unpfii/documents/DRIPS_en.pdf)
- ILO Convention 169, Concerning Indigenous and Tribal Peoples in Independent Countries (1989)  
[www.ilo.org/ilolex/english/convdisp1.htm](http://www.ilo.org/ilolex/english/convdisp1.htm)
- ILO Convention 169 and the Private Sector – IFC Quick Note (2007)  
[www.ifc.org/ifcext/enviro.nsf/AttachmentsByTitle/p\\_ILO169/\\$FILE/ILO\\_169.pdf](http://www.ifc.org/ifcext/enviro.nsf/AttachmentsByTitle/p_ILO169/$FILE/ILO_169.pdf)
- International Finance Corporation (IFC) Performance Standard 7 – Indigenous Peoples  
<http://www.ifc.org/ifcext/sustainability.nsf/Content/PerformanceStandards>
- International Council on Mining and Metals (ICMM) – Indigenous Peoples project  
[www.icmm.com/page/208/indigenous-peoples](http://www.icmm.com/page/208/indigenous-peoples)
- Association for Mineral Exploration British Columbia – Mineral Exploration, Mining and Aboriginal Community Engagement: A Guidebook (Canada)  
[commdev.org/content/document/detail/843/](http://commdev.org/content/document/detail/843/)

- Sustainable Communities: Mining and Indigenous Governance (Americas)  
[www.focal.ca/pdf/Policy%20Document%2003192008.pdf](http://www.focal.ca/pdf/Policy%20Document%2003192008.pdf)
- Working with Indigenous Communities – Leading Practice Sustainable Development Program for the Mining Industry (Australia)  
[www.ret.gov.au/resources/Documents/LPSDP/LPSDP-IndigenousCommunitiesHandbook.pdf](http://www.ret.gov.au/resources/Documents/LPSDP/LPSDP-IndigenousCommunitiesHandbook.pdf)
- Guidelines for Best Practice Flexible and Sustainable Agreement Making (Australia)  
[http://www.ag.gov.au/www/agd/rwpattach.nsf/alldoc/C8D9FB54AC29A726CA257626001AEDF6/\\$file/Guidelines\\_for\\_Best\\_Practice\\_in\\_Flexible\\_and\\_Sustainable\\_Agreement\\_Making.pdf](http://www.ag.gov.au/www/agd/rwpattach.nsf/alldoc/C8D9FB54AC29A726CA257626001AEDF6/$file/Guidelines_for_Best_Practice_in_Flexible_and_Sustainable_Agreement_Making.pdf)
- The Ethical Funds Company – Winning the Social License to Operate: Resource Extraction with Free, Prior and Informed Community Consent (2008)  
<https://www.ethicalfunds.com/SiteCollectionDocuments/docs/FPIC.pdf>
- Oxfam Australia – Free, prior and informed consent: the role of mining companies (2007)  
<http://www.oxfam.org.au/resources/filestore/originals/OAus-FreePriorInformedConsentMining-1007.pdf>
- World Resources Institute – Business without Conflict: the business case for community consent  
[http://pdf.wri.org/development\\_without\\_conflict\\_fpic.pdf](http://pdf.wri.org/development_without_conflict_fpic.pdf)

## STANDARD GUIDANCE

# (COP 2.14) Artisanal and Small-Scale Mining

### A Definitions and applicability

There is no universal definition of artisanal and/or small-scale mining (ASM). Definitions vary between regions and countries depending on its history and characteristics, but usually describe ASM by one or more of the following attributes: local; formal or informal; limited rights; rudimentary technology; hand mining, limited mechanisation; labour-intensive; high proportion of women and child miners; low levels of production, productivity and mineral recovery; low economic returns to the mineworker; poor working conditions; subject to unfair supply chains; and working of alluvial deposits, old mine dumps and tailings storage facilities, mine pits and old underground workings. ASM may be legal, extra-legal or illegal.

*(Source: Mineral Resources Forum – Small scale mining <http://www.natural-resources.org/minerals/smscalemining/definitions.htm>. Accessed May 2009)*

The **Artisanal and Small-Scale Mining** section of the COP is applicable only to those Mining Facilities which have ASM on or near their operations.

**COP 2.14 Artisanal and Small-scale Mining** provisions of the COP should be read and implemented in conjunction with **COP 2.11 Community Engagement and Development**, **COP 2.13 Indigenous Peoples**, **COP 4.4 Impact Assessment** and **COP 4.5 Mine Closure Planning** provisions.

### B Issue background

Artisanal and small-scale mining (ASM) is the oldest form of mining. It is estimated that up to 20 million people in at least 30 countries are active in ASM and a further 100 million people depend on the sector for their livelihood. In various countries, small-scale miners are known by terms such as galamsey, orpailleurs, ubeshi or wabeshi, panners, diggers, garimberos, pirquineros and pocket miners.

ASM is a production system that allows local people to earn a cash income, however small. It provides an accessible livelihood for poor and marginalized peoples, often complementing other livelihood activities, such as agriculture, animal husbandry and hunting, and serving as a support operation in times of environmental or economic stress. The extent of activity in any particular place will wax and wane, as will the size of the ASM population, to reflect changing local and national economic circumstances.

ASM is common in commodities which are high value, low bulk (easy to transport), and easily traded (fungible), such as diamonds, coloured stones, gold and silver. The Alliance for Responsible Mining, an advocacy and standards-setting organisation for social and environmentally responsible artisanal mining, estimates that up to 12% of the world's annual production of new gold and 20% of its diamonds are due to ASM. In some developing countries, ASM production can be upwards of 80% of the national production.

The intent of the RJC standard on ASM is to encourage approaches which facilitate the co-existence of ASM and large-scale mining (LSM) operations and promote the development of legal, orderly, viable small-scale mining sectors in collaboration with host communities and governments. In some circumstances governments can take a lead role, in others NGOs or development agencies could be the facilitators, and in others LSM may need to play a driving role in encouraging reform. In each case, local communities and ASM workers should be at the core of a participatory approach.

Key issues for the ASM sector can include:

- Informal or illegal status;
- Difficulty in legally accessing land appropriate to ASM practice or economic displacement where large-scale mining is prioritised by governments;
- Lack of capital, which typically restricts production to rudimentary processes and often results in debt bondage and poverty traps;
- Unregulated, unfair and often illegal pricing and distribution systems, which in some cases facilitate associations with criminal groups;

- Poor environmental and health and safety practices in general;
- In the case of gold processing, unsafe use of mercury;
- Exploitation of mine labour including women and migrants, use of child labour;
- Lack of appropriate legal frameworks, and where regulations exist, lack of enforcement.

There is a growing consensus among development agencies and organisations that if these issues could be addressed, ASM could become a more viable livelihood for those engaged in it and could contribute to the development of new economic opportunities both up- and downstream in the supply chain.

The relationships between LSM and ASM operators can be complex, fragile, and can descend into hostility and conflict. Conflict often occurs when both parties exert claims to the same resource, such as a near surface alluvial gold or diamond deposit and perceive one or the other to be illegitimate. The degree of risk that each operator poses to the other is a function of a number of factors, including:

- the perception of who has the right to mine the deposit and who was first on the ground;
- whether the artisanal mineworkers are from outside of the region or local and community-based;
- whether ASM in the area is seasonal or permanent or the result of a mineral rush;
- whether it is ad-hoc or organised;
- whether the government is active or passive on these matters and seen as a fair mediator of interests; and
- whether appropriate legal frameworks for both large and small miners are in place and working effectively.

Large-scale companies will increasingly interact with artisanal miners and will face the challenge of turning competition over resources or land into circumstances and relationships that are mutually beneficial. It is sometimes easier to find solutions if there is a multi-stakeholder commitment to working patiently and constructively together towards a set of common goals, but this is not always the case. Ultimately, companies bear the consequences of the relationship if they are not able to work with local miners and affected communities. Experience has shown that it is not an easy task to transform ASM into a positive force for local and regional social and economic development that can also comfortably co-exist with LSM operations.

Formalisation and professionalisation of the sector is considered a prime need. The first step is to develop an appropriate and effective legislative framework. While this is the role of government, large mining companies can play a major role in supporting government reforms in this area. Other important aspects of the formalisation process in the ASM sector include appropriate forms of workforce organisation, whether under a business-based or cooperative model; fair market access for sale of product and a fair return to labour; the progressive integration of improved health and safety and environmental practices; and participation in the formal economy (appropriate forms and levels of taxation).

Responsible LSM engagement with ASM generally involves the following:

- **Consultation with ASM stakeholders at every stage during the mine life cycle, from exploration to closure:** It is essential to keep the ASM community informed of the company's activities and intentions; to identify how LSM activities will affect existing artisanal operations and collectively plan to manage these impacts; establish baselines from which to measure socio-economic change; build trust and strengthen relationships between key stakeholders so that conflicts can be avoided. Responsible companies also understand the need to build the capacity of key parties to engage with the process.
- **Managing economic displacement:** This could involve developing alternative livelihoods programmes or creating zones on the concession where the ASM are permitted to mine, along with conditions negotiated between the parties, such as whether or not the ASM must sell to the concession-holder in the first instance and how the price will be established. It could also include doing capacity-building on important issues such as occupational health and safety and business management.
- **Professionalization of ASM activities:** Fatalities are 90 times more common in ASM activities than in LSM<sup>1</sup>. Programs to improve access to and use of personal protective equipment, assist in rescue efforts when rock failures occur, and promote change in the mining and refining methods to reduce environmental impacts and improve mineral recovery and incomes, are just some of the initiatives that LSM companies have undertaken to improve the performance of ASM mining. In both southern Venezuela and northern Tanzania, for example, formal, midsize mining companies have allowed pre-existing ASM on their properties, in designated areas, and have worked with the miners to improve their practices. This occurred in spite of liability issues (illegality,

<sup>1</sup> Hinton, J, (2007), Communities and Small-Scale Mining: An Integrated Review for Development Planning, CASM, Washington DC.

environment), and the resulting agreements and relationships between the companies and artisanal miners created a solid framework for the implementation of a legalization process and the provision of technical support for improved practices, incomes, health and security<sup>2</sup>.

- **ASM sensitive mine security approaches:** Ensuring a conflict avoidance and resolution approach to mine security, which is effective for the mine but sensitive to the community, is essential. For example, the presence of security forces installed to minimize theft can actually profit from it through corruption, resort to inappropriate use of force or firearms, or otherwise create conflict. Security issues should be managed in accordance with COP 2.12.3 on the Voluntary Principles on Security and Human Rights.
- **Optimising development opportunities:** Through its operations and strategic planning, LSM can contribute to the development of communities which are involved in ASM or related activities, and over time turn potential risks into opportunities for both the company and the ASM communities. Ways in which LSM can support local economic development include, for example:
  - sourcing food or other materials locally rather than importing it;
  - employing local people in camp construction and maintenance activities;
  - providing vocational training and apprenticeships which ultimately translate into skilled job opportunities, while building local human capital;
  - supporting the development of local entrepreneurs and businesses that can serve the needs of the local communities and/or the large-scale mine.

There are other ways in which LSM can contribute to local community development based on participatory and collaborative models of project and program design and implementation, whether it be in terms of improving local physical infrastructure (roads, access to potable water, sanitary systems, village electrification) or social infrastructure (school, clinic). Identifying, designing and carrying out these development programs in partnership with local communities, based on their own assessment of their needs to ensure their ownership of the program, is an empowering process, making them more able to design and direct their own projects in the future.

- **Planning for Closure:** In many precious metal deposits, in-migration of new artisanal miners, or expansion of existing ASM activities, may occur when a mine closes. LSM miners may become ASM miners post-closure. Miners may re-work tailings which have been left behind, work areas of lower grade which were deemed uneconomic for the LSM operation, or work river streams which contain alluvial mineralization downstream of the deposit. Through engaging with ASM prior to closure, and involving the miners in the closure planning process, it may be possible to identify innovative approaches to rehabilitation that benefit both the LSM company and its legacy and the livelihood base for local communities and miners.

## C Key regulations

### International

Two multi-stakeholder initiatives are prominent in this arena. Standards for responsible ASM practices in gold and diamonds are being developed by the Alliance for Responsible Mining (ARM) and the Diamond Development Initiative International (DDII). ARM is due to launch a fair trade certification system, in partnership with Fairtrade Labelling Organizations (FLO) International, for ASM gold in 2010. ARM believes that fair trade marketing can serve as a major incentive to improved practice and offers communities and miners new possibilities for improving their lives and for securing the restoration of ecosystems. DDII is focused on developing new opportunities for turning artisanal diamond mining into a legitimate livelihood activity, as opposed to a procurer of mineral wealth for financing civil war in Africa. In 2008, DDII released Standards and Guidelines for the Sierra Leone artisanal diamond mining sector, with individual sections aimed at governments, investors and donors/civil society. DDII is currently working on a Development Diamond standards initiative as a policy dialogue project.

<sup>2</sup> Davidson, J (1998), "Venezuela; building partnerships with artisanal miners," Mining Environmental Management, v 6 n 2.

## National

A variety of countries have developed legislative and/or regulatory frameworks for their domestic ASM sectors, while other countries have not as yet moved down that path. It is essential for Members with Mining Facilities to be aware of applicable laws and regulations affecting both large and small scale prospecting and mining operations in all jurisdictions of operation.

## D Suggested management approach

**Risk assessment:** Where ASM occurs in a Member's area of operation, the relationship between LSM and ASM should be the subject of a risk assessment. This should be informed by studies and surveys involving appropriate social and technical specialists, to the extent to which the Member is able to intervene.

Such assessments will help determine whether the following measures make sense and can make a positive difference in a given situation.

- **Management responsibility:** Responsibility for relationships with ASM should fall to a relevant management area, often the person responsible for community engagement and development programs. Draw on experienced and expert assistance to develop policies, training, strategies, plans and actions, as appropriate.
- **Written policy and procedures:** Develop a written policy on the business' and/or site's approach to ASM. Outline the aims of the policy, the key principles to be followed, the expectations the business has of its staff and the roles of other stakeholders. Taking a multi-stakeholder approach wherever possible, translate the policy into workable procedures and protocols that can be applied from the earliest possible stage of the project development cycle. ASM should be considered as part of impact assessment and community engagement approaches.
- **Local initiatives** should be customized to local conditions and designed in consultation with key stakeholders including ASM producers themselves. Opportunities for LSM-ASM initiatives may include:
  - Assisting in the organisation, formalisation, professionalisation and legalisation of miners;
  - Establishing formal partnerships with the ASM sector;
  - Demarcating zones that are deemed inappropriate for large-scale extraction on mining leases (in conjunction with regulatory authorities);
  - Passing legal mining title over those areas (in conjunction with regulatory authorities), to legal and organised ASM;
  - Providing financing (loans) for technical and other improvements;
  - Assisting and training miners on a range of issues (for example, occupational health, reclamation, mining and processing methods, value added processes, organizational and financial management, explosives management);
  - Aiding miners in the determination of mineral reserves (combined with support for access to financing);
  - Providing emergency response services;
  - Availing processing services to miners or building their capacity to implement effective processing facilities themselves with improved technology;
  - Liaising with government departments, NGOs, trade unions and international agencies to obtain additional support;
  - Providing guidance on marketing and commercialization, including fair trade arrangements;
  - Proactively supporting alternative livelihoods, economic development, and other improvements in ASM communities;
  - Supporting the wider community by locally sourcing the provision of as many goods and services as possible;
  - Eliminating child labor as a condition of engagement in the community;
  - Improving women's conditions in ASM communities through gender awareness and empowerment programs.
  - (Source: CommDev/CASM Mining Together report, 2008)

In cases where artisanal mining is not recognised as legitimate by host country legislation, then Members should seek to work with governments on approaches to formalising ASM. However it is recognised that in some situations this may not be possible.

## E Further information

The following websites have further information on artisanal and small-scale mining:

- Communities and Small-Scale Mining (CASM) – hosted by World Bank Group  
<http://www.artisanalmining.org/index.cfm>
- CASM Annual Conference 2009  
[http://www.artisanalmining.org/userfiles/file/9th%20ACC/background\\_papers.pdf](http://www.artisanalmining.org/userfiles/file/9th%20ACC/background_papers.pdf)
- CommDev – Artisanal and Small-Scale Mining  
[http://commdev.org/section/topics/artisanal\\_mining](http://commdev.org/section/topics/artisanal_mining)
- CommDev/CASM - Mining Together: Large scale mining meeting artisanal mining: a framework for action (2008)  
<http://commdev.org/content/document/detail/2018/>
- Alliance for Responsible Mining  
<http://www.communitymining.org/>
- Diamond Development Initiative – Artisanal alluvial diamond mining  
[http://www.ddiglobal.org/pages/ddi\\_artisanaldiamond.php](http://www.ddiglobal.org/pages/ddi_artisanaldiamond.php)
- Artisanal and Small Scale Mining in Asia Pacific Portal  
<http://www.asmasiapacific.org/>
- International Labour Organisation (ILO) – Facts on Small Scale Mining  
[http://www.ilo.org/wcmsp5/groups/public/---dgreports/---dcomm/documents/publication/wcms\\_067582.pdf](http://www.ilo.org/wcmsp5/groups/public/---dgreports/---dcomm/documents/publication/wcms_067582.pdf)
- International Labour Organisation (ILO) – Social and labour issues in small-scale mines  
[www.ilo.org/public/english/dialogue/sector/techmeet/tmssm99/tmssmr.htm](http://www.ilo.org/public/english/dialogue/sector/techmeet/tmssm99/tmssmr.htm)
- Global Mercury Project – removal of barriers to the introduction of cleaner artisanal gold mining and extraction technologies  
[http://www.unido.org/fileadmin/import/10642\\_CHRISTIANppt.2.pdf](http://www.unido.org/fileadmin/import/10642_CHRISTIANppt.2.pdf)
- AngloGold Ashanti – approach to artisanal and small scale mining  
<http://www.anglogoldashanti.com/subwebs/InformationForInvestors/ReportToSociety06/artisanal-mining.htm>
- World Gold Council – Artisanal Mining  
<http://www.trustingold.com/content/view/65/105/>

## STANDARD GUIDANCE

# (COP 3.1) Environmental Protection

### A Definition and applicability

Environmental protection, in a business context, is action aimed at conserving the current state of the natural environment and, where possible, reversing its degradation.

The **Environmental Protection** section of the COP is applicable to all Facilities. Mining Facilities must have environmental management systems.

### B Issue background

Companies of all sizes and sectors are increasingly able to achieve tangible business benefits from taking environmental protection seriously. Bottom-line business benefits of environmental protection initiatives can include reduced operating costs, reduced material use, increased worker commitment and enhanced brand values. Leading companies now aim for effective integration of environmental considerations into planning, operation and decommissioning of all industrial activities. Companies looking at and defining their commitment to environmental performance have harnessed the same business systems and management approaches that make their overall enterprise successful.

Developing an approach to environmental protection depends on the governing laws and regulations, aspects and impacts of the industry, and interests of stakeholders such as investors, consumers, communities and environmental organisations. Careful evaluation of a business' activities and processes should always be undertaken to avoid serious or irreversible damage to the environment. Where a number of options are under consideration, preference should be given to the option which offers the greatest likelihood of avoiding irreversible damage to the environment. This should include consideration of the effects of the "do nothing" option.

Reducing adverse impacts to the environment can be measured through the protection of ecosystems such that they are capable of performing all essential ecological processes and maintaining its evolutionary potential in the long term. When the ecological integrity of an ecosystem is reduced, the capacity of the system and its genetic and species diversity to survive the changes associated with development is also reduced.

### C Key regulations

#### International Standards

A number of standards for environmental protection, management and reporting have been developed. Voluntary initiatives for industry include the United Nations Global Compact, International Finance Corporation (IFC) Performance Standards and the Global Reporting Initiative. The Global Compact states that businesses should 1) support a precautionary approach to environmental challenges; 2) undertake initiatives to promote greater environmental responsibility, and 3) encourage the development and diffusion of environmentally friendly technologies. IFC Performance Standards are required of IFC clients, but are increasingly referenced in other standards initiatives such as the Equator Principles. The Global Reporting Initiative (GRI) promotes international harmonization in the reporting of corporate environmental, social and economic performance information to enhance responsible decision-making.

The most commonly referenced management standards are those developed by the International Standards Organisation, which are designed to be applicable to all types of organisations. The ISO 14000 series aims to provide industry with a risk based management framework for the implementation of systems for the management of environmental issues. ISO 14001 aims to provide organisations with guidance on the elements of an effective environmental management system.

## National Law

The concept of environment, in legislative terms, has traditionally focussed on human surroundings, both man-made and natural. Most countries have legislation and regulation regarding environmental protection, pollution control and environmental management. Many national and state jurisdictions require additional specific conditions that need to be met especially in relation to air and water quality, biodiversity, noise, and waste disposal. Some kinds of industrial operations must be licensed under environmental protection laws and these licences must be valid and complied with at all times.

## D Suggested management approach

**Risk assessment:** A risk assessment should be conducted which considers the environmental aspects of the business and the impacts that these have on the environment.

Identifying the environmental aspects of an organisation can start with listing all the activities of the organisation and the related inputs and outputs. A business' environmental aspects may include discharges and emissions, raw materials and energy use, waste recycling, noise, dust and visual pollution. Inputs include raw materials, energy and water while outputs comprise atmospheric emissions, product, noise, and solid and liquid wastes. An environmental impact is the change that takes place from the occurrence of any given aspect. The relationship between the two is causal: an impact is the pollution or other effect that would result if the environmental aspect was not properly managed or controlled.

Once all the environmental aspects and associated impacts of a business are identified, the next step is to determine those aspects that are significant: those which can or do have a significant impact on the environment.

The risk assessment will help determine whether the following measures may also assist:

- **Management responsibility:** Responsibility for environmental management needs to be defined and communicated. This process includes identifying roles, responsibilities and authorities necessary for effective environmental management. In particular a senior manager should be nominated as responsible for establishing and integrating environmental management requirements across the business; and reporting environmental performance to senior management.
- **Written policy and procedures:** Written policies and procedures regarding environmental protection measures should be developed, especially where business operations and processes have the potential to cause significant impacts on the surrounding environment or breach environmental regulations. Procedures should cover:
  - Methods for identifying and assessing environmental risks.
  - How to properly implement environmental protection controls.
  - Internal and external communication especially with regulatory agencies.
  - Responding to accident and emergency situations.
  - Monitoring and measurement of the key aspects of the organisation that can have a significant impact on the environment. This should include tracking key environmental performance indicators and periodic evaluation of compliance with relevant environmental legislation and regulations.
- **Training:** Ensure that all personnel whose work may create a significant impact on the environment receive relevant training. Training may include:
  - Raising awareness of the strategic importance of environmental protection and management for senior management.
  - Raising general environmental awareness for all employees.
  - Regulatory framework for employees who can affect compliance.
  - Skills enhancement.

## E Further information

The following websites have further information on environmental protection:

- International Organisation for Standardisation (ISO) – ISO 14000 series (Environmental Management Systems)  
[www.iso.org/iso/iso\\_catalogue/management\\_standards/iso\\_9000\\_iso\\_14000/iso\\_14000\\_essentials.htm](http://www.iso.org/iso/iso_catalogue/management_standards/iso_9000_iso_14000/iso_14000_essentials.htm)
- International Finance Corporation (IFC) Performance Standards and EHS Guidelines  
<http://www.ifc.org/ifcext/sustainability.nsf/Content/PerformanceStandards>
- Business for Social Responsibility – Overview of Business and the Environment  
[www.bsr.org/research/issue-brief-details.cfm?DocumentID=49037](http://www.bsr.org/research/issue-brief-details.cfm?DocumentID=49037)
- United Nations Global State of the Environment Report  
[www.unep.org](http://www.unep.org)
- United Nations Division for Sustainable Development  
[www.un.org/esa/sustdev/](http://www.un.org/esa/sustdev/)
- United Nations Global Compact  
[www.unglobalcompact.org](http://www.unglobalcompact.org)
- Global Reporting Initiative  
[www.globalreporting.org](http://www.globalreporting.org)
- US EPA Publications  
[www.epa.gov](http://www.epa.gov)
- US EPA Small Business Gateway  
[www.epa.gov/smallbusiness/](http://www.epa.gov/smallbusiness/)
- Environment Canada Publications  
[www.ec.gc.ca](http://www.ec.gc.ca)
- UK Environment Protection Agency Publications  
[www.environment-agency.gov.uk](http://www.environment-agency.gov.uk)

## STANDARD GUIDANCE

### (COP 3.2) Hazardous Substances

#### A Definition and applicability

A hazardous substance is a substance which has the potential, through being used at work, to harm the health or safety of persons in the workplace.

The Hazardous Substances section of the COP is applicable to all Facilities.

#### B Issue background

About 30 years ago, governments started to adopt measures to control chemicals with the aim of protecting people and the environment. Since then, rules and regulations have been introduced in many industrialised countries to assess and manage the workplace health and safety and environmental risks.

The use of hazardous substances and dangerous goods is widespread at most workplaces. Often it may only include cleaning products and substances used in controlled environments such as laboratories, but can of course include complex and extremely hazardous chemicals. Typical hazardous substances may include but are not limited to:

- Asbestos
- Carbon monoxide
- Cyanide
- Dust and fumes
- Fibreglass
- Flammable liquids
- Inorganic lead
- Isocyanate in paints
- Mercury
- Ozone Depleting Substances (ODSs)
- Poly chlorinated biphenyls (PCBs)
- Soldering fluxes
- Synthetic Mineral Fibres

Hazardous materials may be used or generated as waste at many points during the jewellery supply chain. Though definitions vary across jurisdictions, materials are often designated as hazardous if they are flammable, oxidising, corrosive, toxic, radioactive or explosive and pose threats to public health or the environment. Examples relevant to the sector may include mining overburden, gold beneficiation and refining wastes, electroplating residues, degreasing wastes, mercury, paints and solvents, used oils, electronics, batteries, refrigerants, and many industrial chemicals and cleaning agents. These materials, and others, all attract different regulatory conditions, depending on the jurisdiction.

Mercury in particular has strong relevance in the gold jewellery supply chain. Mercury may be found in trace quantities in gold ores and is used for gold recovery in some artisanal and small-scale mining. Mercury emissions from gold refining vary greatly based on the mercury content of the ore being used, production process, and control technology. Recovering mercury during the refining process may be done to comply with regulatory requirements, or if the value of the mercury recovered provides an incentive. Mercury is sometimes used in laboratories for gold assaying and as a gold-plating agent in small-scale jewellery manufacturing, though these uses are diminishing because of its toxicity.

Further information on managing wastes is provided in the Standards Guidance for **COP 3.3 Waste and Emissions**.

## C Key regulations

### International standards

Standards and regulations exist for many of the hazardous substances used in the gold and diamond jewellery supply chain. Some of the key international regulations relating to hazardous substances include:

- The Rotterdam Convention (1998) with the objective to protect human health and the environment from potential harm from the movement and trade of hazardous substances and to contribute to the environmentally sound use of those hazardous chemicals. The Convention creates legally binding obligations for signatory countries including the need for Prior Informed Consent about the movement and effects of hazardous substances. It covers pesticides and industrial chemicals that have been banned or severely restricted for health or environmental reasons. Countries ratify the obligations in the Convention by setting up government agencies to manage hazardous substances within their jurisdictions. Therefore, compliance with local Applicable Law generally means that this Convention is being followed.
- The Stockholm Convention (2004) is an international legally binding convention aiming to end the release and use of persistent organic pollutants (POPs). POPs are defined as chemical substances that persist in the environment, bio-accumulate through the food web, and pose a risk of causing adverse effects on the environment and human health. Substances targeted under this Convention for reduction and ultimate elimination are nine kinds of pesticides, two industrial chemicals (hexachlorobenzene and polychlorinated biphenyls (PCBs)), and two families of chemical byproducts (dioxins and furans) from combustion processes and production of chlorinated substances.
- The Montreal Protocol on Substances that Deplete the Ozone Layer (1989) phases out production of a number of ozone-depleting substances. To date, the primary focus has been on chlorofluorocarbons (CFCs), with slower phasing out of other substances.

A specific initiative for a hazardous material in mining is the International Cyanide Management Code for the Manufacture, Transport and Use of Cyanide in Gold Mining (the "Cyanide Code"). It is a voluntary program for the gold mining industry to promote responsible management of cyanide, with a focus on protecting human health and the environment.

### National law

Most countries have legislation and regulation regarding the proper handling, management, use and disposal of hazardous substances. Many national and state jurisdictions require additional specific conditions for businesses that need to be met especially in storage and handling of hazardous substances. Most countries will have laws regarding the need for all hazardous substance to be accompanied by a material safety data sheet (MSDS), or equivalent. An MSDS is a document containing important information about a hazardous substance and on how to safely handle them, and usually must state:

- a hazardous substance's product name
- the chemical and generic name of certain ingredients
- the chemical and physical properties of the hazardous substance
- health hazard information
- precautions for safe use and handling
- first aid procedures
- the manufacturer's or importer's name, address and telephone number.

Many jurisdictions require that a MSDS sheet have been issued within the previous 3 years. Members thus need to ensure that their MSDS sheets are current.

The MSDS provides employers, self-employed persons, workers and other health and safety representatives with the necessary information to safely manage the risk from hazardous substance exposure. It is important that everyone in the workplace has access to and can read and interpret a MSDS. Many jurisdictions require that MSDS must have been issued within the previous 3 years. Members thus need to ensure that their MSDS are current.

A UN program is underway to develop a 'Globally Harmonized System of Classification and Labelling of Chemicals' (GHS). The GHS seeks to provide a basis for harmonization of rules and regulations on chemicals at national, regional and worldwide level. While governments, regional institutions and international organizations are the

primary audiences for the GHS, it also contains sufficient context and guidance for those in industry who will ultimately be implementing the requirements which have been adopted. In particular, the GHS provides a format that can be used for MSDS. Implementation has already occurred in some countries with the aim of global implementation by 2015. Significant changes to domestic regulation in many countries are anticipated as a result of GHS implementation.

It is essential for Members to be aware of and comply with applicable laws and regulations.

### Mercury

Under the auspices of the UNEP Governing Council, the UNEP Global Mercury Partnership was established to further long-term international action to address mercury release. The overall goal of the Partnership is to protect human health and the global environment from the release of mercury and its compounds by minimizing and, where feasible, ultimately eliminating global, anthropogenic mercury releases to air, water and land. The Partnership will review and assess options for enhancing voluntary measures and new and existing international legal instruments. RJC strongly supports the goals of the UNEP Global Mercury Partnership, and has committed its participation in the work of the program.

Where Members produce mercury as a by-product of gold mining or refining, this should be managed in compliance with applicable law and regulations.

For example, the State of Nevada in the United States in 2006 issued regulations requiring best available control technologies to control mercury air emissions from industrial gold mines in that state. The program applies to mining facilities that process mercury-containing ore and use thermal treatment processes that have the potential to liberate mercury into the atmosphere.

## D Suggested management approach

**Risk Assessment:** Risk assessments should be completed for all hazardous substances used at the workplace, to assess whether there is a risk to the workers health and the environment. The results of the risk assessment will then determine what type of controls are needed, if any, what type of health surveillance is needed, if any, and what type of monitoring is needed, if any. These records should be kept until the activities change.

The risk assessment will help determine whether the following measures may also assist:

- **Management responsibility:** Responsibility for the storage, labelling and management of hazardous substances needs to be defined and communicated. This includes authority for approving the introduction of new chemicals into a facility and the provision of adequate resources to store and respond to incidents specific to the nature of the material.
- **Written policy and procedures:** Written policies and procedures regarding the review and use of chemicals, including the need for all substances to be accompanied by MSDS's, should be kept in two locations: firstly, in a consolidated register of all hazardous substances; and secondly, close enough to where the good is stored or used.

All vessels containing hazardous substances must have a proper label affixed to them and employers should ensure that the labels are not interfered with or damaged in any way. Where a good is decanted into a second container, the second container will need to be labelled in a similar way to the original. Manifests showing the type, amount and location of goods present should be available to emergency services.

- **Record keeping:** Maintain accurate records of hazardous substances controls, management and exposure. Keep these records for a period consistent with local regulations.
- **Training:** All workers should receive training and induction on dangerous goods and again these records should be retained.

Further information on managing wastes is provided in the Standards Guidance for **COP 3.3 Waste and Emissions**.

## E Further information

The following websites have further information on hazardous substances:

- International Cyanide Management Code for the gold mining industry  
[www.cyanidecode.org/](http://www.cyanidecode.org/)
- Material Safety Data Sheets – information  
[www.materialsafetydatasheetssearch.info/](http://www.materialsafetydatasheetssearch.info/)
- Globally Harmonized System of Classification and Labelling of Chemicals (GHS)  
[http://www.unece.org/trans/danger/publi/ghs/ghs\\_welcome\\_e.html](http://www.unece.org/trans/danger/publi/ghs/ghs_welcome_e.html)  
[http://www.unece.org/trans/danger/publi/ghs/implementation\\_e.html](http://www.unece.org/trans/danger/publi/ghs/implementation_e.html)
- Stockholm Convention on Persistent Organic Pollutants  
[www.pops.int/](http://www.pops.int/)
- The Montreal Protocol on Substances that Deplete the Ozone Layer  
[www.theozonehole.com/montreal.htm](http://www.theozonehole.com/montreal.htm)
- The Rotterdam Convention on the Prior Informed Consent for Certain Hazardous Chemicals & Pesticides in International Trade  
[www.pic.int](http://www.pic.int)
- UNEP Global Mercury Partnership  
[http://www.chem.unep.ch/mercury/partnerships/new\\_partnership.htm](http://www.chem.unep.ch/mercury/partnerships/new_partnership.htm)
- State of Nevada – Mercury air emissions program  
[http://ndep.nv.gov/mercury/mercury\\_air.htm](http://ndep.nv.gov/mercury/mercury_air.htm)

## STANDARD GUIDANCE

### (COP 3.3) Waste and Emissions

#### A Definition and applicability

Wastes and emissions are solid, liquid or gaseous materials that are released, discarded or no longer needed. Wastes and emissions can cause pollution and impact on the environment if not properly managed. In the jewellery supply chain, the main forms of waste include hazardous substances, air and water emissions, and general operational waste.

*(Source: Summarised from RJC Code of Practices.)*

The **Waste and Emissions** section of the COP is applicable to all Facilities which generate waste.

#### B Issue background

In business, the creation of waste can be understood as being a result of inefficiencies. These may be directly related to operating processes including raw material management, processing, and the output quality of products. Waste can also be generated from indirect sources such as through infrastructure development, administration and transportation. Effective waste management entails having suitable measures in place for the handling, storage, transport, and disposal of wastes, together with a commitment to waste minimisation.

As waste disposal is attracting increasingly higher costs, waste reduction can create financial benefits as well as environmental benefits. Cleaner production, eco-efficiency and life-cycle approaches, for example, call for industrial processes and products to be re-evaluated and redesigned to reduce environmental impact. Taking this approach, companies can often minimise the waste being generated in the first place, or find uses for waste products in other processes.

The approaches taken to manage waste vary, based on the waste characteristics, the nature of the operation and the available local and national waste facilities. However there are basic principles of waste reduction that apply everywhere. These are to *reduce* the amount of waste produced, reuse waste materials, *recycle* if they cannot be used in their existing form, and recover resources (such as energy) from wastes. The final measure is then to ensure safe disposal of residual wastes.

Air emissions are of increasing international concern because of their potential contribution to global climate change. Common emissions include carbon dioxide and monoxide, sulphur oxides, nitrous oxides, fluorides, and ozone depleting substances. Water emissions can occur through surface runoff, groundwater leaching, liquid spills, and discharges of waste water. Examples specific to mining include acid mine drainage, and leakage from heap leaching processes or tailings dams. Both air and water emissions are attracting increasingly strict regulatory limits and reporting requirements in many countries. Some countries have introduced emissions trading schemes, creating incentives for accurate measurement and incremental reductions.

General waste may be generated at all points of the jewellery supply chain. Depending on the business, general waste may include wood and paper products, plastics, food and plant items, metal items, office consumables, outdated site or office equipment, and commercial or shop discards, for example. The separation of waste streams within the business is an essential first step to their responsible management. Opportunities for reducing, reusing, recycling and resource recovery should be sought, though these will vary between different businesses and in different countries.

#### C Key regulations

##### International standards

For companies, the most recognised standard for environmental management systems is the ISO14000 family of standards, developed by the International Organisation for Standardisation (ISO). Companies can use these as a framework for developing their own systems, and may seek certification if their approach complies with the standard. The ISO standard does not address performance.

The Global Reporting Initiative is a widely accepted international standard for sustainability reporting. An important component of the standard is public disclosure of company wastes and emissions. There is a core framework that is applicable to all organisations, and supplements have been developed for particular sectors such as mining.

The Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal (1989) is the most comprehensive global environmental agreement on hazardous and other wastes. The Convention aims to protect human health and the environment against the adverse effects resulting from the generation, management, transboundary movements and disposal of hazardous and other wastes.

The Bamako Convention bans the Import into Africa and the Control of Transboundary Movement of Hazardous Wastes within Africa (1991). The Bamako Convention uses a format and language similar to that of the Basel Convention, but is much stronger in prohibiting all imports of hazardous waste. Additionally, it does not make exceptions on certain hazardous wastes (like those for radioactive materials) made by the Basel Convention.

The Zero Waste International Alliance was established to promote positive alternatives to landfill and incineration and to raise community awareness of the social and economic benefits to be gained when waste is regarded as a resource base.

### National law

Regulation on environmental waste issues is often complex with varying responsibilities at national, state and/or local levels. Most countries have detailed environmental legislation and regulatory processes, usually overseen by specific government departments or statutory authorities. The issue of waste management is prominent and there are usually limits on the nature of disposal of many materials, according to impact, material type and quantity. In some jurisdictions, there are incentives for voluntary waste reduction. It is essential to be aware of all relevant legislation, associated regulations and key bodies in the jurisdictions of operation.

Penalties for non-compliance vary from country to country, but can include significant fines and may extend to criminal liability. Infringement or violation of waste disposal or emissions rules can jeopardize operating licences and other permits. Significant impacts may require remediation to be undertaken at the company's cost.

## D Suggested management approach

**Risk assessment:** Carry out a risk assessment appropriate to the business' circumstances to identify where waste management is non-compliant or deficient. Identify what wastes exist within the area of responsibility of the workplace. Systematically identify opportunities for reducing waste, reusing materials, recycling and recovering value from wastes. Review methods of selecting appropriately qualified contractors to manage, transport and dispose of waste generated. Where relevant, consider every stage of the product life cycle: from raw material sourcing, through manufacturing, use and product end-of-life. If appropriate, carry out a specific waste assessment to quantify waste streams, calculate costs and liabilities, and identify options for improved waste management.

The risk assessment will help determine whether the following measures may also assist:

- **Management responsibility:** Nominate a senior manager as responsible for the environment and/or waste management in each workplace. Keep up to date on applicable legislation, regulatory guidance, compliance issues and procedures and reporting/record-keeping requirements in all jurisdictions of operation.
- **Written policy and procedures:** Develop a written policy on environmental and/or waste management. Provide the policy to all staff and display it in common areas in the workplace. Develop procedures to address waste management in all areas of the business. For organisations that have not previously had a waste management policy or approach, basic housekeeping approaches should be addressed as a simple first step. Set targets to encourage implementation of the policy and procedures.
- **Record keeping:** Develop performance metrics for waste management, storage, transport and disposal and maintain records over time. Investigate any areas of non-compliance and record the steps taken to reduce the risk of repetition. Regularly evaluate progress against targets.
- **Employee engagement:** Employee commitment to good environmental management will help identify opportunities and achieve targets. Employees should be aware of how to raise waste management concerns with the company. Incentives for waste reduction could be incorporated in employee performance reviews.
- **Training:** Regularly train employees in the waste management procedures involved in their tasks. Explain the consequences of incorrect waste segregation, management and disposal. Keep records of the content, extent and recipients of training.

## E Further information

The following websites have further information on waste management:

- International Organisation for Standardisation ISO 14000 family - Essentials  
[www.iso.org/iso/iso\\_catalogue/management\\_standards/iso\\_9000\\_iso\\_14000/iso\\_14000\\_essentials.htm](http://www.iso.org/iso/iso_catalogue/management_standards/iso_9000_iso_14000/iso_14000_essentials.htm)
- Global Reporting Initiative – Sustainability Reporting  
[www.globalreporting.org/Home](http://www.globalreporting.org/Home)
- International Cyanide Management Code  
[www.cyanidecode.org/](http://www.cyanidecode.org/)
- Environment Protection Authority, Victoria (Australia) – Guidelines to waste assessment  
[www.epa.vic.gov.au/bus/resource\\_efficiency/waste\\_assessment.asp](http://www.epa.vic.gov.au/bus/resource_efficiency/waste_assessment.asp)
- Sustainable Business Associates – Downloadable environmental management tools. Includes good housekeeping checklists for small businesses (click on 'Download Tools')  
[www.sba.hello.to/](http://www.sba.hello.to/)
- Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal  
[www.basel.int/](http://www.basel.int/)
- Bamako Convention  
[www.ban.org/Library/bamako\\_treaty.html](http://www.ban.org/Library/bamako_treaty.html)
- The Zero Waste International Alliance  
[www.zwia.org](http://www.zwia.org)

## STANDARD GUIDANCE

# (COP 3.3.4) Tailings and waste rock management

### A Definitions and applicability

Mining wastes are those wastes generated during the extraction, beneficiation, and processing of ore. Waste rock and overburden are the materials that are removed to access the ore. Tailings consist of ground rock and effluents that are generated during processing of the ore.

(Source: <http://www.tailings.info/tailings.htm>)

The **Tailings and waste rock management** section of the COP is applicable to all tailings and waste rock generated on site at Mining Facilities. The **Tailings Management and Waste Rock** provisions should be implemented in conjunction with **COP 3.2 Hazardous Substances** and **COP 4.4 Impact Assessment**.

### B Issue background

Tailings and waste rock facilities are an integral part of many mining operations and one of the mining industry's key challenges to achieving improvements in environmental performance. Diamond and gold mining operations involve a range of different types of mining processes in very different environments, requiring site-specific approaches to management of these large volume mine wastes.

Some mine wastes do not pose exposure risks and so do not require special treatment, reuse restrictions or geochemical monitoring. Such wastes can be used for landform reconstruction, road and dam construction, and may be suitable substrates for vegetation covers and similar rehabilitation measures upon mine closure. However some types of mine waste contain hazardous substances and require monitoring, treatment and secure disposal.

There are three main types of impacts that can result from managing tailings and waste rock:

- Site choice can significantly alter the environmental and social impacts. Creation of the initial footprint has unavoidable impacts, and thus site selection is the design factor with the most profound influence on operational impacts, rehabilitation costs and post-closure liability.
- Tailings and waste rock may contain entrained liquors, acid-generating rock and/or mobile metal contaminants, and these can seep into groundwater or emerge in surface streams, with ecological impacts.
- Geotechnical failure, which happens rarely, can have catastrophic impacts. Good design and construction, along with management and monitoring systems, will minimize the likelihood of accidents occurring.

#### Tailings

Tailings are created where mined ores are upgraded to concentrates or final products by physical processes such as screening, crushing, grinding, and concentrating or by chemical methods such as leaching. The basic requirement of tailings management is to provide safe, stable and economical storage of tailings so as to protect human health and the environment.

Tailings may be managed in a variety of ways, depending on their physical and chemical nature, the site topography, climatic conditions, national regulation and the socio-economic context in which the mine operations and processing plant are located. Tailings storage and disposal methods used by the mining industry include the following:

- **Terrestrial storage** is the most common method used. The main types are:
  - Impoundment storage: Tailings are discharged into an impounding structure as a slurry and the excess water is removed via decant ponds, toe drains and under-drains. Impounding structures can include engineered earthen dams, natural topographical depressions or valleys, or mine pits.
  - Dry stacking: Tailings are dewatered using vacuum or pressure filters so the tailings can then be stacked into a dense and stable structure.
  - Storage in underground workings: This approach involves thickening the tailings, sometimes with the addition of waste aggregate and cement, to create a paste-like product that can be used to backfill underground voids.
  - Permanent heap leach pads and heap leach spoils: Constructed stockpile of agglomerated ore prepared for the purpose of leaching by means of percolating a solvent through the ore, placed on a lined solution collection and containment pad.

- **Sub-aqueous storage:** In countries where precipitation exceeds evaporation, such as Canada and Norway, water-retaining dams and diversion structures can be created around existing water bodies to allow tailings to be placed below the water surface. This method has the advantage of preventing oxidation of sulphidic tailings and related acid drainage.
- **Submarine tailings disposal** is sometimes used in very site-specific conditions, for example where land based disposal would cover lands with very high biodiversity, economic or cultural value, for materials with high acid rock drainage risk, and/or in areas where rugged topography, high rainfall and high seismic risk would make conventional tailings dam failure a significant risk. **Deep submarine tailings disposal** typically involves treating tailings to achieve a specified discharge standard, de-aerating and mixing with seawater (to reduce buoyancy) and then pumping tailings through a submerged pipe prior to discharge onto the sea floor, below the surface thermocline and euphotic zone, so the tailings form a 'density current' that descends to the depths of the ocean. However, **shallow submarine tailings disposal** is not considered good practice for chemically reactive tailings which could pose exposure risks to human health or the shallow marine environment.
- **Dredged separation spoils disposal** is used for sea-based diamond mining. It involves discharging inert dredge spoils, composed of seawater and sorted dredge material from a ship directly overboard.
- **Riverine tailings disposal:** This involves using active rivers to disperse tailings. The practice is not common and is not considered good practice. It is used in situations where high rainfall, mountainous terrain and seismic activity rule out other options.

Tailings disposal is at the forefront of the debate concerning the trade-off between the benefits that mining activity can bring to society and the cost of impacts associated with those activities. Decisions on tailings management are most commonly reached through an Environmental and Social Impact Assessment carried out prior to development approval. An ESIA usually covers methods and key issues, the regulatory framework, the consultation process, the social and environmental baseline, consideration of alternatives, prediction and evaluation of significant social and environmental impacts, mitigation or offset measures, and environmental and social management and monitoring plans.

A long-term approach to the planning of tailings storage is important and should take the following into account:

- Compliance with regulations.
- The failure or poor performance of tailings storage facilities can have a profound negative social, environmental and economic consequence.
- The main causes of reported tailings incidents are due to severe weather events, seismic activity, and/or a general lack of understanding of the features that control safe operations.
- Early and ongoing consultation, information sharing and dialogue with stakeholders are essential.

## C Key regulations and initiatives

### International

The International Commission on Large Dams (ICOLD) is an international non-governmental organization which provides a forum for the exchange of knowledge and experience in dam engineering. ICOLD leads the profession in ensuring that dams are built safely, efficiently, economically, and without detrimental effects on the environment. Extensive guidance is provided to designers, owners and operators of large dams, including tailings dams.

The International Council on Mining and Metals (ICMM), in partnership with UNEP and UNCTAD, host a website of 'Good Practice Mining' resources. There is a specific section on tailings management.

### National

Each jurisdiction has its own legislative and/or regulatory framework on tailings storage and management of other mine wastes that governs the design of storage facilities, licensing, monitoring, reporting and closure. It is essential for Members to comply with Applicable Law.

The Mining Association of Canada's (MAC) "Towards Sustainable Mining" initiative includes performance indicators for tailings management. A self assessment and verification protocol has been developed to evaluate conformance of management practices with the tailings management framework in the MAC "Guide to the Management of Tailings Facilities". While developed for the Canadian context, these resources can assist mines to plan for effective tailings management.

The Mine Environment Neutral Drainage (MEND) Program in Canada was implemented to develop and apply new technologies to prevent and control acid rock drainage. Canada is currently the only country to address acid rock drainage and metal leaching through a focused research program directed by a committee of industry, government and NGO representatives.

MEND is part of a global alliance for acid rock drainage research that also includes the International Network for Acid Prevention (INAP), the US Acid Drainage Technology Initiative, the Australian Centre for Minerals Extension and Research, the South African Water Research Commission and the Partnership for Acid Drainage Remediation in Europe.

## D Suggested management approach

**Risk assessment:** A risk assessment should be completed to identify the potential site-specific impact pathways and risks associated with the location, construction, operation and closure of any tailings or waste rock storage facility or other tailing management technologies. The results of the assessment should be used to scope an alternatives analysis, and identify any impacts that may require mitigation through design of the facility/ies.

The risk assessment should, at a minimum, consider:

- Location and proximity of tailings and/or waste rock storage facilities to sensitive environments and affected communities.
- Volume of tailings to be managed, retained and stored, and the capacity of storage facilities for tailings and/or waste rock over the life of the mine.
- Impact on storage facilities during major natural events such as earthquakes or severe rainfall events.
- Effectiveness of containment integrity management controls, such as tailings wall inspections for leaks, cracks and subsidence.
- Effectiveness of waste rock stockpiling methods to minimise effects of erosion including dust entrainment, sediment run-off and loss of topsoil.

The risk assessment will help identify and prioritise engineering design and management controls.

- **Management responsibility:** Identify a senior manager(s) to be responsible for tailings and waste rock management.
- **Written policy, procedures and plans:** A guiding principle of tailings and waste rock management should be continual improvement in operational, safety and environmental performance, supported by periodic review and evaluation. Mining Facilities should ensure that their documentation includes a commitment to:
  1. Design a tailings and/or waste rock management strategy to manage these wastes in accordance with the following principles:
    - a. At all times, manage tailings and waste rock in compliance with applicable laws, regulations and ordinances.
    - b. Not use riverine tailings disposal at new Facilities. For the avoidance of doubt, this does not apply to the disposal of waste rock and tailings materials in conventional waste rock dumps or tailings dams, which may be constructed within the catchments of a river system, where such structures are designed to retain and store the waste materials. (Note that any Mining Facilities that currently use riverine tailings disposal cannot be included in the Member's RJC Certification. These Facilities will be excluded from the Certification, but all other relevant COP provisions apply.)
    - c. Only use submarine tailings disposal in the event that:
      - i. a thorough environmental and social analysis of alternatives had been conducted which showed that submarine tailings disposal creates fewer environmental and social impacts and risks than a land-based tailings facility, and
      - ii. it can be scientifically demonstrated that a significant adverse effect on coastal resources does not result, and
      - iii. the tailings are released in seawater below the surface thermocline and euphotic zone.
    - d. Adopt and adhere to site-specific tailings and waste rock management performance standards that ensure structural stability, and protect the surrounding environment and local communities.
    - e. Undertake physical and geochemical characterisations of mining wastes so as to identify and manage potential impacts arising from acid rock drainage and metal leaching.

- f. Identify opportunities for beneficial use of end wastes with other relevant stakeholders.
  - g. Carry out early and ongoing consultation, information sharing and dialogue on tailings and waste rock management with stakeholders.
2. Document and apply effective processes for:
    - a. Materials handling, containment and control processes for tailings and waste rock;
    - b. Location, design, construction, operation and closure of tailings and waste rock storage facilities such that structures are stable, water quality is protected and the contents are managed and in compliance with regulatory requirements;
    - c. Identification, assessment monitoring, management and/or remediation of contaminated sites.
  3. Review, continually improve and introduce good industry practice.
    - a. Adaptive management planning and processes to carry out an ongoing program of review and continual improvement.
- **Record keeping and reporting:** As part of, or in addition to, the tailings and waste rock management plan, records need to be maintained that identify:
    - roles and responsibilities of personnel;
    - the minimum knowledge and competency requirements for each position with defined responsibilities;
    - the key components and location of the tailings and mine waste storage;
    - procedures and processes for managing change;
    - requirements for analysis and documentation of the performance of the tailings and mine waste storage;
    - reporting requirements (statutory and stakeholder).
  - **Training and communication:** Appropriate training must be provided to all personnel working at the tailings facilities and waste rock facilities, including contractors and suppliers. All relevant personnel should have an understanding of the tailings and mine waste management plan, their respective roles and responsibilities – particularly in the role of visual indications of storage performance. Consult with affected communities and stakeholders in the identification, assessment and management of any significant economic, public health and safety, social, and environmental risks associated with the tailings and waste rock facilities.

## E Further information

The following websites have further information on tailings and mine waste management:

- International Commission on Large Dams  
[www.icold-cigb.net/](http://www.icold-cigb.net/)
- Good practice mining – tailings website  
[www.goodpracticemining.com/tailings/](http://www.goodpracticemining.com/tailings/)
- ICMM “Good practice guidance for mining and biodiversity”  
[www.icmm.com/page/1182/good-practice-guidance-for-mining-and-biodiversity](http://www.icmm.com/page/1182/good-practice-guidance-for-mining-and-biodiversity)
- International Finance Corporation (IFC) Environmental Health and Safety Guidelines – Mining (December 2007)  
[www.ifc.org/ifcext/sustainability.nsf/AttachmentsByTitle/gui\\_EHSGuidelines2007\\_Mining/\\$FILE/Final+-+Mining.pdf](http://www.ifc.org/ifcext/sustainability.nsf/AttachmentsByTitle/gui_EHSGuidelines2007_Mining/$FILE/Final+-+Mining.pdf)
- Nevada Division of Environment Protection – Statutes and Regulations  
<http://ndep.nv.gov/ADMIN/NRS.HTM>
- Mining Association of Canada - A Guide to the Management of Tailings facilities  
[www.mining.ca/www/media\\_lib/TSM\\_Documents/TSM\\_Publications/tailingsguide.pdf](http://www.mining.ca/www/media_lib/TSM_Documents/TSM_Publications/tailingsguide.pdf)
- Mining Association of Canada – Tailings Assessment Protocol (2007)  
[www.mining.ca/www/media\\_lib/TSM\\_Documents/2007\\_Protocols/TAILINGS\\_PROTOCOL\\_2007.pdf](http://www.mining.ca/www/media_lib/TSM_Documents/2007_Protocols/TAILINGS_PROTOCOL_2007.pdf)
- Developing an Operation, maintenance and surveillance manual for tailings and water management facilities  
[www.mining.ca/www/media\\_lib/MAC\\_Documents/omsguideeng.pdf](http://www.mining.ca/www/media_lib/MAC_Documents/omsguideeng.pdf)
- Best Practice Guidelines for Tailings Management  
[www.ret.gov.au/resources/Documents/LPSDP/LPSDP-TailingsHandbook.pdf](http://www.ret.gov.au/resources/Documents/LPSDP/LPSDP-TailingsHandbook.pdf)

- Mine Environment Neutral Drainage (MEND) Program – Canada  
<http://www.nrcan.gc.ca/mms-smm/tect-tech/sat-set/med-ndd-eng.htm>
- International Network for Acid Prevention (INAP)  
<http://www.inap.com.au/>
- Global Acid Rock Drainage (GARD) Guide  
[http://www.gardguide.com/index.php/Main\\_Page](http://www.gardguide.com/index.php/Main_Page)
- Australian Centre for Minerals Extension and Research (ACMER)  
[www.acmer.uq.edu.au/](http://www.acmer.uq.edu.au/)
- Acid Drainage Technology Initiative (ADTI) Metal Mining Initiative  
[www.unr.edu/mines/adti](http://www.unr.edu/mines/adti)
- Partnership for Acid Drainage Remediation in Europe (PADRE)  
[www.padre.imwa.info](http://www.padre.imwa.info)
- South African Water Research Commission (WRC of South Africa)  
[www.wrc.org.za](http://www.wrc.org.za)
- Minerals Council of Australia – Enduring Value Guidance document  
[www.minerals.org.au/\\_\\_data/assets/pdf\\_file/0005/19832/EV\\_GuidanceForImplementation\\_July2005.pdf](http://www.minerals.org.au/__data/assets/pdf_file/0005/19832/EV_GuidanceForImplementation_July2005.pdf)

## STANDARD GUIDANCE

### (COP 3.4) Use of Energy and Natural Resources

#### A Definition and applicability

The efficiency of a process is the value of the output for a given value of input. Higher efficiency is achieved by a greater value of output for a smaller value of input. Resource efficiency efforts often focus on water and energy inputs.

Fossil fuels, such as coal, mineral oil and natural gas, are energy resources that were formed over millions of years. Greenhouse gases from fossil fuel use, such as carbon dioxide (CO<sub>2</sub>), methane (CH<sub>4</sub>) and nitrous oxide (NO<sub>2</sub>), affect the temperature and climate of the earth's surface.

*(Source: Summarised from RJC Code of Practices.)*

The **Energy use and natural resources** section of the COP is applicable to all Facilities.

#### B Issue background

Natural resources such as energy and water are increasingly the focus of efficiency measures in business. Efficiency improvements are one of the most effective ways to create business cost savings. They can be implemented in buildings and facilities, production processes and end-use products.

One of the strongest arguments for energy efficiency is that its benefits can often be easily forecasted, measured and calculated. Businesses can save energy in many ways including:

- Installing efficient lighting;
- Capturing and reusing waste heat;
- Regular scheduled equipment maintenance;
- Insulating buildings;
- Timers for heating and cooling systems;
- Energy efficient office appliances;
- Minimising the use of hot water;
- Equipment and process optimisation;
- Turning off all lights and equipment when they do not need to be operating.

Businesses have also generated significant cost savings from more efficiently using and treating water in their operations and facilities. Opportunities include:

- Fixing dripping taps and leaking pipes;
- Installing water saving accessories in the business (local water authorities can usually provide advice);
- Consider treating water for reuse rather than disposing;
- Avoid using water where dry techniques are available eg for cleaning or conveying materials;
- Substitution of potable water with lower quality (environmental and social value) water;
- Determine the minimum volume of water required for processes and make improvements where possible.

Metering water and energy consumption can identify what opportunities may exist in the business.

Other resources that businesses can target for efficiency measures include forest products (paper, cardboard and wood) and plastics (for example in packaging).

Inefficient use of fossil fuels can exacerbate the contribution of greenhouse gases into the environment leading to climate change. Climate change caused by greenhouse gases is one of the most serious challenges facing communities all over the world. Greenhouse gas abatement is not just for big business. Most measures to reduce energy consumption and greenhouse gas emissions will save money in the long term, increasing profitability. Reducing energy consumption and greenhouse gas emissions should be seen as an opportunity to provide businesses with a strong business advantage.

Carbon or emissions trading has become available in some markets. It is usually run by a government or central authority and aims to provide an economic incentive for businesses to reduce emissions. Carbon offsets generally refer to acts to mitigate emissions arranged by a commercial or not-for-profit provider. Offset methods include tree planting, renewable energy investment, energy conservation and methane capture. There are debates about the ultimate effectiveness of these approaches. They should be seen as complementary to more direct efforts to reduce energy consumption and emissions by facilities and operations, including transportation.

## C Key regulations

### International standards

Despite great advances in energy and water efficiency awareness, relatively few common standards exist. Most energy or water labelling programs, minimum efficiency standards and building codes are voluntary and vary depending upon industry sector and location. However where available, they can provide a means of comparison between different product and process choices.

The United Nations Framework Convention on Climate Change (1994) has been ratified by 192 countries, achieving near universal membership. The Climate Change Convention was created to begin considering what can be done to reduce global warming and how to cope with any inevitable changes. The Kyoto protocol is an addition to the Convention. It is a legally binding agreement for signatories to reduce greenhouse gas emissions worldwide.

### National law

Governments at national and regional levels often set regulations, guidelines and industry targets for water and energy efficiency. Under the Convention, governments are required to launch national strategies for greenhouse gas emissions. This can involve national targets for emissions reductions, and include specific legislation and regulations relating to the use of energy and resources.

As this is a rapidly changing area, it is important to keep abreast of legal requirements and business incentives relating to energy and resource use.

## D Suggested management approach

**Risk assessment:** Carry out a risk assessment appropriate to the business' circumstances to assess the significance and impact of resource use. If appropriate, identify opportunities to increase efficiency. See Appendix 1 for a basic risk assessment template.

The risk assessment will help determine whether the following measures may also assist:

- **Management responsibility:** Responsibility for resource efficiency can be part of an environmental management role.
- **Written policy and procedures:** Develop a written policy on resource efficiency. Develop procedures for considering efficiency issues in business decision making. Review existing operational procedures to identify opportunities for efficiency measures. Consider setting targets for efficiency improvements.
- **Record keeping:** Keep records of resource use. This will assist in identifying cost-effective improvements and measuring progress against targets.
- **Training:** Where appropriate, provide training on the business' policy and procedures to staff.

## E Further information

The following websites have further information on energy and natural resources:

- Environmental Protection Agency, USA – WaterSense  
[www.epa.gov/watersense/](http://www.epa.gov/watersense/)
- Environmental Protection Agency, Victoria – Conserving Energy  
[www.epa.vic.gov.au/bus/resource\\_efficiency/conserves\\_energy.asp](http://www.epa.vic.gov.au/bus/resource_efficiency/conserves_energy.asp)
- Environmental Protection Agency, Victoria – Conserving Water  
[www.epa.vic.gov.au/bus/resource\\_efficiency/conserves\\_water.asp](http://www.epa.vic.gov.au/bus/resource_efficiency/conserves_water.asp)

- Friends of the Earth Scotland – Green Travel Plan  
[www.green-office.org.uk/audit.php?goingto=factsheet7](http://www.green-office.org.uk/audit.php?goingto=factsheet7)
- United Nations Framework Convention on Climate Change – Essential Background  
[unfccc.int/essential\\_background/items/2877.php](http://unfccc.int/essential_background/items/2877.php)
- International Emissions Trading Association  
[www.ieta.org/ieta/www/pages/index.php](http://www.ieta.org/ieta/www/pages/index.php)
- Carbon Footprint – Reducing Your Impact  
[www.carbonfootprint.com/](http://www.carbonfootprint.com/)
- Carbon Catalogue – Carbon Offset Directory  
[www.carboncatalog.org/](http://www.carboncatalog.org/)
- Greenhouse Gas Protocol Initiative – Corporate Standard  
[www.ghgprotocol.org/standards/corporate-standard](http://www.ghgprotocol.org/standards/corporate-standard)

## STANDARD GUIDANCE

### (COP 3.5) Biodiversity

#### A Definitions and applicability

Biodiversity means the variability among living organisms from all sources including, inter alia, terrestrial, marine and other aquatic ecosystems and the ecological complexes of which they are part; this includes diversity within species, between species and of ecosystems. Biodiversity encompasses all living things, from human beings to micro-organisms and the habitats in which they live, and it also includes the genetic material within individual species.

Protected area means a geographically defined area which is designated or regulated and managed to achieve specific conservation objectives.

*(Source: Convention on Biological Diversity, [www.cbd.int](http://www.cbd.int))*

Key Biodiversity Areas (KBAs) are places of international importance for the conservation of biodiversity through protected areas and other governance mechanisms. They are identified nationally, based on their importance in maintaining species populations.

*(Source: [http://www.iucn.org/about/union/secretariat/offices/iucnmed/iucn\\_med\\_programme/species/key\\_biodiversity\\_areas/](http://www.iucn.org/about/union/secretariat/offices/iucnmed/iucn_med_programme/species/key_biodiversity_areas/))*

The **Biodiversity** section of the COP is applicable to all Members with Mining Facilities. 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.

The **COP 3.5 Biodiversity** provisions should be implemented in conjunction with **COP 2.11 Community Engagement and Development, COP 3.1 Environment Protection, COP 3.2 Hazardous Substances, COP 3.3 Waste and Emissions, COP 4.4 Impact Assessment, COP 4.5 Mine Closure Planning** and **COP 4.6 Sustainability Reporting** provisions.

#### B Issue background

Mining has the potential to affect biodiversity throughout the life cycle of a project, both directly and indirectly. The potential for significant impacts is greater when mining occurs in environmentally or socially sensitive areas. Mining is increasingly being proposed in remote areas that were previously unexplored and undeveloped for minerals, some of which are biodiversity-rich. The opening up of new prospective areas to mineral resources development provides an opportunity for the mining industry to demonstrate that practices have improved, including making 'no-go' decisions.

However, not all mining takes place in remote or highly sensitive areas. Some greenfield or expansion projects will be developed in relatively highly populated areas, industrial settings or regions that have been intensively farmed for many decades, where biodiversity is limited. In these situations, the focus should be on developing a sufficient understanding of local biodiversity and exploring opportunities for biodiversity enhancement with appropriate partners.

Despite the potential for negative impacts on biodiversity from mining operations, there is a great deal that companies can do to minimize or prevent such impacts in areas identified as being appropriate for mining. Being proactive in the assessment and management of biodiversity is important not only for new operations but also for those that have been operating for many years.

Opportunities for creating positive biodiversity outcomes and reducing negative impacts vary significantly from one operation to another. Mitigation is concerned with identifying and implementing measures to safeguard biodiversity and any affected stakeholders from potentially adverse impacts. Ideally, the aim is to prevent adverse impacts from occurring or, if this is not possible, to limit their significance to an acceptable level. The following hierarchy of approaches to mitigating biodiversity impacts (in descending order of priority) is a useful guide to planning<sup>3</sup>:

<sup>3</sup> Drawn from: Rio Tinto and biodiversity: Achieving results on the ground (2008)

- **Avoidance:** activities that either change or stop mining actions before they take place, preventing their expected impacts on biodiversity.
- **Minimisation:** actions that reduce the likelihood or magnitude of biodiversity impacts.
- **Rehabilitation:** the preparation of safe and stable landforms on sites that have been disturbed by mining, followed by re-vegetation with the aim of establishing a specific habitat type.
- **Offsets:** conservation actions designed to compensate for the residual, unavoidable impacts on biodiversity caused by mining. Offsets shouldn't be employed in place of appropriate on-site avoidance and minimisation measures, but should instead seek to address any residual gap.
- **Additional conservation actions:** activities intended to benefit biodiversity, such as capacity building and environmental education programs, where the outcomes can be difficult to quantify.

The RJC standard on biodiversity aims to address a number of key issues to enhance biodiversity outcomes: protected areas, key biodiversity areas, threatened species and rehabilitation.

### **Protected areas**

Protected areas remain the fundamental building blocks of virtually all national and international conservation strategies, supported by governments and international frameworks such as the Convention on Biological Diversity. Comprehensive and representative lists of various types of designated protected areas aim to ensure that ecosystems<sup>4</sup>, habitats and species are protected from damage and loss, particularly those which are remarkable in terms of richness, rarity, sensitivity and are relatively unmodified by human influence. In 2008, roughly a tenth of the world's land surface was under some form of protection.

The RJC biodiversity standard requires Members to not explore or mine within, or negatively impact adjacent, UNESCO World Heritage Sites. The RJC also requires Members to respect other areas legally designated for biodiversity protection, at the international, national, regional or local level. A clear understanding of the status of protected areas, and the implications for mining operations, is thus essential.

Mining is one of a small number of industries that has little or no control over where it can locate its operations, as mining can only occur where economically viable mineral deposits are located. In some cases, exploration and mining development may be incompatible with the objectives for which areas are designated for protection, even after all technically and economically feasible steps to reduce adverse impacts have been considered. However there are also situations where the development of a mine can benefit or enhance the conservation and protection of valuable ecosystems.

### **Key Biodiversity Areas**

For existing protected areas and species, biodiversity importance is at least partially identified. However some areas of international importance for biodiversity lie outside of designated protected areas.

Key Biodiversity Areas (KBAs) are intended to represent the most important sites for biodiversity conservation worldwide. As the building blocks for maintaining effective ecological networks, KBAs are the starting point for conservation planning at a landscape level. Governments, intergovernmental organizations, NGOs, the private sector, and other stakeholders can use KBAs as a tool for identifying national networks of internationally important sites for conservation.

Many existing protected areas are directly equivalent to KBAs. Some protected areas (or parts of protected areas) do not meet the criteria for global biodiversity significance, although they may be important for other reasons such as local, natural or cultural significance. In other cases, the boundaries of protected areas were not created on the basis of the conservation needs of the species for which they are (or have subsequently been found to be) of global or national importance, in which case the KBA will include areas outside the protected area, or will lie wholly outside current protected areas.

Currently, KBAs have been identified and are being safeguarded in over 100 countries around the world through the efforts of many stakeholders, including the BirdLife International partnership, Plantlife International and the Alliance for Zero Extinction.

Establishing biodiversity importance involves looking at a range of criteria to determine whether the site is of local, regional, national or international importance. Although no universal standard exists, some of the common criteria include the following:

<sup>4</sup> An ecological community, together with its environment, functioning as a unit.

- Species/habitat richness
- Species endemism
- Keystone species
- Rarity
- Size of the habitat
- Population size
- Fragility
- Value of ecosystem services
- Importance of species in the local, social context.

The application of these criteria is a matter of professional judgement and requires the involvement of a trained ecologist. Evaluation can be very complex in some developing countries where there is little information to evaluate biodiversity comparatively. In such circumstances, extensive fieldwork may need to be undertaken to better understand the relative value of operational sites.

Biodiversity offsets are being increasingly used in the mining industry to compensate for biodiversity loss and are part of the legal framework in some countries (for example, in USA, Brazil, Europe, Switzerland and Canada). Some mining companies are participating in voluntary offsets, suggesting that there is a business case beyond legislative compliance. If a robust legal framework is in place, it will provide a starting point for designing an appropriately managed biodiversity offset. In any case, understanding stakeholder needs and perspectives is the key to ensuring that offsets are credible and can deliver tangible conservation benefits.

### **Threatened species**

Threatened species are any species (including plant, animal, or fungus, etc) which are vulnerable to extinction in the near future. The RJC system follows the rationale that species threatened with extinction are high conservation priorities because there is limited time to take conservation action before they may become extinct. The International Union for the Conservation of Nature (IUCN) is the foremost authority on threatened species and groups them in categories of vulnerable, endangered and critically endangered.

Only a small number of the world's plant and animal species have been assessed. The species groups that have been comprehensively assessed include the amphibians, birds, mammals, freshwater crabs, warm-water reef-building corals, conifers and cycads. Environmental impact assessment processes for new mining developments, particularly in remote areas, have started to play a key role in the identification and assessment of new or threatened species.

### **Rehabilitation**

Mining represents a transient land use, and the aspiration should always be to restore land used for mining to a future use that takes biodiversity values into account. In broad terms, rehabilitation refers to the measures undertaken to return land on which mining has taken place to the agreed post-closure uses. In some jurisdictions, the legal requirement is for restoration of the pre-mining land use, whereas in others the end uses are open to a process of negotiation, either with the regulatory authorities or with a broader set of stakeholders.

Achievable objectives and targets for biodiversity re-establishment are essential to give the operation a framework on which to base its rehabilitation program. These should be developed through a dynamic and iterative process involving mining stakeholders. The following aspects should be taken into account:

- Relevant regulatory requirements and other guidelines;
- Effective consultation with key stakeholders;
- Competing interests need to be understood and reconciled;
- All available information on biodiversity;
- Technical limitations;
- Pre-mining land uses and the extent of biodiversity degradation;
- Whether mitigation or enhancement is intended;
- Post-mining land tenure and land uses;
- Integration into whole-of-lease biodiversity management;
- Minimizing secondary impacts;
- Other opportunities for biodiversity improvement.

## C Key conventions, initiatives and regulations

### National law

Nearly all jurisdictions have a legal and regulatory framework for environmental protection. Many of the signatory countries to the Convention on Biological Diversity have introduced specific national laws protecting the biodiversity values of their country. It is essential that Members are familiar with applicable law and understand the legislative and regulatory framework for biodiversity in all areas of operation.

### International conventions

At the 1992 Earth Summit in Rio de Janeiro, the United Nations Convention on Biological Diversity (CBD) was signed by 157 governments; it has since been ratified by 188 countries. The objectives of the CBD are to encourage and enable all countries to:

- conserve biodiversity;
- sustainably use the various components of biodiversity; and
- share the benefits arising from the commercial and other use of biodiversity in a fair and equitable manner.

The CBD is an instrument for governments and is effected through national level legislation.

World Heritage Sites are established under the World Heritage Convention of 1972, which is administered by UNESCO. World Heritage status relates to cultural and/or natural heritage considered to be of outstanding value to humanity. In 2009, there were more than 850 World Heritage listed sites in 145 countries. A World Heritage Site can be a forest, mountain, lake, desert, monument, building, complex, or city. Each World Heritage Site is the property of the state on whose territory the site is located, but it is considered to be in the interest of the international community to preserve each site. In situations where a mine operation pre-exists World Heritage designation, grandfathering legislation may come into effect for that operation.

The Convention on Wetlands of International Importance, called the Ramsar Convention, is an intergovernmental treaty that provides the framework for national action and international cooperation for the conservation and wise use of wetlands and their resources. The Convention entered into force in December 1975. The addition of a site to the Ramsar List confers international recognition and expresses the government's commitment to take all steps necessary to ensure the maintenance of the ecological character of the site.

### International initiatives

A growing number of financial institutions are developing standards which are required of the private sector through financing of development projects. The International Finance Corporation (IFC) Performance Standard 6 (April, 2006) provides an international standard for Biodiversity Conservation and Sustainable Natural Resource Management. The objectives of IFC Performance Standard 6 are to:

- Protect and conserve biodiversity
- Promote the sustainable management and use of natural resources through the adoption of practices that integrate conservation needs and development priorities.

Where the national framework for biodiversity is inadequate or non-existent, the IFC standard can provide guidance for how companies should manage their approach to biodiversity.

The International Council on Mining and Metals (ICMM) has published a Position Statement on Mining and Protected Areas. The Position Statement outlines five commitments of ICMM Members, the first two of which align with the RJC Biodiversity standard. The remaining commitments relate to ongoing work on mining and protected areas with key stakeholders. The ICMM has an ongoing dialogue with the International Union for the Conservation of Nature (IUCN), with a view to strengthen the IUCN system of protected area categorization and address application issues.

ICMM have also published a Good Practice Guidance for Mining and Biodiversity. The Guidance encompasses the steps required to improve biodiversity management throughout the mining life cycle, from exploration to closure. It offers a series of practical modules to enable mining companies to:

- Understand the interfaces between their activities and biodiversity;
- Assess the likelihood of their activities having negative impacts on biodiversity;
- Mitigate potential impacts on biodiversity;
- Explore the potential to contribute to biodiversity conservation.

## Categorisation

The IUCN in 1994 published the Protected Area Categories system as an important global standard for the planning, establishment and management of protected areas. The IUCN Categories are as follows:

- Category Ia: Strict nature reserve
- Category Ib: Wilderness area
- Category II: National park
- Category III: National monument or feature
- Category IV: Habitat/species management area
- Category V: Protected landscape/seascape
- Category VI: Protected area with sustainable use of natural resources

Although the categories were not originally intended as policy instruments, in practice they have frequently been used as such, both by IUCN itself and much more frequently by governments and other institutions. At times, the categories have been used in a limited way to suggest international policy including controls on particular management interventions within protected areas. Most significant was the development of an "IUCN No Go position on mining in categories I to IV" in 2000. It represented a new application of the IUCN categories system in that it linked restrictions on resource use to the system itself, however this also raised important questions about whether the system was rigorous enough for these purposes.

The IUCN Red List of Threatened Species provides taxonomic, conservation status and distribution information on plants and animals that have been globally evaluated using the IUCN Red List Categories and Criteria. This system is designed to determine the relative risk of extinction, and the main purpose of the IUCN Red List is to catalogue and highlight those plants and animals that are facing a higher risk of global extinction (i.e. those listed as Critically Endangered, Endangered and Vulnerable).

A number of databases maintained by conservation organisations provide details on protected areas that are of international or national importance, Key Biodiversity Areas and on species that are threatened or endangered. These include:

- UNEP-WCMC World Database of Protected Areas
- Alliance for Zero Extinction sites
- Important Bird Areas – BirdLife International
- Important Plant Areas – PlantLife International
- Fauna and Flora International
- Conservation International
- Natura 2000 sites
- High Conservation Value areas

National and state legislation in many countries also maintains lists of locally, regionally or nationally threatened species and habitats.

## Tools and other initiatives

There are a range of initiatives and tools being developed to assist companies understand and manage biodiversity issues.

The Business and Biodiversity Offsets Program (BBOP) is a partnership between companies, governments and conservation experts to explore biodiversity offsets. Its objectives are:

- Demonstrating conservation and livelihood outcomes in a portfolio of biodiversity offset pilot projects;
- Developing, testing, and disseminating best practice on biodiversity offsets; and
- Contributing to policy and corporate developments on biodiversity offsets so they meet conservation and business objectives.

The Integrated Biodiversity Assessment Tool (IBAT) is designed to facilitate access to up-to-date and accurate biodiversity information to support critical business decisions. IBAT is the result of a partnership among BirdLife International, Conservation International and the United Nations Environment Programme (UNEP) World Conservation Monitoring Centre (WCMC).

The High Conservation Value (HCV) concept, initially developed by the Forest Stewardship Council, provides a systematic basis for identifying critical conservation values – both social and environmental. The generic values are elaborated in the High Conservation Value Toolkit, which is a set of global guidelines on how to use the high conservation values in all kinds of habitats and ecosystems.

## D Suggested management approach

- **Management responsibility:** Identify suitably qualified person(s) to be accountable for ensuring biodiversity management is incorporated into impact assessment, planning and work practices at the mining facility.
- **Written policy, plans and procedures:** Ensure biodiversity management is addressed in corporate/site sustainability (or equivalent) policy and documentation. Ensure that exploration and mining will not be undertaken in World Heritage Sites or lead to extinction of a species listed by the IUCN as threatened by extinction. Ensure that existing and future operations adjacent to World Heritage Sites are compatible with the outstanding universal value for which these properties are listed and do not put the integrity of these properties at risk through any direct negative impacts. Ensure that systems are in place at a corporate and Facility level to respect legally designated respected areas, including a process to identify areas, ensure compliance, and take biodiversity into account in decision-making.

Develop and apply a management plan for each Mining Facility that includes:

- identification of biodiversity values in the areas of proposed activity, including related activities (eg transport routes) as appropriate and an appropriate buffer area adjacent to the activity;
- identification of any Key Biodiversity Areas within operating boundaries, through analysis of online databases, national and state legislation, scientific literature and, where appropriate, field surveys;
- identification of biodiversity mitigation, rehabilitation and enhancement processes and resources required;
- detail on monitoring practices to measure the effectiveness of environmental management on biodiversity including adaptive management plans;
- a commitment to stakeholder engagement on aspects of planning, objectives and target setting, implementation and monitoring of environmental management results, reporting and communication, and continual improvement of environmental performance.

A biodiversity action plan provides detail on how the objectives and targets for biodiversity conservation can be achieved. Elements that can be covered in an action plan include:

- Control of access to areas of importance for biodiversity
  - Clear demarcation of all protected areas to avoid inadvertent destruction
  - Controls on how vegetation (and associated fauna) are removed
  - Management of pest plants and animals
  - Management of community biodiversity uses and other ecosystem services
  - Research and development programs
  - Rehabilitation trials
  - Research on aspects relevant to the wider setting of the mine.
- **Record keeping and reporting:** Changes in biodiversity need to be monitored to evaluate the success of management plans, rehabilitation trials, research projects and the general changes in the biodiversity of the area around the site that may be influenced by non-mine factors. Monitoring of biodiversity programs can be undertaken in-house or in partnerships with various institutions such as universities and other learning centres. Reporting should cater for formal government reporting requirements and provide information for the broader public and other stakeholders. Public reporting on performance can range from publications in the scientific literature to annual sustainability reports (see COP 4.6 Sustainability Reporting, which includes a number of indicators relevant to mining and biodiversity).
  - **Training and communication:** Provide training to ensure adequate competency and knowledge of biodiversity policies, plans and procedures among employees and those of contractors. Provide adequate and appropriate training to personnel responsible for biodiversity management.

## E Further information

The following websites have further information relating to Biodiversity:

- Convention for Biological Diversity  
[www.cbd.int/](http://www.cbd.int/)
- World Heritage Areas – UNESCO  
[whc.unesco.org/en/list](http://whc.unesco.org/en/list)
- Convention on Wetlands of International Importance – Ramsar Convention  
[www.ramsar.org](http://www.ramsar.org)
- The Integrated Biodiversity Assessment Tool  
<http://ibatforbusiness.org/ibat/>
- Global Biodiversity Information Facility  
<http://www.gbif.org/>
- IFC Performance Standard 6 – Biodiversity Conservation and Sustainable Natural Resource Management  
[www.ifc.org/ifcext/sustainability.nsf/AttachmentsByTitle/pol\\_PerformanceStandards2006\\_PS6/\\$FILE/PS\\_6\\_BiodivConservation.pdf](http://www.ifc.org/ifcext/sustainability.nsf/AttachmentsByTitle/pol_PerformanceStandards2006_PS6/$FILE/PS_6_BiodivConservation.pdf)
- IUCN – Identification and Gap Analysis of Key Biodiversity Areas (2007)  
<http://data.iucn.org/dbtw-wpd/edocs/PAG-015.pdf>
- IUCN – Guidelines for Applying Protected Area Categories  
<http://data.iucn.org/dbtw-wpd/edocs/PAPS-016.pdf>
- IUCN Red List of Threatened Species  
<http://www.iucnredlist.org/>
- IUCN-ICMM Dialogue  
[www.iucn.org/about/work/programmes/business/bbp\\_our\\_work/bbp\\_mining/](http://www.iucn.org/about/work/programmes/business/bbp_our_work/bbp_mining/)  
[www.icmm.com/page/1672/iucn-icmm-dialogue](http://www.icmm.com/page/1672/iucn-icmm-dialogue)
- ICMM Position Statement – Mining and Protected Areas  
[www.icmm.com/document/43](http://www.icmm.com/document/43)
- ICMM “Good practice guidance for mining and biodiversity”  
[www.icmm.com/page/1182/good-practice-guidance-for-mining-and-biodiversity](http://www.icmm.com/page/1182/good-practice-guidance-for-mining-and-biodiversity)
- ICMM Mine Closure Toolkit  
[www.icmm.com/page/758/our-work/projects/articles/integrated-mine-closure](http://www.icmm.com/page/758/our-work/projects/articles/integrated-mine-closure)
- ICMM Case study “Improving Biodiversity Coverage in EIAs”  
[www.icmm.com/our-work/case-studies](http://www.icmm.com/our-work/case-studies)
- ICMM - Integrating biodiversity into mine planning  
[www.icmm.com/page/897/integrating-biodiversity-into-environmental-management-systems](http://www.icmm.com/page/897/integrating-biodiversity-into-environmental-management-systems)
- ICMM – Biodiversity Offsets: A briefing paper for the mining industry (2005)  
[www.icmm.com/document/25](http://www.icmm.com/document/25)
- Good practice mining website – Biodiversity  
[www.goodpracticemining.com/search.php?Query=biodiversity&searchArea=on](http://www.goodpracticemining.com/search.php?Query=biodiversity&searchArea=on)
- Business and Biodiversity Offsets Program  
<http://www.forest-trends.org/biodiversityoffsetprogram/>
- Mining Association of Canada – Mining and Biodiversity Conservation (2007)  
[http://www.mining.ca/www/media\\_lib/TSM\\_Documents/Biodiversity\\_Framework\\_EF\\_0729207.pdf](http://www.mining.ca/www/media_lib/TSM_Documents/Biodiversity_Framework_EF_0729207.pdf)
- Rio Tinto and Biodiversity  
[www.riotinto.com/documents/RT\\_and\\_biodiversity\\_brochure.pdf](http://www.riotinto.com/documents/RT_and_biodiversity_brochure.pdf)
- United Nations Environment Programme (UNEP) World Conservation Monitoring Centre (WCMC)  
<http://www.unep-wcmc.org/>

- UNEP WCMC – Protected Areas database  
<http://www.wdpa.org/>
- Society for Ecological Restoration International – many examples of ecological restoration with various related resources  
[www.ser.org](http://www.ser.org)
- Centre for Mined Land Rehabilitation, University of Queensland, Australia – various examples and papers on restoration  
[www.cmlr.uq.edu.au](http://www.cmlr.uq.edu.au)
- Prospectors and Developers Association of Canada (PDAC), e3+ initiative – various toolkits on social responsibility, environmental stewardship, health and safety  
<http://www.pdac.ca/e3plus/index.aspx>
- New South Wales Department of Primary Industries – Guidelines to the mining, rehabilitation and environmental management process  
[www.dpi.nsw.gov.au/\\_\\_data/assets/pdf\\_file/0007/96118/edg03-Guidelines-to-the-Mining,-Rehabilitation-and-Environmental-Management-Process---MREMP-Guideline.pdf](http://www.dpi.nsw.gov.au/__data/assets/pdf_file/0007/96118/edg03-Guidelines-to-the-Mining,-Rehabilitation-and-Environmental-Management-Process---MREMP-Guideline.pdf)
- High Conservation Value (HCV) resource network  
[www.hcvnetwork.org](http://www.hcvnetwork.org)

## STANDARD GUIDANCE

# (COP 4.1) Legal Compliance

### A Definition and applicability

Compliance is a state of being in accordance with established guidelines, specifications, or legislation. Legal compliance generally refers to behaviours and practices that are conducted in accordance with supra-national and/or national and/or state and/or local laws of the country or countries in which the business operates.

Compliance with the law is a fundamental requirement of RJC certification. Members are expected to comply with applicable law relating to their business, human rights, social and environmental conduct.

The **Legal Compliance** section of the COP is applicable to all Members.

### B Issue background

Legal and regulatory compliance is a primary business concern. There are an ever-increasing number of regulations, more severe penalties for breaking the law and a fairly widespread lack of understanding about what is required for a company to be legally compliant.

Members need to understand and at all times act in a manner that is consistent with Applicable Law relating to their business conduct, human rights, social and environmental performance including, but not limited to:

- Bribery and facilitation payments;
- Money laundering and finance of terrorism;
- Corruption, smuggling, embezzlement, fraud, racketeering, transfer pricing and tax evasion;
- Trading practices and consumer rights;
- Human rights;
- Child labour;
- Employment terms and conditions including occupational health & safety;
- Environmental management;
- Community and social impact;
- Consumer health safety and environmental product information.

Most countries prescribe consequences for non-compliances, including:

- Imposition of financial penalties;
- Elimination (for many offences) of the obligation of the prosecution to prove intent (i.e. strict liability for pollution);
- Imposition of civil or criminal liability on companies for the acts of their employees;
- Imposition of civil or criminal liability on directors and managers for offences committed by their companies;
- Disqualification of directors; and
- Follow-on damages actions by affected parties.

### C Key regulations

This Guidance provides no specific advice on applicable law for individual Members as these laws vary based on the location of the Members' facilities and the nature of the facility. Members must of course rely on their own legal advice as to compliance with applicable laws.

Law typically consists of legislation made by governments and rules made by the courts. Legal compliance includes being aware of, and having systems in place to become aware of, developments in relevant applicable laws.

Legal obligations often extend beyond specific laws and regulations. Many principles and precedents have been established based upon the decisions of previous cases heard by the courts. These principles are referred to as Common Law or case law.

It is essential that Members and auditors be familiar with local legislation and regulations in all areas of operations, and keep abreast of legal developments in legislation and associated case law. Members should seek legal advice on their obligations where they do not understand their legal compliance requirements.

## D Suggested management approach

As a RJC member, it is incumbent on you to have in place processes and procedures that are able to identify key areas of legal risk and to ensure that a designated person is responsible for identifying all existing relevant applicable laws and associated developments. There should be effective procedures in place for communicating and ensuring compliance with all applicable legal requirements and implementing all necessary changes to relevant business practices as a result.

**Risk:** The management of legal compliance is a key risk for most organisations and should be a key focus for management. Managing legal risk effectively is widely seen as contributing to the good reputation and sustainability of a business.

The first step in determining what a business' legal responsibilities relating to business conduct, human rights, social and environmental performance involves the review of Applicable Law to determine, at a minimum:

- What legislation and regulation applies;
- What licences and permits are required; and
- What reporting and disclosure obligations exist.

The key legislation for the location/s where the Member operates should be reviewed and the applicability of these to the business' operations determined. The review of legislative requirements can be complex and not only requires a good understanding of the law, but also a process by which the key personnel at the facilities can be updated on any changes. Where Members have facilities or dealings in more than one jurisdiction, the business must also develop methods of understanding and complying with any trans-boundary regulatory requirements.

Identifying applicable regulations, interpreting them, and determining their impacts on your operations can be a time-consuming task. Fortunately, there are many methods for obtaining information about applicable laws or regulations. These methods include:

- commercial services;
- regulatory agencies;
- trade groups and associations;
- the Internet;
- public libraries;
- seminars and courses;
- subscriptions to newsletters and magazines;
- consultants and legal professionals; and
- customers, vendors and other companies.

The following measures may also assist:

- **Management responsibility:** Responsibility for management of compliance with Applicable Law, including identifying key legal risk areas, legal obligations and any regulatory reporting requirements should be clearly established and documented. A key person or group of people (such as a company secretary) should be nominated to assess the impact of developments in legislative requirements and other applicable laws and to communicate and implement any necessary or desirable changes to business practices as a result.
- **Written policy and procedures:** Develop written procedures for the following activities:
  - Identification of key areas of legal risk.
  - Identification and regular review of Applicable Law.
  - Periodic evaluation of compliance with Applicable Law. This procedure should include the process of bringing a non-complying situation into a state of compliance.
- **Training:** At all times Members are required to comply with the relevant requirements of Applicable Law. Members must provide employees, contractors and visitors with an appropriate level of understanding of these laws, usually via policies and procedures relevant to the work activity.

## E Further information

Members should seek legal advice regarding their business' compliance with Applicable Law.

## STANDARD GUIDANCE

### (COP 4.2) Policy

#### A Definition and applicability

A policy is a statement of principles and intentions.

*(Source: ISO14001 and ISO14004)*

The **Policy** section of the COP is applicable to all Members.

#### B Issue background

A policy is a statement, by a business, of its intentions and principles in relation to its overall performance.

A policy:

- Demonstrates commitment from the top;
- Demonstrates corporate responsibility and governance;
- Is consistent with other management policies and practices;
- Is a public document – it can be used by stakeholders to judge the Members performance.

The policy required under the Code of Practices supports the achievement of the Code as the driver for implementing and improving responsible business practices as a Member of the RJC. Members should document their policy and communicate it to all persons working for, or on behalf of the business. This can be achieved through formal awareness sessions, public newsletters, via the internet or publications in newspapers.

#### C Key regulations

##### International Standards

Many standards initiatives recommend developing a policy on the issue or system as a formal demonstration of the business' commitment.

It is a requirement of the RJC Code of Practices to develop and adopt a policy that supports achievement of the Code of Practices and to make the policy publicly available.

#### D Suggested management approach

- **Written policy:** Adopt a written policy, appropriate to the nature, scale and impacts of the Member's business, expressing a commitment to abide by the RJC Code of Practices. Ensure that it is:
  - Endorsed by senior management;
  - Communicated to those that work for and on behalf of the organisation; and
  - Available to the public.

An example policy statement is included in Appendix 2.

#### E Further information

The following website has further information on the RJC's Code of Practices:

- Responsible Jewellery Council  
www.responsiblejewellery.com

## STANDARD GUIDANCE

### (COP 4.3) Business Partners

#### A Definition and applicability

Business partners are organisations or businesses – such as contractors, suppliers, customers and joint venture partners – with which Members have direct business relations, and that buy and/or sell a product or service that directly contributes to the extraction, manufacture or sale of diamond and/or gold jewellery products.

*(Source: RJC Code of Practices)*

The **Business Partners** section of the COP is applicable to all Members.

#### B Issue background

Companies operating in a global economy are increasingly called upon to assume greater responsibility for business ethics, human rights, and social and environmental performance in their supply chains. Transnational corporations are increasingly held accountable for promoting and protecting the rights of workers who make their products, even when they are not the direct employer. As a result, many companies have developed policies, codes of conduct, contractual obligations and/or monitoring to govern the behaviour of their business partners around the world.

RJC Members aspire to demonstrate responsible business practices. They also expect high standards of their business partners, such as associate companies, contractors, suppliers of goods and services, and customers. The Code of Practices requires Members to use their best endeavours, commensurate with their ability to influence, to promote responsible jewellery practices among their business partners. The intent of the provision is for Members to consider the risks associated with the business practices of their gold and/or diamond jewellery-related business partners, and to take action appropriate to the circumstances. For the avoidance of doubt, the RJC does not require that Member's business partners adhere to the Code of Practices. This is a matter for Members' own discretion.

#### Significant Business Partners

The more significant the business partner is to a Member's own business, the greater the reputational risk is to the Member of the business partner engaging in questionable business practices. As such, provision 4.3 of the Code of Practices is directed primarily at significant business partners. Significant Business Partners are those Contractors, Suppliers or joint venture Partners that can notably impact or compromise the performance and reputation of the Member's activities. Such impacts may either be circumstantial or have a direct effect on the Member's practices. A circumstantial impact is a situation where a Business Partner's poor practices, for example in labour issues, can tarnish a Member's reputation even if the Member has not contributed towards these poor practices. An example of a direct effect is where a Business Partner's practices, such as bribery or money laundering, may expose or exacerbate deficiencies in the Member's own practices. A Member must determine which of its Business Partners are significant by taking into account the nature of the goods and services supplied, the Business Partner's reputation and standing, previous performance, as well as other material factors including financial and legal issues.

#### Best endeavours

Best endeavours means acting honestly, reasonably and making a positive effort to perform the relevant obligation, in this case to promote responsible business practices amongst Members' business partners. However, a Member's ability to do so must be balanced against countervailing commercial and other considerations. These include (but are not limited to):

- *Commercial and financial interests*  
If promotion of responsible business practices amongst business partners could lead to financial ruin or undermine commercial standing it might not be considered reasonable.
- *Existing duties or obligations*  
Pre-existing obligations owed to third parties could legitimately compromise a Member's ability to promote responsible business practices amongst business partners and override an obligation to use best endeavours.

- *Timing*

The reasonableness of any actions will be considered with reference to the circumstances and facts at the time of a Member's Self Assessment or Verification Assessment.

### **Ability to influence**

Members' influence over business partners will vary, depending on the nature of the relationship, the size of each organisation, and the economic and social context of the business. For example, small businesses which represent only a minority of a supplier's customer base will have less influence over that supplier than a larger customer. Auditors will take a Member's ability to influence into account when assessing best endeavours.

### **Business partners on premises**

Contractors who are working on the premises of Members are generally considered to be under the legal responsibility of the Member business. For this reason, the Code of Practices requires these business partners to comply with the Member's management and operating systems established to meet RJC obligations.

### **Scope**

There are legal constraints on the extent to which the RJC Code of Practices can require compliance with the Code of Practices by Members' business partners who are not RJC Members, except where they are operating on the premises of Members. In assessing this provision, Members and Auditors should evaluate the actions of Members to promote responsible practices, not the practices of non-Members.

## **C Key regulations**

### **International Standards**

International standards such as SA8000 Social Accountability, ISO14001 Environmental Management Systems and OHSAS 18001 Occupational Health & Safety Management Systems all contain elements which require a systematic approach to the management of business partners so that the risks to business partners, employees and other stakeholders are minimised.

Organisations are required to extend to business partners operating on-site the same level of management as would be afforded to directly employed personnel. Business partners must be aware of the hazards and controls that are in place in the same way as employees. Regular management communication and relevant training needs to be provided to business partners based on the nature, scope and complexity of their work. Organisations should establish processes to evaluate and select Business Partners based on their ability to work and supply goods within the organisation's stipulated practices, policies and procedures.

### **National law**

Most countries have legislation that ensures the wellbeing of business partners whilst working on a facility. Because of the nature of the activity, it is essential that Members are aware of the specific legislative and regulatory requirements in the operating jurisdiction. However, most regulations mandate the need to have controls and a reasonable level of supervision for activities conducted by business parties.

Laws are generally based on the premise that responsibility for the lawful conduct of business partners performing duties on site rests with the Member organisation. Members need to ensure that business partners are aware of the activities conducted on site and ensure that materials brought onto site and disposed of comply with the business' management practices and Applicable Law.

## **D Suggested management approach**

**Risk assessment:** Risk-based evaluations of business partners should be carried out to assist the Member establish the level of risk attributed to the nature of the relationship between the Business Partner and the Member. Assessments can be carried out prior to commercial arrangements being established or for existing commercial arrangements where there is an identified, material risk to the Member. Assessments can also be carried out on existing business partners to assist Members' existing relationships, as required.

The assessment should consider:

- The volume and/or profile of the business between the two companies;
- The complexity of the services to be conducted;
- The need to handle or generate hazardous materials and waste;

- Previous performance;
- Potential impact on the Members' own practices (including its reputation).

Some examples of areas that may impact on the Member's own practices, in the extent to which they are managed by the Business Partner, are:

- The nature of policies and procedures on responsible ethical, social and environmental practices;
- Awareness of relevant legislation and ability to evidence regulatory compliance;
- Independently certified/audited financial accounting systems;
- Management of employees and contractors;
- Health and safety management systems;
- Environmental management systems;
- Relationships with stakeholders and the community;

Business partners can be asked to provide evidence that they have assessed issues and risks involved with the proposed work and have given due consideration to how those risks will be controlled.

An example of a risk assessment template for business partners can be found in Appendix 3.

The risk assessment will help determine whether the following measures may also assist:

- **Management responsibility:** Responsibility for management of risks associated with business partners, including reporting relationships, lines of communications, and accountabilities, should be clearly established and documented.

Management should also make the Code of Practices available to business partners, so that comparable performance practices may be applied.

A liaison or key contact person should be nominated to facilitate communication between the business partners and Members management team. Such a person could be responsible for:

- Ensuring that Business Partners are properly inducted and trained if working on site;
- Supervision and management of Business Partners working on site;
- Communicating hazards and other activities in the business area;
- Working with the Business Partners to ensure that specified business systems and risk control measures are implemented for the duration of the scope of works.

- **Written policy and procedures:** Develop written procedures for the following activities:
  - Conduct of risk based evaluation of contractors and suppliers are evaluated prior to commencement of works or purchase of goods;
  - Clear communication lines and documented roles and responsibilities;
  - Process of communicating scope of work, conflicts and controls;
  - Processes to ensure that the ethical, human rights, social and environmental performance of business partners is monitored and reported;
  - Processes to respond to areas of poor performance and non-compliance with contractual terms;
  - Management of records relating to supply of goods and services.
- **Training:** Members should endeavour to ensure that their Business Partners conform to the requirements of the Member's relevant policies, procedures and systems (or equivalent), and with Applicable Law. Contractors working on site shall be provided with an understanding of these policies and procedures, and specific information relevant to worksite conditions and the agreed scope of work prior to commencing work on site and should be required to acknowledge in writing that this procedure has been read and understood and agreed to as a condition of contract. Other business partners could be alerted to training opportunities about responsible business practices in ethical, social, human rights and environmental accountability if appropriate.

## E Further information

The following websites have further information on managing business risks in supply chains:

- SA8000 Social Accountability standard  
[www.sa-intl.org/index.cfm?fuseaction=Page.viewPage&pageID=710](http://www.sa-intl.org/index.cfm?fuseaction=Page.viewPage&pageID=710)
- ISO14001 Environmental Management Systems standard  
[www.iso14000-iso14001-environmental-management.com/](http://www.iso14000-iso14001-environmental-management.com/)
- OHSAS 18001 Occupational Health and Safety standard  
[www.ohsas-18001-occupational-health-and-safety.com](http://www.ohsas-18001-occupational-health-and-safety.com)

## STANDARD GUIDANCE

# (COP 4.4) Impact Assessment

### A Definition and applicability

Impact assessment is the process of identifying the future consequences of a current or proposed action. (Source: <http://www.cbd.int/impact/>)

The **Impact Assessment** section of the COP is applicable to proposed new Mining Facilities and to proposed significant changes to existing Mining Facilities that have the potential to affect local communities and the surrounding environment. It does not apply retrospectively to impact assessments for existing Facilities formally commenced prior to 2010.

The **COP 4.4 Impact Assessment** provisions of the COP should be read and implemented alongside the **COP 2.11 Community Engagement and Development**, **COP 2.14 Artisanal and Small-scale Mining**, **COP 3.5 Biodiversity** and **COP 4.5 Mine Closure Planning** provisions.

### B Issue background

Impact assessment plays a critical role in a sustainable approach to developing and operating Mining Facilities. Considering impacts, benefits and mitigation strategies from a variety of perspectives, and from the beginning to the end of operations, these processes encourage a 'whole-of-mine-life' approach to the design, construction, operation and closure of a mine.

The purpose of an impact assessment is to identify, analyse and evaluate effects from a project and to identify measures to mitigate negative impacts and enhance positive impacts. The scale and detail of impact assessments should be proportional to the activities and their impacts, and the effects of indirect and cumulative impacts should be considered. Since mines have a finite life, the assessment process should include an analysis of options for and impacts of mine closure. Thus the timeframe for the assessment should cover during and beyond the lifetime of a mine, addressing local needs and priorities.

Impact assessments should take place at the earliest possible stage of a new mining project. It is a key input into project design and must be conducted sufficiently in advance to ensure that mitigation measures can be accommodated in design decisions. A critical component of the impact assessment process is participation of and/or engagement with affected communities and key stakeholders. Their involvement in impact assessment should be sought at an early stage, and sufficient time should be allowed for communities, government, industry and other stakeholders to understand, evaluate and discuss concerns throughout the process. The process needs to be sensitive to the potential for conflict to arise, particularly in the context of development approvals.

Impact assessments usually start with baseline studies. These should be designed to provide the necessary information on the site-specific environmental and social setting of the project to establish pre-project trends. Depending on the nature of the proposal, and the location, baseline studies may need to be carried out for at least a year, to capture the variable, seasonal and transient nature of the local environment or the social context.

Environmental impact assessment (EIA) is a process that identifies beneficial and adverse environmental impacts arising from a project. An EIA should be appropriate to the nature, scale and impact of a project. For mining projects seeking development approval, it is usually a full and formal impact assessment study involving detailed surveys of the existing environment, modelling of potential impacts and options, and extensive stakeholder consultation. At the exploration stage, an impact assessment may not be triggered under legislation but is nonetheless an important strategy for the business to identify and manage impacts.

Social impact assessment (SIA) includes the processes of analysing, monitoring and managing the intended and unintended social consequences, both positive and negative, of planned interventions (policies, programs, plans, projects) and any social change processes invoked by those interventions. The SIA should include human rights, gender and conflict in its terms of reference. The assessment should include input from affected parties and should incorporate land and customary rights, livelihoods (such as artisanal miners), employee/contractor issues, and demographic analyses. In particular, the SIA process should include a thorough assessment of how the community

understands its historic and present rights to access the land and resource. The SIA should be development-oriented, identifying potential positive contributions to local and regional development and community livelihoods, as well as key risks, such as conflict or violence. The approach should be participatory and empower affected communities in the assessment of risks and the design and implementation of mitigation measures and potential benefits.

Human Rights Impact Assessment (HRIA) is a relatively new concept and is seen as emerging best practice. At present human rights impact is treated as an element of a SIA. A typical SIA, however, may not explore the issue in adequate detail and depth to identify the extent of the risk and its possible consequences. An HRIA measures the impact of policies, programs, projects and interventions on human rights. There are different types of impact – it can be positive when the human rights situation improves as a result of activities and interventions, or it can be negative when the human rights situation worsens. Although HRIAs are a recent innovation, there are indications that they can significantly reduce risks for projects with human rights concerns.

## C Key frameworks and regulations

### International

The International Finance Corporation (IFC) Performance Standard 1 (2006) on Social and Environmental Assessment and Management System underscores the importance of managing social and environmental performance during the life of a project. The IFC standard recommends a process of Social and Environmental Assessment that considers in an integrated manner the potential social and environmental (including labour, health, and safety) risks and impacts of projects.

### National and/or state law

Legislation relating to Environmental Impact Assessments and Social Impact Assessments has been introduced into most countries, either at a national, state and/or local level. It is essential that Members are aware of applicable law and regulation in all jurisdictions of operation.

## D. Suggested management approach

- **Risk Assessment:** As soon as a new project or proposal has been defined, key social, environmental, and other risks should be identified and assessed. This includes risks associated with:
  - Gaining regulatory approval for the projects. Delays can be minimised through effective consultation processes that engage and respond to concerns and expectations of relevant stakeholders such as the local community, host government, customers and non-government organisations.
  - Company and/or project reputation. An effective impact assessment process can assist with maintaining a good company reputation and be used to eliminate long term liabilities that can affect the company's reputation in the long term.
  - Human rights. Assessing the risk of human rights being impacted as a result of the project will inform the scope of the SIA, or identify the need for a stand-alone HRIA. Impacts on women should be explicitly considered as part of a gender-aware approach to human rights.
  - Potential for conflict or violence. Risks of political instability, conflict or violence arising from, or contextual to, the development project should inform a conflict-sensitive business approach to the impact assessment and related business plans.

The scope of the impact assessment needs to be commensurate with the risk of the proposal. The risk assessment should also help determine the scope and depth of any baseline studies.

- **Management responsibility:** Identify suitably qualified person(s) to be accountable for implementing an environmental and social impact assessment. Appropriate expertise and experience is essential. Often specialists need to be engaged to carry out the baseline studies, and to facilitate and document the outcomes of the impact assessment. An impact assessment may be (or be perceived as being) more credible if it is prepared or at least peer reviewed by an independent firm.

Early scoping and planning is the key to a successful outcome. The time required to complete an impact assessment is usually a function of the proposal's complexity, though is sometimes defined in the local regulatory regime.

The Impact Assessment needs to be managed so as to carry out the following key steps:

- Identify relevant laws, regulations and regulators.
- Establish a system to screen expansions to determine if there is potential for significant impacts.
- Plan the ESIA (project scope, terms of reference, expertise, consultation plan, timing, budget etc). The terms of reference should include human rights, gender and conflict.
- Conduct the assessment, including an analysis of mine closure and opportunities for community development.
- Prepare a report which includes mitigation measures and unavoidable impacts.
- Associated environmental and social management plans should be prepared which build on the outcomes of the Impact Assessment.

In order to ensure that a holistic approach is adopted, social and environmental impact assessments should wherever possible be combined as an SEIA. Human rights, gender and conflict issues could be assessed as part of the SEIA or come under a separate HRIA.

- **Written policy, procedures and plans:** Ensure reference to impact assessment policy and/or procedures, and associated planning, in corporate/site sustainability (or equivalent) policy and documentation.

## E Further information

The following websites have further information relating to Impact Assessment:

- IFC Performance Standard 1 – Social and Environmental Assessment and Management Systems  
[http://www.ifc.org/ifcext/sustainability.nsf/AttachmentsByTitle/pol\\_PerformanceStandards2006\\_PS1/\\$FILE/PS\\_1\\_SocEnvAssessmentMgmt.pdf](http://www.ifc.org/ifcext/sustainability.nsf/AttachmentsByTitle/pol_PerformanceStandards2006_PS1/$FILE/PS_1_SocEnvAssessmentMgmt.pdf)
- International Association for Impact Assessment – Guidelines and Principles  
<http://www.iaia.org/publicdocuments/special-publications/SP2.pdf>
- ICMM “Good practice guidance for mining and biodiversity”  
[www.icmm.com/page/1182/good-practice-guidance-for-mining-and-biodiversity](http://www.icmm.com/page/1182/good-practice-guidance-for-mining-and-biodiversity)
- CommDev – The Oil, Gas and Mining Sustainable Community Development Fund  
[www.commdev.org/](http://www.commdev.org/)
- Anglo American – Socio-Economic Assessment Toolbox (SEAT)  
[http://www.angloamerican.co.uk/aa/development/society/engagement/seat/seat\\_toolbox2.pdf](http://www.angloamerican.co.uk/aa/development/society/engagement/seat/seat_toolbox2.pdf)
- Human Rights Impact Resource Centre  
<http://www.humanrightsimpact.org/>
- BP’s Human Rights Assessment at Tangguh, Indonesia (2002)  
[http://www.bp.com/liveassets/bp\\_internet/globalbp/STAGING/global\\_assets/downloads/1/hria\\_summary\\_Tangguh\\_HRIA\\_1736.pdf](http://www.bp.com/liveassets/bp_internet/globalbp/STAGING/global_assets/downloads/1/hria_summary_Tangguh_HRIA_1736.pdf)
- International Alert – Conflict sensitive business practice – guidance for extractive industries (2005)  
[http://www.international-alert.org/pdfs/conflict\\_sensitive\\_business\\_practice\\_all.pdf](http://www.international-alert.org/pdfs/conflict_sensitive_business_practice_all.pdf)

## STANDARD GUIDANCE

# (COP 4.5) Mine Closure Planning

### A Definition and applicability

Mine closure planning is a process to inform the design of a mine operation in order to facilitate closure. (Source: <http://www.icmm.com/document/310>)

The **Mine Closure Planning** section of the COP is applicable to Mining Facilities.

The **COP 4.5 Mine Closure Planning** provisions of the COP should be read and implemented alongside the **COP 2.11 Community Engagement and Development**, **COP 3.3 Wastes and Emissions**, **COP 3.5 Biodiversity** and **COP 4.4 Impact Assessment** provisions.

### B Issue background

The closure of mine sites needs to be planned as carefully as their opening. What happens at a site after it is closed is what ultimately defines its long-term impact on, and contribution to, an area's social, economic and institutional development. An integrated approach to closure takes the environmental, economic and social considerations into account from an early stage and continues throughout a mine site's life. Fundamental to this approach is the need to consider closure as a core part of the business. New mine sites require a closure plan from start-up and existing facilities need to put in place a comprehensive plan to comply with RJC's Code of Practices.

The social and economic impacts of mine closure are usually significant and underline the importance of early preparation. Mines may also close prematurely, for example through low commodity prices, regulatory changes, technical challenges or social conflict – not just depletion of reserves. Workers, affected communities, including Indigenous Peoples and artisanal miners, and regulators are key stakeholders in dialogues about mine closure and should be involved early in the planning process. Mine sites should place a strong emphasis on community participation in the development and implementation of a mine closure plan.

Mine sites should provide adequate financial assurance for mine closure, taking into account considerations such as post-mining land use, stakeholder objectives and regulatory requirements. Closure costs are most often substantially incurred after the mine is no longer generating revenue. Consequently, financial provisions for closure must either be set aside by the company prior to or during active operations, provided by other revenue streams or made available through security of other assets. The choice of financial assurance option may depend on regulatory requirements. The closure planning process should prepare cost estimates suitable for the stage of closure planning and design, increasing in detail as the closure of the site approaches and more engineering detail becomes available.

Positive outcomes of effective closure planning should mean that:

- Engagement with affected and interested parties will be more consistent and transparent;
- Communities will participate in planning and implementing actions that underpin successful closure;
- Closure decisions will be better supported by stakeholders;
- Planning for closure will become easier to manage;
- The accuracy of closure cost estimates will be improved;
- The risk of regulatory non-compliance will be minimized;
- Potential problems will be identified in a timely manner;
- Potential liabilities will be progressively reduced; and
- Opportunities for lasting benefits will be recognized and planned for adequately.

### C Key frameworks and regulations

#### International

The International Council on Mining and Metals (ICMM) has developed a Mine Closure Toolkit on integrated closure planning aimed at promoting a more disciplined approach and increasing uniformity of good practices across the sector. The toolkit covers the entire mine life cycle. It brings together existing tools (e.g. the ICMM Community Development Toolkit) and introduces new tools for closure specific issues.

### National and/or state law

Many jurisdictions regulate specific requirements for closure and associated financial assurance. It is essential that Members are aware of applicable law and regulation in all jurisdictions of operation.

## D Suggested management approach

- **Management responsibility:** Identify suitably qualified person(s) to be accountable for developing and maintaining a closure plan. Integration should be sought on a number of fronts:
  - **Mine life cycle:** Between the various closure practitioners from the distinct stages of a mining operation's development, as they make decisions that affect closure at different times along the lifecycle (e.g., the exploration, feasibility, construction, operations, corporate and decommissioning teams);
  - **Multi-disciplinary:** Between the different operational disciplines of a company during each particular stage, for example between the individuals/teams that deal with social and environmental planning, feasibility and design, financial management, risk management, budgeting and resourcing and, an important component, strategic planning; and
  - **Multi-stakeholder:** Between the company and the various external stakeholders, who provide input for, take ownership of, and participate in the closure planning and execution processes required for successful outcomes.
- **Written policy, procedures and plans:** Ensure reference to mine closure planning in corporate/site sustainability (or equivalent) documentation. Closure planning should take place at the earliest possible stage of a mining project and regularly reviewed at least every five years or when a major modification to the Mining Facility is made. Regularly review progress against closure plans in conjunction with key stakeholders, including affected communities, workers and regulators. Planning, provisioning and implementation should be comprehensive and adaptive to changing local and national conditions, regulations and priorities. Draw on relevant policies and guidance to develop estimates of resources required for closure and regularly review these as operations progress.
- **Record keeping and reporting:** Ensure that financial assurance and associated implementation resources for mine closure are adequate. Reporting usually includes both formal government reporting against regulatory requirements and providing information for workers, the broader public and other stakeholders. Public reporting on performance can range from publications in the scientific literature to annual sustainability reports (see COP 4.5).

## E Further information

The following websites have further information relating to Mine Closure Planning:

- ICMM Mine Closure Toolkit  
[www.icmm.com/page/758/our-work/projects/articles/integrated-mine-closure](http://www.icmm.com/page/758/our-work/projects/articles/integrated-mine-closure)
- ICMM – Guidance Paper: Financial Assurance for Mine Closure and Reclamation (2006)  
<http://www.icmm.com/page/1232/library/documents/guidance-paper-financial-assurance-for-mine-closure-and-reclamation>
- ICMM – Report on survey: Financial Assurance for Mine Closure and Reclamation (2005)  
<http://www.icmm.com/page/1158/library/documents/financial-assurance-for-mine-closure-and-reclamation>
- Mine Closure and Completion Handbook – Australia  
<http://www.ret.gov.au/resources/Documents/LPSDP/LPSDP-MineClosureCompletionHandbook.pdf>
- Eden Project – Post-mining Alliance – Publications  
<http://www.postmining.org/index.php?page=19>

## STANDARD GUIDANCE

# (COP 4.6) Sustainability Reporting

### A Definition and applicability

Sustainability reporting is a process for publicly disclosing an organization's economic, environmental, and social performance. The term "sustainability reporting" is synonymous with citizenship reporting, social reporting, triple-bottom line reporting and other terms that encompass the economic, environmental, and social aspects of an organization's performance.

(Source: Global Reporting Initiative <http://www.globalreporting.org/AboutGRI/FAQs/FAQSustainabilityReporting.htm>)

The **Sustainability Reporting** section of the COP is applicable to all Members with Mining Facilities.

### B Issue background

The role of the mining sector in sustainable development has been attracting significant attention for the last twenty years. Over that time, the industry has increased its engagement with difficult social, environmental and economic issues of mining development at local, regional and global levels. At the same time, there has been a growth in demand from civil society, financial institutions and other stakeholders for relevant and accurate information about performance. This has led to the growth of corporate sustainability reporting as a complement to the annual financial reporting required of all public companies.

Companies follow a generally accepted reporting framework for financial reporting. This common framework provides credibility, consistency, and comparability. The need for a similar common framework for sustainability reporting led to the development of the Global Reporting Initiative (GRI). The GRI was launched in 1997 and has become the global voluntary standard in sustainability reporting. The GRI's vision is that reporting on economic, environmental and social performance by all organizations is as routine and comparable as financial reporting. As of January 2009, more than 1500 companies use the GRI Guidelines to frame their sustainability reporting.

In 2005, members of the International Council on Mining and Metals (ICMM) committed to report in accordance with the GRI Guidelines and a Mining and Metals Sector Supplement. In 2008, ICMM members committed to report in accordance with the GRI's G3 Guidelines and to update the Mining and Metals Sector Supplement. ICMM's Assurance Procedure was also launched in 2008. It outlines ICMM's members' commitment to independent external assurance of the implementation and measurement of performance against the 10 ICMM Principles, and public reporting of performance.

Sustainability reporting can benefit from close alignment with stakeholder and community engagement processes, to identify relevant issues for data collection and reporting. Some GRI reports take the opportunity to include third party commentary, such as from stakeholder panels, community groups, unions, non-government organisations or subject-matter experts. These parties could also contribute to the assurance process.

The RJC requirement is for Member companies to report under GRI Guidelines, not necessarily each Mining Facility. Mine sites are encouraged to have additional site-based reporting to local stakeholders as appropriate, but these do not necessarily need to follow the GRI framework.

### C Key regulations

#### International standards

The GRI Reporting Framework contains the core product of the Sustainability Reporting Guidelines ("the Guidelines"), as well as Protocols and Sector Supplements.

The third generation "G3" Guidelines were released in October 2006. They are the foundation upon which all other GRI reporting guidance is based, and outline core content for reporting that is broadly relevant to all organizations regardless of size, sector, or location. The Guidelines contain principles and guidance as well as standard disclosures – including indicators – to outline a disclosure framework that organizations can voluntarily, flexibly, and incrementally, adopt.

The Mining and Metals Sector Supplement provides additional guidance specifically tailored to the sector. In 2005, the Mining and Metals Sector Supplement was launched in pilot form. During 2009, it is being reviewed and updated to be launched as a final version that will align with the new G3 Guidelines.

The GRI “Application Levels” rate the extent to which the G3 Guidelines have been utilised in a report on sustainability. They are intended to provide GRI reporters with a pathway in which they can continuously improve their reporting. There are three Application Levels: A, B and C. All GRI-aligned reports should include an Application Level.

External assurance focuses on verifying the content of the report and is designated with a “+” after the Application Level ie C+, B+ and A+. External assurance mechanisms must comply with the following key qualities, defined by the GRI:

- Conducted by groups or individuals external to the organization who are demonstrably competent in both the subject matter and assurance practices;
- Implemented in a manner that is systematic, documented, evidence-based, and characterized by defined procedures;
- Assesses whether the report provides a reasonable and balanced presentation of performance, taking into consideration the veracity of data in a report as well as the overall selection of content;
- Utilizes groups or individuals to conduct the assurance who are not unduly limited by their relationship with the organization or its stakeholders to reach and publish an independent and impartial conclusion on the report;
- Assesses the extent to which the report preparer has applied the GRI Reporting Framework (including the Reporting Principles) in the course of reaching its conclusions; and
- Results in an opinion or set of conclusions that is publicly available in written form, and a statement from the assurance provider on their relationship to the report preparer.
- Common external assurance frameworks which fulfil the GRI’s requirements include:
  - International Standard for Assurance Engagements (ISAE) 3000; and
  - AA1000 AS, issued by the non-profit organisation AccountAbility.

### National law

Some jurisdictions may impose a requirement for regular public reporting from the mining sector, or on significant environmental impacts in general. It is important to be fully informed of all relevant legislation and regulations in every jurisdiction of operation.

## D Suggested management approach

- **Management responsibility:** Nominate a senior manager within the Member company as responsible for sustainability reporting. The responsible senior manager should oversee the report content, strategies for report quality, data collection and external assurance. Developing sustainability reporting systems, especially if establishing new internal systems, requires good planning and communication throughout the organisation. Opportunities for harmonisation of reporting should be identified, for example:
  - annual financial reporting
  - communicating progress under the Global Compact
  - disclosing revenues under the Extractive Industries Transparency Initiative
  - business contributions to the Millennium Development Goals
  - stakeholder, community and employee engagement processes
  - regulatory reporting
  - information for ethical investment markets.
- **Record keeping and reporting:** Systems for data collection, integrity and verification should be established and mainstreamed with existing management systems. Reports should prepare information for all three types of disclosures – strategy and profile, management approach, and performance indicators – addressing all core indicators for economic, environmental, social performance, labour, human rights, society, and product responsibility in the G3 Guidelines and Mining and Metals Sector Supplement. Reports should disclose their approach to external assurance (see GRI Guidelines for details). Reports should be made available on the external website, and in hard copy if appropriate. Key audiences, including local and affected communities at a Facility level, should be able to access Member’s reports and/or a summary of their content in appropriate languages and formats, in addition to any site-based reporting.

## E Further information

The following websites have further information on sustainability and public reporting:

- Global Reporting Initiative (GRI)  
<http://www.globalreporting.org/Home>
- GRI G3 Guidelines – Quick Reference Sheet  
[http://www.globalreporting.org/NR/rdonlyres/DDB9A2EA-7715-4E1A-9047-FD2FA8032762/0/G3\\_QuickReferenceSheet.pdf](http://www.globalreporting.org/NR/rdonlyres/DDB9A2EA-7715-4E1A-9047-FD2FA8032762/0/G3_QuickReferenceSheet.pdf)
- ICMM Sustainable Development Framework – Public Reporting  
<http://www.icmm.com/our-work/sustainable-development-framework/public-reporting>
- ICMM Assurance Procedure  
<http://www.icmm.com/document/439>
- United Nations Global Compact – Communicating Progress  
<http://www.unglobalcompact.org/COP/index.html>
- International Corporate Sustainability Reporting – news and library  
<http://www.enviroreporting.com/>
- KPMG International Survey of Corporate Responsibility Reporting 2008  
[http://www.kpmg.nl/Docs/Corporate\\_Site/Publicaties/Corp\\_responsibility\\_Survey\\_2008.pdf](http://www.kpmg.nl/Docs/Corporate_Site/Publicaties/Corp_responsibility_Survey_2008.pdf)

# Appendix 1 – Introduction to Risk Assessment

## What is a risk assessment?

A risk assessment is simply a careful examination of key issues that could impact on the operation of your business. Risk assessments can be carried out for any business issue – financial, security, labour, social, health, safety or environment. They are a recommended management approach for each of the RJC standards.

A risk assessment helps you to focus on those things that have the greatest potential to have a negative impact on your business. In many cases, straightforward measures can help to address or reduce risks. On some issues, a risk assessment can be an important step in complying with the law.

There are many ways to carry out risk assessments, and some work well for complex issues and circumstances. This section provides a simple method suitable for most organisations, particularly those small to medium sized.

## How to assess risks in your business

To carry out a risk assessment, follow these five basic steps:

Step 1 – Identify potential hazards or exposure to key issues

Step 2 – Identify who or what might be harmed and how

Step 3 – Evaluate what needs to be done to minimise the likelihood or seriousness of harm

Step 4 – Record your findings and implement them

Step 5 – Review your assessment and update if necessary

There is no need to make the process complicated. On some issues, the risks are well known and the control measures are easy to apply. On more complex issues, the process of working through the five steps will help identify priorities for action.

You may like to use the template on the next page to record your assessment, or as a basis for developing your own assessment. You can choose to cover all or a number of the RJC standards in the one assessment, or complete separate assessments for each standard.

## Getting started

If you are confident you understand what is involved, you can do the assessment yourself. You do not need to be an expert in the issues. What you need is to understand your own business. If you are not confident, ask a competent person to help you.

It is helpful to involve your staff or their representatives in the process. They will have useful information that will make your assessment more thorough and effective.

For complex issues, it may be important to seek information and advice from external organisations. These may include internet resources, local industry associations, government agencies, non-government organisations and local community groups.

Like many businesses, there are quite a lot of improvements you could make, don't try to do everything at once. Make a plan of action to do the most important things first, and those that are simple to address. Regularly check that your plan is being implemented. Aim to review your assessment on at least an annual basis.

## Adapted from the following source:

- Health and Safety Executive, UK Government – Five Steps to Risk Assessment (2006)  
<http://www.hse.gov.uk/risk/>

**Company name:**

**Date of risk assessment:**

| <b>Step 1</b><br><b>What are the potential hazards or issues?</b><br>Identify potential issues and hazards by: <ul style="list-style-type: none"> <li>• Walking around the workplace</li> <li>• Asking employees what they think</li> <li>• Checking with suppliers and contractors</li> <li>• Contacting external organisations for info</li> </ul> | <b>Step 2</b><br><b>Who or what might be harmed and how?</b><br>Identify groups of people, the environment, or functions of the business. Remember: <ul style="list-style-type: none"> <li>• Workers who may not be in the workplace during normal office hours or who work off-site</li> <li>• Members of the public</li> </ul> | <b>Step 3</b><br><b>What are you already doing?</b><br>List what is already in place to minimise the likelihood of, or reduce the seriousness of harm. | <b>What further action is necessary?</b><br>Compare what you are already doing with good practice. If there is a difference, list what needs to be done. | <b>Step 4</b><br><b>How will you put the assessment into action?</b><br>Remember to prioritise. Deal first with issues that have high risk and the potential for serious consequences.<br><br>List action by whom and by when, and tick off when done. |
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**Step 5 Review date:**

**Review your assessment to make sure you are still improving, or at least not sliding back.**

If there is a significant change in your business, remember to check your risk assessment and amend it where necessary.

## Appendix 2 – RJC Policy Template

The following draft could be modified or adapted to suit the Member's business/es.

### **Responsible Jewellery Council Policy**

[INSERT MEMBER NAME] is a [BRIEF DESCRIPTION OF THE COMPANY].

We have [X] sites located [Y] and employ [Z] personnel.

[MEMBER NAME] is a Member of the Responsible Jewellery Council (RJC).

The RJC is a standards-setting organisation that has been established to reinforce consumer confidence in the jewellery industry by promoting responsible ethical, human rights, social and environmental practices throughout the jewellery supply chain.

The RJC has developed a common platform of standards for the jewellery supply chain and credible mechanisms for verifying responsible business practices through third party auditing. We commit to operating our business according to the RJC Principles and Code of Practices. These are available at:

[[www.responsiblejewellery.com](http://www.responsiblejewellery.com) or provide link on own site]

In line with this policy, our commitment is to integrate ethical, human rights, social and environmental considerations into our day-to-day operations, business planning activities and decision making processes.

Signed/endorsed: \_\_\_\_\_

Date of effect:

## Appendix 3 – Business Partners Risk Assessment Template

### Introduction

This is an example process for conducting risk based assessments of Business Partners (Contractors, Suppliers and/or joint venture Partners). The suggested approach is not mandatory and is offered to Members as a guide which can be modified to suit their own purposes. Members may have a more suitable method for conducting such risk based assessments.

This example risk assessment contains a series of performance areas which are evaluated using pre-defined risk criteria. The assessment can be conducted to:

- assist Members prior to engagement of contracted services or goods from Business Partners, and/or
- to establish risk based management controls for exiting Business Partners, and/or
- to determine which Business Partners are material (or significant) to its own business sustainability.

The Member is required to use best endeavours to promote, within its ability to influence, responsible jewellery practices with these significant Business Partners.

### Risk Based Assessment Process

Members should risk assess performance areas which are relevant to the nature of the relationship between the Member and the Business Partner. The assessment should take into account:

- The volume and/or profile of the business between the two companies;
- The complexity of the services to be conducted;
- The need to handle or generate hazardous materials and waste;
- Previous performance;
- Potential impact on the Members' own practices (including its reputation).
- The attached risk assessment form contains the following performance areas:
  - Legal Compliance
  - Bribery and Facilitation Payments
  - Money Laundering and Finance of Terrorism
  - Adherence to Kimberley Process
  - Security of People and Products
  - Product Integrity Practices
  - Human Rights
  - Health and Safety Performance
  - Community Relations
  - Environmental Performance
  - Relationship with Business Partner

The form includes provision for the Member to add other areas, as appropriate to the relationship.

The Member selects which of these performance areas are relevant, and then uses the following risk assessment table to determine whether the Business Partner is a significant risk to the Member.

| Risk Category   | Description   | Risk outcome (see note 1)                                     |
|-----------------|---|---|
| <b>Extreme</b>  | <ul style="list-style-type: none"> <li>Evidence of breach of Applicable Law and prevailing industry standards</li> <li>No defined management systems and/or control processes</li> <li>New Business Partner that is unknown and/or has not been recommended by a trusted partner or associate.</li> </ul>   | Business Partner Represents a Significant Risk for the Member |
| <b>High</b>     | <ul style="list-style-type: none"> <li>Evidence of breach of Applicable Law and prevailing industry standards but plans are in place to rectify these breaches</li> <li>The Business Partner has only just commenced developing management systems and/or control processes</li> <li>Known Business Partner but performance is questionable and is only used because the alternatives are either not available or present a higher risk to the Member.</li> </ul> | Business Partner Represents a Significant Risk for the Member |
| <b>Moderate</b> | <ul style="list-style-type: none"> <li>Evidence of compliance with Applicable Law and adoption of prevailing industry standards</li> <li>The Business Partner Systems are developed and generally implemented effectively</li> <li>New Business Partner, but has been recommended by a trusted partner or associate.</li> </ul>   | Business Partner is Not a Significant Risk                    |
| <b>Low</b>      | <ul style="list-style-type: none"> <li>Evidence of compliance with Applicable Law and adoption of prevailing industry standards</li> <li>The Business Partner has mature and effective management systems or processes</li> <li>Established and good relationship exists with the Business Partner, which has a proven track record</li> </ul>  | Business Partner is Not a Significant Risk                    |

**NOTE 1:** The Member can choose the category threshold for determining whether the relationship with the Business Partner constitutes a 'significant risk' for the Member. In this case, the significant Business Partners are those that are assigned a risk category of High or Extreme.

### Example Business Partner Risk Assessment Form

| Performance Area                          | Relevant to the relationship (Yes / No)                  | Issues | Risk Category (Extreme / High Moderate / Low) | Business Partner is a Significant Risk to the Member     | Actions/Comments |
|---|--|--------|---|--|------------------|
| Legal Compliance                          | Yes <input type="checkbox"/> No <input type="checkbox"/> |        |   | Yes <input type="checkbox"/> No <input type="checkbox"/> |                  |
| Bribery and Facilitation Payments         | Yes <input type="checkbox"/> No <input type="checkbox"/> |        |   | Yes <input type="checkbox"/> No <input type="checkbox"/> |                  |
| Money Laundering and Finance of Terrorism | Yes <input type="checkbox"/> No <input type="checkbox"/> |        |   | Yes <input type="checkbox"/> No <input type="checkbox"/> |                  |
| Adherence to Kimberley Process            | Yes <input type="checkbox"/> No <input type="checkbox"/> |        |   | Yes <input type="checkbox"/> No <input type="checkbox"/> |                  |
| Security of People and Products           | Yes <input type="checkbox"/> No <input type="checkbox"/> |        |   | Yes <input type="checkbox"/> No <input type="checkbox"/> |                  |
| Product Integrity Practices               | Yes <input type="checkbox"/> No <input type="checkbox"/> |        |   | Yes <input type="checkbox"/> No <input type="checkbox"/> |                  |
| Human Rights                              | Yes <input type="checkbox"/> No <input type="checkbox"/> |        |   | Yes <input type="checkbox"/> No <input type="checkbox"/> |                  |
| Health and Safety Performance             | Yes <input type="checkbox"/> No <input type="checkbox"/> |        |   | Yes <input type="checkbox"/> No <input type="checkbox"/> |                  |
| Community Relations                       | Yes <input type="checkbox"/> No <input type="checkbox"/> |        |   | Yes <input type="checkbox"/> No <input type="checkbox"/> |                  |
| Environmental Performance                 | Yes <input type="checkbox"/> No <input type="checkbox"/> |        |   | Yes <input type="checkbox"/> No <input type="checkbox"/> |                  |
| Relationship with Business Partner        | Yes <input type="checkbox"/> No <input type="checkbox"/> |        |   | Yes <input type="checkbox"/> No <input type="checkbox"/> |                  |
| Other:                                    | Yes <input type="checkbox"/> No <input type="checkbox"/> |        |   | Yes <input type="checkbox"/> No <input type="checkbox"/> |                  |
| Other:                                    | Yes <input type="checkbox"/> No <input type="checkbox"/> |        |   | Yes <input type="checkbox"/> No <input type="checkbox"/> |                  |
| Other:                                    | Yes <input type="checkbox"/> No <input type="checkbox"/> |        |   | Yes <input type="checkbox"/> No <input type="checkbox"/> |                  |

# Glossary

Please refer to the following glossary for terms and acronyms used in the RJC System documents:

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| <b>Accreditation</b>                                   | Recognition of an auditor's competence to carry out verification assessments and evaluate conformance against a standard.   |
| <b>AML</b>   | Anti-money laundering.  |
| <b>APELL</b>   | Awareness and Preparedness for Emergencies at the Local Level.  |
| <b>Applicable Law</b>                                  | The relevant national and/or state and/or local laws of the country or countries in which the Member operates.  |
| <b>ASM</b>   | Artisanal and Small-scale Mining.   |
| <b>Assessment Manual</b>                               | Instructions for Members and Auditors on how to carry out Self Assessments and Verification Assessments.  |
| <b>Assessment Questions</b>                            | A set of questions designed to assess a Member's performance against the Code of Practices and its Provisions. Members and Auditors use the same Assessment Questions.  |
| <b>Assessment Tools</b>                                | Documents or software that provide guidance and/or record information and evidence required to carry out a Self Assessment or Verification.   |
| <b>Assessor</b>  | Employee(s) or person(s) commissioned by a Member to conduct a Self Assessment.   |
| <b>Auditor</b>   | An independent, third party person or organisation meeting the RJC's objective selection criteria and accredited to carry out Verification.   |
| <b>Biodiversity</b>                                    | The variability among living organisms from all sources including, inter alia, terrestrial, marine and other aquatic ecosystems and the ecological complexes of which they are part; this includes diversity within species, between species and of ecosystems.   |
| <b>Bribery</b>   | The offering, promising or giving, as well as demanding or accepting of any undue advantage, whether directly or indirectly, to or from: <ul style="list-style-type: none"> <li>• A public official;</li> <li>• A political candidate, party or official; or</li> <li>• Any private sector Employee (including a person who directs or works for a private sector enterprise in any capacity).</li> </ul>   |
| <b>Business ethics</b>                                 | Ethical rights and duties existing between businesses and society.  |
| <b>Business Partners</b>                               | An organisation or business Entity with which an Entity has direct business relations (excluding end consumers, but including Contractors, customers, Suppliers and joint venture Partners) and that buys and/or sells a product or service that directly contributes to the extraction, manufacture or sale of Diamond and Gold Jewellery products.<br><br>For the avoidance of doubt, this does not include Entities that provide support products and services, for example, equipment, office supplies and utilities. Nor does it include Entities that provide separate components, not part of the Diamond and Gold supply chain, such as batteries, springs and similar items. |
| <b>Certification</b>                                   | An attestation by the RJC, based on the results of a Verification Assessment by an accredited Auditor, that the Member has achieved the required level of Conformance against the Code of Practices.  |
| <b>Certification Period</b>                            | The period of time that Certification is valid, after which time the Certification must be renewed through a new Verification Assessment. Certification Periods are for one year or three years duration based on the findings of the Verification Assessment.  |
| <b>Certification Recommendation and Summary Report</b> | A summary report from the Lead Auditor to the RJC Management Team on a Member's overall performance against the Code of Practices and a recommendation for or against certification.  |
| <b>Certification Scope</b>                             | The Certification Scope is defined by the Member and covers those parts of the Member's business (i.e. Facilities and activities) that actively contribute to the Diamond and/or Gold Jewellery supply chain.   |

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| <b>Certified Member</b>        | A Member certified by the RJC that its business practices have been found, through Verification by an Auditor, to meet the required level of Conformance with the Code of Practices.  |
| <b>CFT</b>                     | Combating the finance of terrorism.   |
| <b>Child</b>                   | Any person less than 15 years of age, unless local national / local minimum age law stipulates a higher age for work or mandatory schooling, in which case the higher age would apply. If, however, the local national / local minimum wage is set at 14 years of age in accordance with the developing countries exceptions under ILO convention 138, the lower age would apply.   |
| <b>Child Labour</b>            | Any work by a Child, except as provided for by ILO Convention 138 (a lower minimum age of 13 (12 in developing countries) for 'light work' which neither harms a young person's development nor prejudices school attendance). Child Labour is work that deprives children of their childhood, their potential and their dignity, and is harmful to their social, physical and mental development.  |
| <b>CIBJO</b>                   | World Jewellery Confederation   |
| <b>Code of Practices (COP)</b> | A set of standards that define responsible ethical, human rights, social, and environmental practices, applicable to all RJC Members throughout the Diamond and/or Gold Jewellery supply chain.   |
| <b>Collective bargaining</b>   | A process through which employers (or their organisations) and workers' associations (or in their absence, freely designated workers' representatives) negotiate terms and conditions of work.  |
| <b>Community</b>               | Term generally applied to the inhabitants of immediate and surrounding areas who are affected in some way by a company's activities; these effects may be economic and social as well as environmental in nature.   |
| <b>Community development</b>   | Process whereby people increase the strength and effectiveness of their communities, improve their quality of life, enhance their participation in decision making and achieve greater long term control over their lives. It is done with, rather than for, communities, thereby reflecting local people's needs and priorities.   |
| <b>Community engagement</b>    | Two way information sharing and decision making process covering community issues and priorities as well as the concerns and needs of the business. Beyond just listening, the aim is to ensure mutual understanding and responsiveness by all parties to enable them to manage decisions that have the potential to affect all concerned.  |
| <b>Conflict Diamond</b>        | Rough Diamond used by rebel movements or their allies to finance conflict aimed at undermining legitimate governments, as described in relevant United Nations Security Council (UNSC) resolutions insofar as they remain in effect or in other similar UNSC resolutions which may be adopted in the future, and as understood as recognised in United Nations General Assembly (UNGA) Resolution 55/56, or in other similar UNGA resolutions which may be adopted in future. |
| <b>Conformance</b>             | The Member's business practices, including the policies, systems, procedures and processes, perform in a manner that conforms to the Code of Practices.   |
| <b>Continual improvement</b>   | An ongoing process of enhancing performance and management systems against the Code of Practices.   |
| <b>Contractor</b>              | An individual, company or other legal Entity that carries out work or performs services pursuant to a contract for services for a Member. This includes sub-contractors.  |

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| <b>Control</b>                 | <p>Control by a Member is defined as:</p> <ol style="list-style-type: none"> <li>1. Direct or indirect ownership, or Control (alone or pursuant to an agreement with other Members) of 50% or more of the voting equities/rights (or equivalent) of the controlled business or Facility; and/or</li> <li>2. Direct or indirect (including pursuant to an agreement with other Members) power to remove, nominate or appoint at least half of the members of the Board of the directors or management (or equivalent of the controlled business or Facility; and/or</li> <li>3. Day-to-day or executive management of the controlled business or Facility; or</li> <li>4. Any legally recognised concept of 'Control' analogous to those described in (1) to (2) above in a relevant jurisdiction.</li> </ol> <p>Although the above defines 'Control' in a corporate context, the same principles will apply by analogy to other organisational arrangements, including Franchisees, Licensees and Control by an individual or a family, where applicable.</p> |
| <b>Corrective action</b>       | An action implemented by a Member to eliminate the cause of a non-conformance in order to prevent a recurrence.   |
| <b>Corrective Action Plans</b> | Plans with set milestones developed by Members to address non-conformances identified during the Self Assessment or Verification Assessment.  |
| <b>Corruption</b>              | The misuse of entrusted power for private gain.   |
| <b>Critical Breach</b>         | <p>A Major Non-Conformance against a Provision deemed to be critical to the integrity of the RJC system. Critical Provisions are identified in section 7.2 of the Certification Handbook.</p> <p>Identification of a Critical Breach requires Members and Auditors to immediately notify the RJC Management Team. Disciplinary proceedings against the Member will be automatically triggered if the RJC is notified by the Auditor.</p>  |
| <b>Diamond</b>                 | A natural mineral consisting essentially of pure carbon crystallised with a cubic structure in the isometric system. Its hardness in the Mohs scale is 10; its specific gravity is approximately 3.52; it has a refractive index of 2.42 and it can be found in many colours.   |
| <b>Discipline</b>              | A means to correct or improve job-related behaviour or performance.   |
| <b>Discrimination</b>          | Where people are treated differently because of certain characteristics – such as race, colour, sex, religion, political opinion, national extraction or social origin – which results in the impairment of equality of opportunity and treatment.  |
| <b>EITI</b>                    | Extractive Industries Transparency Initiative   |
| <b>Emergency</b>               | An abnormal occurrence that can pose a threat to the Safety or Health of Employees, Contractors, Visitors, customers, or local communities, or which can cause damage to assets or the Environment.   |
| <b>Employee</b>                | An individual who has entered into or works under a contract of employment or a contract of service or apprenticeship, whether express or implied, and (if it is express) whether oral or in writing, or as defined by Applicable Law, with a Member.   |
| <b>Employment relationship</b> | The legal link between employers and Employees that exists when a person performs work or services under certain conditions in return for remuneration.   |
| <b>Entity</b>                  | A business or similar which operates one or more Facilities where there is ownership or Control of that Entity by the Member. The Entity can constitute part or whole of the Member.  |
| <b>Environment</b>             | Surroundings in which the Facility operates, including air, water, land, natural resources, flora, fauna, habitats, ecosystems, biodiversity, humans (including human artefacts, culturally significant sites and social aspects) and their interaction. The Environment in this context extends from within an operation to the global system.   |
| <b>Facilitation payments</b>   | Facilitation payments are paid to receive preferential treatment for something that the payment receiver is otherwise still required to do.   |

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| <b>Facility</b>               | A Facility is premises that is: <ul style="list-style-type: none"> <li>• Owned by or under the Control of a Member; and</li> <li>• Actively contributes to the Diamond and/or Gold Jewellery supply chain.</li> </ul> See also Mining Facility.  |
| <b>FATF</b>                   | Financial Action Task Force  |
| <b>Finance of terrorism</b>   | Any kind of financial support to those who encourage, plan or engage in terrorism.   |
| <b>Fit for Work</b>           | “Fit for Work” means that an individual is in a state (physical, mental and emotional) which allows them to perform their assigned duties effectively and in a manner which does not threaten their own or others’ Safety and Health.  |
| <b>Forced labour</b>          | Any work or service exacted by governments, companies or individuals under the menace of penalty, and which a person has not offered voluntarily to do. It also refers to work or service that is demanded as a means of repayment of debt.  |
| <b>Franchising/Licensing</b>  | Arrangement whereby Member intellectual property rights are licensed to third parties not under the Control of the Member for the purposes of enabling those third parties to produce, market or sell all or part of products or services that contain a Member’s brand name, trademark or other intellectual property.  |
| <b>Freedom of association</b> | The right of workers and employers to freely form and join groups for the promotion and defence of occupational interests.   |
| <b>Gold</b>                   | A rare yellow metallic element with the chemical symbol ‘Au’. It is a mineral with specific hardness of 2.5-3 on the Mohs scale of hardness and the atomic number 79.  |
| <b>Hazard</b>                 | A source of potential harm, injury or detriment.   |
| <b>Hazardous Substance</b>    | Any material that poses a threat to human Health and/or the Environment.   |
| <b>Health</b>                 | A state of physical, mental and social well-being and not merely the absence of disease or infirmity.  |
| <b>Health and safety</b>      | The aim of health and safety initiatives is to prevent accidents and injury to personal wellbeing arising out of, linked with or occurring in the course of work. This is done by minimising, as far as is reasonably practicable, the causes of hazards inherent in the working environment.  |
| <b>HIV/AIDS</b>               | Human Immunodeficiency Virus/Acquired Immunodeficiency Syndrome.   |
| <b>Human rights</b>           | Universal rights and freedoms regarded as belonging to all people, above the laws of any individual nation. Human rights in the RJC System specifically include those articulated in the Universal Declaration of Human Rights, the ILO Declaration on Fundamental Principles and Rights at Work, and Applicable Law.  |
| <b>Indigenous Peoples</b>     | There is no universally accepted definition of “Indigenous Peoples”. The term is used here in a generic sense to refer to a distinct social and cultural group possessing the following characteristics in varying degrees: <ul style="list-style-type: none"> <li>• Self-identification as members of a distinct indigenous cultural group and recognition of this identity by others;</li> <li>• Collective attachment to geographically distinct habitats or ancestral territories in the project area and to the natural resources in these habitats and territories;</li> <li>• Customary cultural, economic, social, or political institutions that are separate from those of the dominant society or culture;</li> <li>• An indigenous language, often different from the official language of the country or region.</li> </ul> |
| <b>ICMM</b>                   | International Council on Mining and Metals   |
| <b>IFC</b>                    | International Finance Corporation  |
| <b>ILO</b>                    | International Labour Organisation  |
| <b>ISO</b>                    | International Organisation for Standardisation   |
| <b>IUCN</b>                   | International Union for the Conservation of Nature   |
| <b>Jewellery</b>              | For the application of the RJC system, an adornment made of Precious Metals (including Gold) and/or set with gem stones (including Diamonds). Jewellery includes, but is not limited to, bracelets, rings, necklaces, earrings and watches.  |

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| <b>Key Biodiversity Areas</b>                        | Key Biodiversity Areas (KBAs) are places of international importance for the conservation of biodiversity through protected areas and other governance mechanisms. They are identified nationally, based on their importance in maintaining species populations.  |
| <b>Kimberley Process Certification Scheme (KPCS)</b> | A joint government, international diamond industry and civil society initiative to stem the flow of Conflict Diamonds.  |
| <b>Lead Auditor</b>                                  | A Lead Auditor is responsible for the efficient and effective conduct and completion of a Verification Assessment for a Member and may co-ordinate a team of Auditors.  |
| <b>Legal compliance</b>                              | Acting within, or under the direction of, Applicable Law.   |
| <b>Major Non-Conformance</b>                         | <p>The Member's business practices including the policies, systems, procedures and processes perform in a manner that is not conformant with the Code of Practices. Major Non-Conformances are defined as the occurrence of one or more of the following situations:</p> <ul style="list-style-type: none"> <li>• The total absence of implementation of a required provision;</li> <li>• A Member-wide systemic failure or total lack of controls required to manage business risks related to the RJC System;</li> <li>• A situation where the Member's business practices have not identified relevant legislative or regulatory requirements, or there is a non-compliance of legislative or regulatory requirements and/or inadequate attempt to rectify the non-complying condition;</li> <li>• A group of related, repetitive or persistent Minor Non-Conformances indicating inadequate implementation;</li> <li>• Any finding or observation supported with Objective Evidence to prove a Critical Breach, or which raises serious doubts as to whether the Member has the business practices to avoid any Critical Breach.</li> </ul> |
| <b>Management system</b>                             | Management processes and documentation that collectively prove a systematic framework for ensuring that tasks are performed correctly, consistently and effectively to achieve the desired outcomes, and to drive continual improvement in performance.   |
| <b>Mark</b>  | Any Mark, sign, device, imprint, stamp, brand, label, ticket, letter, word or figure.   |
| <b>Member</b>  | <p>Any business that:</p> <ol style="list-style-type: none"> <li>(i) is actively involved for commercial reasons in the Diamond and/or Gold Jewellery supply chain; and</li> <li>(ii) is exempt from the role of consultant, advisor or any other similar entity; and</li> <li>(iii) commits to the prevailing RJC Principles and Code of Practices on business ethics, social, human rights and environmental performance and management systems; and</li> <li>(iv) commits to a Verification Assessment by an Auditor under the RJC System; and</li> <li>(v) undertakes the payment of the annual RJC commercial membership fee;</li> </ol> <p>is eligible to become a RJC Commercial Member.</p> <p>The Member may consist of one or more Entities and/or Facilities.</p> <p>In RJC System documents, the term 'Member' refers specifically to RJC Commercial Members.</p>   |
| <b>Member Verification Report</b>                    | A comprehensive report to the Member from the Lead Auditor on the findings of the Verification Assessment and an evaluation of the Member's conformance with the RJC Codes of Practice.   |

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| <b>Mining Facility</b>       | <p>A Facility that extracts Diamonds or Gold, or minerals containing saleable quantities of Diamonds or Gold, from the earth.</p> <p>For the avoidance of doubt:</p> <ul style="list-style-type: none"> <li>• Facilities in the exploration to pre-commissioned stages of the mine lifecycle are not visited as part of the Verification Assessment. Business practices in these stages of the mine lifecycle can be evidenced, where necessary and appropriate, by desktop review of policies, systems, procedures and processes.</li> <li>• A Mining Facility is excluded from RJC Certification if riverine tailings disposal is used at that Facility. However all other COP provisions apply at that Facility and it can be included in the Verification Scope.</li> <li>• A Mining Facility is not included in the Certification Scope if there is no saleable Diamonds or Gold, for example where Gold is a trace element in mineral concentrate, process by-products, or wastes.</li> <li>• A Mining Facility producing multiple commodities or products, including Diamonds and/or Gold, can be excluded from the Certification Scope if there is a parallel certification system applicable to other commodities produced by the Mining Facility that is evaluated by the RJC to be technically equivalent to the RJC system.</li> </ul> |
| <b>Mining Supplement</b>     | Additional mining-specific Standards under development, which will be incorporated into the Code of Practices. They will be applicable to Member's mining Facilities.  |
| <b>Minor Non-Conformance</b> | <p>The Member's business practices including the policies, systems, procedures and processes perform in a manner that is not wholly conformant with the Code of Practices. Minor Non-Conformances are defined as the occurrence of one or more of the following situations:</p> <ul style="list-style-type: none"> <li>• An isolated lapse of either performance, discipline or control of the Member's business practices, which does not lead to a Major Non-Conformance of the RJC Code of Practices; and/or</li> <li>• A finding which may not be an actual breach of the RJC Code of Practices at this point in time, but is judged to be a potential inadequacy in the Member's business practices during the Certification Period.</li> </ul>   |
| <b>Money laundering</b>      | The process by which the financial proceeds of crime are disguised to conceal their illegal origin.  |
| <b>NGOs</b>                  | Non-government organizations   |
| <b>Non-Conformance</b>       | A situation where the Member's business practices do not conform with the RJC Code of Practices.   |
| <b>Objective Evidence</b>    | Verifiable information, records, observations and/or statements of fact and can be qualitative or quantitative.  |
| <b>OECD</b>                  | Organisation for Economic Co-operation and Development   |
| <b>Overtime</b>              | Hours worked in addition to those of a regular schedule.   |
| <b>Partners</b>              | Individuals or organisations, including joint venture partners, government agencies and other stakeholders and excluding Contractors, in commercial arrangements and/or executing projects or programs of work with Member(s).   |
| <b>PPE</b>                   | Personal Protective Equipment. Refers to protective clothing and other garments such as gloves, protective footwear, helmets, goggles and ear plugs, all designed to protect the wearer from exposure to job related occupational hazards.   |
| <b>Policy</b>                | A statement of principles and intentions.  |
| <b>Pollution</b>             | The presence of a substance in the Environment that because of its chemical composition or quantity prevents the functioning of natural processes and produces undesirable environmental and Health effects.   |
| <b>POPs</b>                  | Persistent organic pollutants  |
| <b>Precious Metal</b>        | Gold, palladium, platinum and silver and an alloy of any of those metals and any other metal and an alloy thereof that is designated by relevant regulations as a Precious Metal.  |
| <b>Procedure</b>             | A specified manner to conduct an activity or a process. Procedures can be documented or not.   |
| <b>Provision</b>             | A requirement stipulated in the Code of Practices.   |

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| <b>Quality Mark</b>                                      | A Mark indicating or purporting to indicate the quality, quantity, fineness, weight, thickness, proportion or kind of Precious Metal in an article.   |
| <b>Rehabilitation</b>                                    | To return disturbed land to a safe, stable and self-sustaining condition.   |
| <b>Remediation</b>                                       | Putting in place a systemic change or solution to correct an identified problem or non-conformance.   |
| <b>Remuneration</b>                                      | Includes wages or salaries and any other benefits in cash or in kind, paid by employers to workers.   |
| <b>RJC</b>   | Responsible Jewellery Council.  |
| <b>RJC Annual Membership Report</b>                      | A report prepared by the RJC Management Team on Members' aggregate progress under the RJC system. The report is to be prepared annually and made publicly available.  |
| <b>RJC Co-ordinator</b>                                  | A person designated by a Member who coordinates and oversees the Self Assessment, Verification Assessment, any Corrective Action Plans and liaison with the RJC Management Team for that Member.  |
| <b>RJC Management Team</b>                               | The RJC staff who are employed to carry out the executive functions of the organisation.  |
| <b>Responsible Jewellery Council System (RJC System)</b> | The Responsible Jewellery Council (RJC) System is a certification system that aims to promote responsible ethical, human rights, social and environmental practices throughout the Jewellery supply chain. The RJC system is defined in the Code of Practices, Guidance Documents and Assessment Tools.   |
| <b>Rights-compatible</b>                                 | A rights-compatible engagement approach or grievance mechanism is one that provides a vehicle for addressing issues – whether or not they relate to substantive human rights issues – in a manner that respects and supports Human Rights.  |
| <b>Risk</b>  | Exposure to the consequences of uncertainty. It has two dimensions: the likelihood of something happening and the consequences if it were to happen.  |
| <b>Risk Assessment</b>                                   | The systematic evaluation of the degree of Risk posed by an activity or operation. The process of using the results of Risk analysis to rank and/or compare them with acceptable Risk criteria or goals.  |
| <b>Safety</b>  | The condition of being safe and free from danger, Risks or injury.  |
| <b>Sector</b>  | A distinct part of the Gold and Diamond Jewellery supply chain. The RJC currently identifies the following Sectors amongst its Membership: <ul style="list-style-type: none"> <li>• Gold and/or Diamond producer</li> <li>• Gold trader, hedger or refiner</li> <li>• Diamond trader and/or cutter and polisher</li> <li>• Gold and/or Diamond Jewellery manufacturer</li> <li>• Gold and/or Diamond Jewellery wholesaler</li> <li>• Gold and/or Diamond Jewellery retailer</li> <li>• Service industry to the Diamond and/or Gold industry (excluding consultants, advisers and auditors)</li> <li>• Trade association involved in whole or part in any of the Sectors above.</li> </ul> |
| <b>Self Assessment</b>                                   | The assessment carried out by Members describing their Entities and Facilities and evaluating their own performance against the requirements of the Code of Practices. Members can use the Self Assessment to gauge their preparedness for a Verification Assessment, improve practices and to identify Objective Evidence required during a Verification Assessment.   |
| <b>Self Assessment Workbook</b>                          | A workbook designed for Members to use to carry out a Self Assessment.  |
| <b>Simulant</b>  | A diamond Simulant is any object or product used to imitate Diamond or some or all of its properties and includes any material which does not meet the requirements specified in the definition of Diamond in this glossary.  |
| <b>SoW</b>   | System of Warranties  |

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| <b>Stakeholder</b>                    | Those who have an interest in a particular decision, either as individuals or representatives of a group, including people who influence a decision, or can influence it, as well as those affected by it. Stakeholders include non-government organisations, governments, shareholders and workers, as well as local community members.   |
| <b>Standard</b>                       | An objective practice, procedure or process that is recognised as integral to the integrity of an organisation's business and/or products and/or services. For the RJC System, the Code of Practices is the Standard relating to the Diamond and/or Gold Jewellery supply chain.   |
| <b>Suggested Business Improvement</b> | A situation where the systems, procedures and activities are in Conformance with the relevant Provisions of the Code of Practices, but where an Assessor or Auditor determines that there is scope to improve these current processes. A Suggested Business Improvement is offered without prejudice, and its implementation is not mandatory. Subsequent Assessments shall not judge performance based on the implementation of a Suggested Business Improvement. |
| <b>Supplier</b>                       | A business entity that provides goods and/or services integral to, and utilised in or for the production of, a Member's Diamond and/or Gold products.  |
| <b>Synthetic</b>                      | A Synthetic diamond is any object or product that has been either partially or wholly crystallised or re-crystallised due to artificial human intervention such that, with the exception of being non-natural, the product meets the requirements specified in the definition of the word "Diamond" in this glossary.  |
| <b>Tailings</b>                       | Ground rock and effluents that are generated during processing of the ore.   |
| <b>Third party</b>                    | A person or body independent of the person or organisation being evaluated, and of user interests in that person or organisation.  |
| <b>Treated Diamond</b>                | A Treated Diamond is any object or product that meets the requirements specified in the definition of the word "Diamond" or the word "Synthetic" as included in this glossary that has been subject to a "Treatment" as defined in this glossary.  |
| <b>Treatment</b>                      | Treatment means any process, Treatment or enhancement changing, interfering with and/or contaminating the natural appearance or composition of a Diamond other than the historically accepted practices of cutting and polishing. It includes colour (and decolourisation) Treatment, fracture filling, laser and irradiation Treatment and coating.   |
| <b>UDHR</b>                           | Universal Declaration of Human Rights  |
| <b>UN</b>                             | United Nations   |
| <b>UNEP</b>                           | United Nations Environment Program   |
| <b>Uncontrolled Hazard</b>            | An identified source of potential harm, injury or detriment (i.e. a Hazard) that lacks recognised and/or approved management, operational or technical controls.   |
| <b>Verification (auditing)</b>        | Confirmation by an Accredited Auditor, through the assessment of Objective Evidence, that the Provisions of the Code of Practices have been fulfilled. The results of Verification are used as the basis for a decision on Certification.  |
| <b>Verification Assessment</b>        | A Verification Assessment comprises the following: <ul style="list-style-type: none"> <li>• A preliminary desktop review of the Member's Self Assessment Questionnaire and other related information;</li> <li>• Selection of a representative set of the Member's Facilities and business practices to visit and assess;</li> <li>• Verification of the Member's Self Assessment through on-site review at the selected sample of Facilities.</li> </ul>          |
| <b>Verification Plan (Audit Plan)</b> | A Verification Plan, also referred to as an 'audit plan', is developed by an Auditor to outline what of the Member's business practices will be reviewed, by whom and when and in which Facilities, and nominates which Member personnel should be involved. It is developed from the definition of the Verification Scope.  |
| <b>Verification Reports</b>           | Two kinds of reports are generated out of the verification process: <ul style="list-style-type: none"> <li>• A Member Verification Report to the Member;</li> <li>• A Certification Recommendation and Summary Report to the RJC Management Team.</li> </ul>   |

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| <b>Verification Scope</b>   | The Verification Scope is defined by Auditors and includes a selection of Facilities from within the Certification Scope and a selection of Provisions from the Code of Practices that are considered to be the most relevant, taking into consideration the nature, scale and impact of the Member's business. |
| <b>Visitor</b>              | A person visiting a Member Facility who is not an Employee or Contractor at that Facility.  |
| <b>Waste</b>                | Solid, liquid or gaseous material that is discarded or no longer needed. Waste can cause pollution and impact on the environment if not properly managed. In the Jewellery supply chain, the main forms of Waste include Hazardous Substances, air and water emissions, and general operational Waste.          |
| <b>WDC</b>                  | World Diamond Council   |
| <b>Workers</b>              | Persons defined as Employees, Contractors.  |
| <b>WGC</b>                  | World Gold Council  |
| <b>Working hours</b>        | The time during which the persons employed are at the disposal of the employer. Rest periods are time during which the persons employed are not at the disposal of the employer.  |
| <b>World Heritage Sites</b> | Sites established under the World Heritage Convention of 1972.  |
| <b>Young Person</b>         | Any worker over the age of a Child as defined above and under the age of 18 years.  |