

## WDC SoW Explanatory Notes

### Section 1. KPCS

#### *Introductory Note*

Conflict diamonds are rough diamonds used by rebel movements or their allies to finance conflict aimed at undermining legitimate governments, as described by the UN Security Council (UNSC) and as recognised by the UN General Assembly (through resolution A/RES/55/56).

In late the 1990s – early 2000s conflict diamonds became a matter of serious international concern, which could be directly linked to the fueling of armed conflict, the activities of rebel movements and the illicit traffic in and proliferation of armaments. Conflicts fueled by the trade in conflict diamonds had a devastating impact on the peace, safety and security of people in affected countries and caused systematic and gross human rights violations.

In November 2002, the concerted efforts of the international community to stem the flow of conflict diamonds known as the Kimberley Process (KP) launched the Kimberley Process Certification Scheme (KPCS) that entered into force in 2003. KPCS is an international certification scheme mandated by the United Nations and the World Trade Organization and implemented in the national legislation of its participants. It imposes a set of minimum requirements that each participant must meet to prevent conflict diamonds from entering the rough diamond trade. Under the KPCS, all imports and exports of rough diamonds must go through a government-controlled process that ensures that:

- Participating countries have effective systems of internal controls;
- All shipments of rough diamonds are accompanied by a valid KP certificate;
- Rough diamonds are packed in tamper-resistant containers.

KP Participants may only trade legally with other KP participants that have also met the minimum requirements of the scheme. KP peer review mechanism – annual reporting, periodic statistical submissions, regular review visits and missions – allows monitoring participants' compliance with the established rules. There are 56 KP participants from 82 countries (all EU member states represented by the European Commission).

The KP has a tripartite structure. Apart from governments, it also embraces industry and civil society as observers, including the World Diamond Council (WDC), a single representative of the global diamond sector, and the Civil Society Coalition. Since the establishment of the KP, the percentage of conflict diamonds in the global diamond trade has declined significantly from 15% to 0.2%.

For detailed information on the implementation of the KP requirements, it is recommended to contact the KP focal point of the jurisdictions where you operate.

Learn more about the Kimberley Process on <https://www.kimberleyprocess.com>.

## Question 1

### Do all rough diamond imports and exports made have a KP Certificate?

#### **About this question to answer “Yes”**

In practice, the KPCS means not importing or exporting diamonds without certificates issued by a government exporting authority of a KP participant country. Each shipment of rough diamonds crossing an international border from/to a business partner in a KP participant country must be accompanied by a valid KP certificate.

#### **Further Comments:**

Certificates meet the minimum standards of the Kimberley Process as set out in the KPCS Core Document (Section IV and Annex I):

- Each certificate should bear the title “Kimberley Process Certificate” and the following statement: “The rough diamonds in this shipment have been handled following the provisions of the Kimberley Process Certification Scheme for rough diamonds”
- Country of mining origin for shipment of parcels of unmixed (i.e. from the same) origin
- Certificates may be issued in any language, provided that an English translation is incorporated
- Unique numbering with the Alpha 2 country code, according to ISO 3166-1
- Tamper and forgery resistant
- Date of issuance
- Date of expiry
- Issuing authority
- Identification of exporter and importer
- Carat weight/mass
- Value in US\$
- Number of parcels in shipment
- Relevant Harmonised Commodity Description and Coding System
- Validation of Certificate by the Exporting Authority

Optional certificate elements include:

- Characteristics of a Certificate (for example as to form, additional data or security elements)
- Quality characteristics of the rough diamonds in the shipment
- A recommended import confirmation part should have the following elements:
  - Country of destination Identification of importer Carat/weight and value in US\$
  - Relevant Harmonised Commodity Description and Coding System Date of receipt by Importing Authority
  - Authentication by Importing Authority
- Rough diamonds may be shipped in transparent security bags
- The unique Certificate number may be replicated on the container

Please consult the KP focal point in your jurisdiction for detailed information about the established procedure of issuance of the KP certificates.

## Question 2

**Does the company make sure that it does not buy/receive on memo rough diamonds from suspect sources or unknown suppliers, or rough diamonds that originate in countries that are not members of the KP and/or have not duly implemented and/or enforced the KPCS regulations prohibiting the trade in conflict diamonds and officially communicated as such, with possible additional restrictions upon an advisory by a governmental authority of the company's country of registration?**

### ***About this question to answer "Yes"***

If trading in rough diamonds you should make sure that rough diamonds you buy/receive on memo come from a KP participant country fully compliant with the KPCS requirements before any transaction. Please check the WDC website <https://www.worlddiamondcouncil.org/> or the KP website <https://www.kimberleyprocess.com> for any possible restrictions currently imposed.

Before any transaction, you should also check whether a region or a country you plan to buy diamonds in or from is not subject to an advisory by a governmental authority of your company's registration indicating that conflict diamonds are emanating from or available for sale there. Please check with the respective governmental authority and/or KP focal point in your jurisdiction.

### ***Further Comments:***

To avoid dealing with fraudulent suppliers/traders, it is also necessary to verify the identity of diamond traders or consumers you encounter for the first time. In case you do not have an established KYC procedure in your company you are advised to consult your diamond bourse, national industry organizations or any other sources of information available. If you do not have an opportunity to carry out suppliers investigation you should avoid dealing with them.

## Question 3

**Does the company ensure that all company employees who buy or sell diamonds within the diamond trade are well informed regarding trade resolutions and government regulations prohibiting the trade in conflict diamonds and respect these procedures at any time?**

### ***About this question to answer "Yes"***

If trading in rough diamonds you should ensure that all your employees who buy or sell diamonds are well informed about trade association resolutions and government regulations/restrictions prohibiting the trade in conflict diamonds.

### ***Further Comments:***

It is recommended that the responsible manager keeps a list of all employees that buy or sell diamonds and regularly train them on the procedures to follow to ensure compliance with the KPCS and other government regulations.

## Question 4

**Does the company keep as per national relevant legal requirements or (if not set) at least for three years the daily buying, selling or exporting records listing the names of suppliers and/or buyers, their license number and the amount and value of diamonds sold, exported or purchased?**

***About this question to answer “Yes”***

Following the recommendations reflected in Annex II of the KPCS and Administrative Decision on Internal Control (ADIC), if trading in rough diamonds you should keep for at least three years the daily buying, selling or exporting records of operations with rough diamonds. These records should list the names of suppliers and/or buyers, their license number and the amount and value of diamonds sold, exported or purchased. This is to ensure that all rough diamonds traded can be traced to imports and exports with valid KPCS certificates.

***Further Comments:***

In many jurisdictions, this requirement (that usually envisages much longer periods of time for keeping records) is established by other legal regulations, for instance, taxation rules.

It should also be noted that certain jurisdictions have no system of licensing of rough diamond buyers, sellers and exporters.

**Question 5**

**Does the company carry out audit and reconciliation of the daily buying, selling or exporting records on an annual basis to ensure that all rough diamonds traded can be traced (e.g. to imports or exports with valid KP certificates)?**

***About this question to answer “Yes”***

Apart from keeping for at least three years the daily buying, selling or exporting records of operations with rough diamonds, if trading in rough diamonds you should carry out internal audit and reconciliation on an annual basis to ensure traceability to import or export.

***Further Comments:***

Some companies may outsource their audit to a second party, i.e. their accountant, or may be required to go through regular third party audit if required by their national legislation (Belgium) or conditions for membership in industry organizations (for instance, RJC).

**Question 6**

**Is the company able to prove compliance with the KPCS by submitting the daily buying, selling or exporting records when asked for by a duly authorised government agency?**

***About this question to answer “Yes”***

In addition to keeping, auditing and reconciling the daily records of operations with rough diamonds you should be ready to present them for inspection by a relevant government authority or experts of the KP review visit or mission to confirm compliance with the KPCS.

## **Section 2. Self-Regulation**

### *Introductory Note*

To support the Kimberley Process, in 2002 the WDC launched a mechanism of industry self-regulation called the System of Warranties (SoW) that extended the effectiveness of the KP beyond the export and import of rough diamonds. Under the SoW, every transaction of diamonds – regardless of whether they be rough, polished or set in jewellery, exported/imported or traded domestically – must be accompanied by a written warranty on the invoice every time the diamonds change hands.

In essence, the SoW required buyers and sellers of rough diamonds, polished diamonds and jewellery containing diamonds to pass on a warranty statement on B2B invoices and memos each time diamonds change hands, assuring the next buyer that the diamonds originated from sources in compliance with the KPCS.

To further protect the integrity of diamonds, maintain and promote diamond equity, in October 2018 the WDC adopted the new System of Warranties and its Guidelines that transcended industry self-regulation on other spheres, including human rights, anti-corruption, anti-money laundering and counter-terrorism financing (AML/CTF) in accordance with the universally accepted principles.

Taking into account that the SoW prevents WDC members and adherents from trading with non-adherents, it constitutes a truly universal mandatory self-regulation instrument. Implementation of the SoW is also required by major international industry bodies, including WFDB, IDMA, CIBJO and RJC. Additionally, the implementation of the SoW is a required practice in responsible business codes of leading diamond and jewellery commercial bodies, including De Beers' Best Practice Principles, the ALROSA Alliance Guidelines on Responsible Business Practices, and Signet Jewelers' Responsible Sourcing Protocol for Diamonds.

Failure to comply with the SoW Guidelines may lead to exposure of expulsion from WDC and other industry organizations.

### **Question 7**

**Does the company make WDC SoW warranty statements on all its invoices and memos?**

***About this question to answer “Yes”***

Under the SoW Guidelines, each invoice you issue (and receive) for diamonds must carry the SoW warranty statement assuring that the diamonds are conflict-free and confirming the seller's adherence to the WDC SoW Guidelines:

**“The diamonds herein invoiced have been {sourced}\* purchased from legitimate sources not involved in funding conflict, in compliance with United Nations Resolutions and corresponding national laws {where the invoice is generated}\*\*. The seller hereby guarantees that these diamonds are conflict free and confirms adherence to the WDC SoW Guidelines.”**

*\*{sourced} - may be used by companies that do not purchase from the open market, but source and aggregate diamonds from production facilities that are owned/partly owned by them*

*\*\*{where the invoice is generated} - may be used by companies if they specifically want to reference the country of invoice issuance*

Where national law prevents the SoW statement from being included in your invoice, you should include it in separate accompanying documents.

#### **Question 8**

**Does the company only buy from companies that include the WDC warranty declarations on their invoices and memos?**

##### ***About this question to answer “Yes”***

Under the SoW Guidelines, you must make sure that you only trade with companies that include the SoW statement on their invoices.

##### ***Further Comments:***

It is required to put procedures in place to ensure that you do not accept shipments of diamonds if they do not come with the SoW statement.

Also note that to ensuring a smooth transition to the updated SoW, the old warranty will be valid until the end of 2023 in the case of rough purchases and until the end of 2025 in the case of all other purchases. However, it is recommended to ensure compliance with and usage of the new warranty as soon as possible.

#### **Question 9**

**If polished diamonds or jewellery are being purchased from other sources e.g. from private individuals, the secondary market or auction houses, does the company carry out the necessary due diligence and ascertains to the best of its ability that the goods purchased comply with the spirit of the System of Warranties regulations otherwise you confirm that the company does not source any diamonds from the secondary market or individuals)?**

##### ***About this question to answer “Yes”***

If you would like to purchase polished diamonds or jewelry that changed hands last time before the introduction of SoW in 2002 (revised 2018 warranty statement) in support of the KP that entered into force in 2003, for instance, from private individuals, secondary market or auction houses, you should request primary documentation (if available) from the seller before the purchase and/or carry out legal due diligence to ensure to the extent possible that the goods are conflict-free and in compliance with the spirit of the SoW Guidelines.

#### **Question 10**

**Does the company keep records of the warranty invoices received and the warranty invoices issued when buying or selling diamonds for at least three years?**

##### ***About this question to answer “Yes”***

Further to requirements of the Kimberley Process to keep records of every transaction of rough diamonds, under the SoW you must keep records of all warranty invoices received and issued for operations with rough and polished diamonds and diamond jewellery. This is to check that you have a system of controls that ensures all diamonds in and out are accompanied by the correct warranty statement and information.

***Further Comments:***

In many countries, the financial or taxation laws also require companies to keep their documents for a specified period. The purchase documents and warranties held under these obligations will also qualify under this question, if held for more than 3 years.

**Question 11**

**Does the company reconcile the flow of warranties in and warranties out on an annual basis?**

***About this question to answer “Yes”***

You must reconcile the warranties in and out every year as part of an internal self-assessment of compliance with the SoW. This is to ensure that you have received a SoW warranty on all purchases during the year and have issued a SoW warranty on all invoices issued by you during the year.

**Question 12**

**Do the company's auditors/external accountants conduct an audit of warranties in and warranties out on an annual basis?**

***About this question to answer “Yes”***

Reconciliation of the flow of warranties in and warranties out should be audited every year by your company's internal auditors or external accountants.

***Further Comments:***

Some companies go through an annual third party audit as required by their national legislation (for instance, in Belgium) or conditions for membership in industry organizations (for instance, RJC). The auditors can confirm that you have received a SoW warranty declaration on all purchase invoices from your suppliers and that all your invoices carry the SoW warranty declaration as well.

In certain jurisdictions (for instance, in Belgium) companies must participate in a relevant government control mechanism, checking whether the company duly reconciles the flow of warranties, recognized by the SoW.



### **Section 3. Compliance Section**

#### **Human Rights**

The responsibility to respect human rights is a global standard of expected conduct for all business enterprises wherever they operate. The UN Guiding Principles on Business and Human Rights provides the basis for the business entity to know and show that it respects human rights.

Business enterprises should avoid infringing on the human rights of others and should address adverse human rights impacts with which they are involved.

#### **Question 13**

**Does the company-commit to respect human rights and follow all relevant national laws and that commitment is in line with the UN Guiding Principles on Business and Human Rights?**

***About this Question to answer “Yes”***

You should undertake a commitment to respect human rights throughout its operations. This commitment should be expressed through a respective written statement of policy approved at the most senior level. It can be a stand-alone one or a part of an overarching company policy on operations, business conduct and supply chain.

#### ***Further Comments:***

For large companies, the policy commitment should be publicly available. It should be communicated actively to entities with which the company has contractual relationships, others directly linked to its operations and, in the case of operations with significant human rights risks, to the potentially affected stakeholders. The policy should be reflected in operational processes and procedures and be integrated in decision and management systems.

*To meet the requirements of this Question the companies that are not large can make use of a policy commitment template provided herein (Annex 1).*

#### **Question 14**

**Does the company have operating and management procedures to avoid directly causing or contributing to adverse human rights impacts through its activities?**

***About this Question to answer “Yes”***

You should have policy implementing processes in place through which to identify human rights risks and prevent adverse human rights impacts. You should strive for coherence between the responsibility to respect human rights and procedures that govern its business activities and relationships.

#### ***Further Comments:***

The process should be overseen and coordinated through effective management systems, should depend on the nature and context of the company’s operations and be ongoing, since the human rights risks may change over time as the operations and operating context evolve. As a minimum, the company’s human rights due diligence should include the following key elements:



- Assessing actual and potential human rights impacts
- Integrating and acting upon the findings
- Tracking responses
- Communicating, if necessary, how impacts are addressed

### **Question 15**

**Does the company mitigate and/or remediate adverse human rights impacts where it identifies that it has directly caused or contributed to said impacts?**

#### ***About this Question to answer “Yes”***

You should have procedures in place with effective remedy and grievance mechanisms introduced to take corrective action to fix and/or compensate for any human rights violation which it may have directly caused or have been part of. This is to ensure that you are aware of the impact your operations might have on human rights and are responsible to take action to correct any misdoings which might have been caused.

#### ***Further Comments:***

Addressing adverse human rights impacts requires taking adequate measures for their prevention, mitigation and, where appropriate, remediation.

- Prevention and mitigation

Where a company causes or may cause an adverse human rights impact, it should take the necessary steps to cease or prevent the impact. It should take the necessary steps to cease or prevent its contribution and use its leverage to mitigate any remaining impact to the greatest extent possible. Leverage is considered to exist where the enterprise can effect change in the wrongful practices of an entity that causes harm.

- Remediation

Even with the best policies and practices, a company may cause or contribute to an adverse human rights impact that it has not foreseen or been able to prevent. Where a company identifies that it has caused or contributed to adverse impacts, it should provide for or cooperate in its remediation through legitimate processes.

The purpose of remedy is to restore those that have been harmed by a company's activities to the situation they would have been in had the impact not occurred. In practice, a remedy can take many available forms: acknowledgement and apology, compensation (financial or other) for the harm, formal legal procedure or others. The priority should be given to the remedy process based on the severity of the impact at hand.

The company should establish legitimate processes to provide or enable remedy to those harmed. The company should co-operate with, and not impede access to, any legitimate state-based judicial and non-judicial grievance mechanisms, to support those seeking remedy through these channels.

A large company should also have its ~~own~~ operational grievance mechanism for individuals and communities that allows it to receive, process and provide adequate response or remedy for grievances and to make it possible for grievances to be addressed early and remediated directly. It can be a stand-alone mechanism to deal with human rights impacts, or an integrated

mechanism that covers other areas of the company's operations. A grievance mechanism should be available for both internal and external stakeholders.

## **Question 16**

**Does the company seek to mitigate adverse human rights impacts that are indirectly linked to products or services supplied by its business partners, even if it has not contributed to those impacts? – for Large companies only**

### ***About this Question to answer “Yes”***

Your company's responsibility to respect human rights extends beyond impacts the company may cause or contribute to through its activities and whether it contributes to prevention, mitigation and remediation of the impacts linked to its operations, products or services as a result of your business relationships with other parties.

### ***Further Comments:***

The responsibility to respect human rights applies across your own activities but also to your business relationships. Business relationships include the company's business partners, businesses in its value chain and any other business, government or other entity that is directly linked to its operations, products or services.

- **Due diligence**

Where the company has a number of entities in its value chain it should conduct due diligence for adverse human rights impacts across them all. Human rights due diligence should be initiated as early as possible in the development of a new activity or relationship, given that human rights risks can be increased or mitigated already at the stage of structuring contracts or other agreements, and may be inherited through mergers or acquisitions.

- **Prevention and mitigation**

If the company has leverage to prevent or mitigate the adverse impact, it should exercise it. If the company lacks leverage there may be ways for the company to increase it, for example, by offering capacity-building to the related entity or collaborating with other actors. If the company lacks the leverage to prevent or mitigate adverse impacts and is unable to increase its leverage it should consider ending the relationship, taking into account credible assessments of potential adverse human rights impacts of doing so.

- **Remediation**

Where adverse impacts have occurred that the company has not caused or contributed to, but which are directly linked to its operations, products or services by a business relationship, the responsibility to respect human rights does not require that the enterprise itself provide for remediation, though it may take a role in doing so. Being exempt from direct responsibility to provide a remedy the company linked to a negative human rights impact is still expected to support the actions of others, for instance to cooperate with judicial mechanisms.

## **Labor**

The company's labour policy should cover at least four categories of labour principles and rights, expressed in eight so-called "core conventions" considered as fundamental because they protect basic workers' rights pursuant to the 1998 ILO Declaration on Fundamental Principles and Rights at Work as imbedded in relevant national laws.

- **Freedom of association and the effective recognition of the right to collective bargaining**

The company should commit to respect the right of all employers and all workers to establish and join groups for the promotion and defence of their occupational interests in compliance with applicable law freely and voluntarily. The labour policy, subject to national legislation, should establish voluntary processes or activities through which employers and workers discuss and negotiate their relations, in particular terms and conditions of work and the regulation of relations between employers, workers and, if applicable, their organisations.

- **Elimination of all forms of forced and compulsory labour**

The company should uphold the elimination of all forms of forced and compulsory labour as a violation of fundamental human rights. Its labour policy should include a clear commitment not to use, be complicit in, or benefit from forced labour. Where adherence to forced labour provisions of national laws and regulations is considered insufficient, the company should take account of international standards.

- **Abolition of child labour**

The company should uphold the effective abolition of child labour within its sphere of influence. Its policy should include rules that specifically and directly forbid the use of child labour in the company's operations. The company should adhere to minimum age provisions of national labour laws and regulations and, where national law is considered insufficient, take account of international standards.

- **Non-discrimination**

The company should uphold the elimination of discrimination in respect of employment and occupation. The labour policy should stipulate the company's commitment to avoid treating people differently or less favourably in a variety of work-related activities, because of characteristics that are not related to their merit or the inherent requirements of the job.

## **Question 17**

**Does the company have a written labour policy and complies with all national labour legislation?**

***About this Question to answer "Yes"***

Your company needs to uphold labour standards across its operations. You should develop a labour policy as a formal demonstration of commitment to respect worker's fundamental rights. The labour policy may be a part of the company's overarching policy committing to responsible business practices or constitute a stand-alone policy relating specifically to the labour issues.

Your labour policy should contain a commitment to respect worker's fundamental rights, incl. pay conditions, hours of work, overtime, leave, breaks, and to ensure freedom from forced labour, child labour and discrimination.

**Further Comments:**

*To meet the requirements of this Question the companies that are not large can make use of a policy commitment template provided herein (Annex 2).*

**Question 18**

**Does the company have a written commitment not to make use of any form of forced, bonded or compulsory labour throughout its operations?**

**About this Question to answer "Yes"**

You should clearly formalize your commitment not to engage in or support the use of forced labour in your operations and state your position against forced labour.

You should adopt a publicly available commitment not to use, be complicit in, or benefit from any form of forced, bonded or compulsory labour. For a company that is not large the policy statement is considered to be public if it is available upon request. This commitment may be stated either in a stand-alone policy or as part of a broader human rights policy.

All employees should be provided with employment contracts stating the terms and conditions of service, the voluntary nature of employment, the freedom to leave (including the appropriate procedures) and any penalties that may be associated with a departure or cessation of work.

**Further Comments:**

In fulfilling its commitment to core labour rights the company should contribute to the elimination of all forms of forced, bonded and compulsory labour as a fundamental violation of human rights. Forced or compulsory labour is any work or service that is exacted from any person under the menace of any penalty, and for which that person has not offered himself or herself voluntarily.

The freedom from forced and compulsory labour is enshrined in Article 4 of the Universal Declaration of Human Rights, which states that no one shall be held in slavery or servitude. The standards to prevent forced labour are set by the International Labour Organisation through two major international conventions: Forced Labour Convention No. 029 and Abolition of Forced Labour Convention No. 105, as they are embedded in relevant national legislations.

Given that forced labour can become associated with the company through its business links with other large companies should also reinforce an understanding that it will potentially terminate business with any contractors or suppliers that use forced labour. The company should ensure that there is no forced or compulsory labour within its operations and dealings with other businesses. It should exercise due diligence to carefully monitor supply chains and subcontracting arrangements addressing key risks which collectively can contribute to a situation of forced labour. When forced labour is identified, these individuals should be removed, and facilities and services should be provided to enable them to have adequate alternatives.

## Question 19

**Does the company comply with the minimum age requirements for admission to employment or work in consistence with the fullest physical and mental development of young persons?**

### ***About this Question to answer “Yes”***

You should make a written public commitment to comply with the minimum age requirements for admission to employment and work and declare its zero tolerance regarding the worst forms of child labour. For a company that is not large the policy statement is considered to be public if it is available upon request. You should also establish and use adequate and verifiable mechanisms for age verification in recruitment procedures.

This commitment applies to workers directly engaged by the company and workers engaged through third parties to perform work related to your core business processes for a substantial duration. Your company’s zero-tolerance approach to the abolition of child labor should extend to your subcontractors, suppliers and other business affiliates.

### ***Further Comments:***

The company should uphold the effective abolition of child labour as a form of exploitation and a violation of human rights recognised by international and national instruments. Child labour is defined as work done by children that deprives them of their childhood, potential and dignity, and that is harmful to their social, physical and mental development.

- **Compliance with minimum age requirements**

A child is anyone under the age of 18, as defined by the UN Convention on the Rights of the Child. While the term “child” covers all individuals under 18 years of age, not all under-18s must be removed from work. The basic rules under international standards distinguish what constitutes acceptable or unacceptable work for children at different ages and stages of their development. When seeking to determine minimum age limits for its country of operation, the company should investigate whether national legislation complies with ILO Convention 138 and whether exceptions are in place for the country.

The framework for national law to prescribe a minimum age for admission to employment or work is provided by the ILO conventions: Minimum Age Convention No. 138 and the Worst Forms of Child Labour Convention No. 182. The minimum age for entry into full-time employment should be no younger than 15. Lower ages are permitted for transitional periods in countries where economic and educational facilities are less well-developed: the minimum age for regular work generally is 14 years, and 12 years for light work. The minimum age for hazardous work is at 18 years for all countries.

- **Elimination of worst forms of child labour**

Worst Forms of Child Labour Convention No. 182 requires governments to give priority to eliminating the worst forms of child labour undertaken by all children under the age of 18 years. They include all forms of slavery, including the trafficking of children, debt bondage, forced and compulsory labour, and the use of children in armed conflict; the use, procuring or offering of a child for prostitution, for the production of pornography or for pornographic purposes; the use, procuring or offering of a child for illicit activities, in particular, the production and trafficking of drugs; and work which is likely to harm the health, safety or morals of the child as a consequence of its nature or the circumstances under which it is carried out.

## **Question 20**

**Does the company employ following national law, including (if relevant) according to a list of job functions that can safely be performed by young persons below the age of 18 in cases of their employment?**

### ***About this Question to answer “Yes”***

In case your company employs young persons below the age of 18 you should adopt a list of job functions that can safely be performed by such young persons. When developing the respective list of job functions you should adhere to minimum age provisions of national labour laws and regulations, and where national law is considered insufficient, take account of international labour standards.

You should also develop and implement mechanisms to detect child labour and have in place procedures for validating the age of young workers. If an occurrence of child labour is identified, the children need to be removed from the workplace and provided with viable alternatives.

### ***Further Comments:***

Young workers are those under 18 but over the minimum working age. Young people should be able to engage in decent work, but still need protection from hazardous work and other worst forms of child labour. Key issues to consider:

- **Hazardous work**

Workers below the age of 18 should not be engaged in hazardous work. Hazardous work is any work that puts a child's or young worker's physical or psychological well-being at risk because of the nature of the work or the conditions under which it is carried out as defined in the ILO Recommendation No. 190.

- **Regular work**

Children are entitled to the basic right of education and must not be hired for full-time work before completing their compulsory education. The age for completion of education and the minimum age for entry into employment are both determined by the national legislation in the country of operation. Under ILO Convention No. 138 the minimum working age for entry into full-time employment should be no younger than 15 years, or statutory school-leaving age, whichever is higher. If the country of operation is subject to an exception the minimum age should be no younger than 14 years.

- **Light work**

Depending on the country of operation, children aged 13, or 12 if the country is subject to an exception, may perform light work as defined by the ILO Minimum Age Convention as work for a few hours per day, not interfering with the health or development of the child, and not interfering with the child's compulsory education.



## Question 21

**Does the company seek to prevent workplace harassment and ensure that decisions concerning hiring, wages, promotion, training, discipline, retirement and termination are based only on unbiased criteria and are not linked to any of the discriminatory characteristics such as race, colour, sex, sexuality, language, religion, political or other opinions, national, ethnic or social origin, disability, birth or another status of an employee?**

### ***About this Question to answer “Yes”***

You should be able to ensure safe, just and favourable conditions of work for its employees with regard to their right to non-discrimination and freedom from abuse, intimidation or harassment.

To ensure that employees are treated with dignity and respect and are not subjected to harassment, violence or discriminatory practices you should have at least the following components implemented:

- you should have a written policy that prohibits all forms of violence, harassment and discrimination in the workplace.
- the policy must be supported by procedures allowing to identify, assess the risk of and address direct and indirect workplace harassment or discrimination.

### ***Further Comments:***

This Question covers the company’s responsibility to create a safe working environment and uphold the elimination of discrimination in respect of employment and occupation.

- **Workplace harassment**

Workplace harassment is any type of offensive conduct from a boss, co-worker, group of co-workers, customer or vendor whose actions, communication or behaviour mocks, demeans, puts down, disparages or ridicules an employee. It comes in many different forms, from a single act of verbal harassment to consistent and continued nonverbal harassment. The most severe forms of harassment include intimidation, threats and physical or sexual violence.

Torture, cruel, inhuman or degrading treatment or punishment are prohibited both by the 1948 Universal Declaration of Human Rights (UDHR) and the 1966 International Covenant on Civil and Political Rights. The UDHR further states that everyone has the right to just and favourable conditions of work.

- **Discrimination**

Discrimination is any distinction, exclusion or preference made on the basis of illegitimate distinguishing personal characteristic. The grounds for discrimination that are recognised and prohibited under international human rights law include race, colour, gender, sexuality, language, religion, political or other opinions, national, ethnic or social origin, disability, birth or other status of an employee. Workplace harassment is also considered discrimination when it is based on discriminatory grounds.

Freedom from discrimination is a fundamental human right. Non-discrimination principles are enshrined in the Universal Declaration of Human Rights and further developed in international labour law through two major conventions of the International Labour Organisation: Discrimination (Employment and Occupation) Convention No. 111 and Equal Remuneration Convention No. 100.



## **Question 22**

**Does the company take appropriate preventative and disciplinary actions against discrimination with regard to grounds of discrimination (e.g. age, gender and ethnic origin) and aspects of employment (e.g. recruitment, promotion and remuneration)? – for Large companies only**

### ***About this Question to answer “Yes”***

You should introduce preventative and disciplinary actions against workplace discrimination effectively considering its variety of forms, different grounds of occurrence and diverse employment aspects.

In the context of your efforts to avoid or remedy discrimination, a range of preventative and disciplinary actions is to be taken. As a minimum, you should:

- Assign responsibility for equal employment issues at a high level and institute company-wide policies and procedures to guide equal employment practices and to make qualifications, skills and experience the basis for the recruitment, placement, training and advancement of staff at all levels.
- Identify and assess actual and potential risks attributed to discrimination issues with regard to grounds of discrimination and forms of discrimination that may exist in the workforce.
- Provide staff training on non-discrimination policies and practices.
- Keep up-to-date records on recruitment, training and promotion that provide a transparent view of opportunities for employees and their progression within the company.
- Carry out periodic audits and internal checks to monitor the working environment.
- Develop a written policy and procedures for disciplinary action. The disciplinary process and related standards on appropriate disciplinary procedures and employee treatment should be clearly communicated and applied equally to all management and staff.
- Establish grievance procedures to address complaints, handle appeals and provide remedies where discrimination is identified.

### ***Further Comments:***

In order to ensure the employee's right to work, the right to equal pay for equal work, the right to thought, conscience and religion the company should establish a comprehensive framework aimed at the prevention of discriminatory practices in its operations.

- Grounds of discrimination

Non-discrimination means employees are judged based on their ability to do a job, without distinction, exclusion or preference on any other grounds. Distinctions should be based strictly on the inherent requirements of particular work. In order to introduce effective measures to promote equality, the company needs to be aware of the diversities of language, culture, family and other circumstances that may exist in the workforce.

- Forms of discrimination

Discrimination can take many forms, both in terms of gaining access to employment and in the treatment of employees once they are at work. Taking into account that discrimination may arise in a variety of work-related activities and occupational settings the company should seek to develop an understanding of the different types of discrimination and how it can affect the workforce.

The company's actions against discrimination should be implemented through all aspects of the labour relationship. These should include access to employment, particular occupations, training and vocational guidance and social security, promotion, the terms and conditions of employment including recruitment, remuneration, hours of work and rest, paid holidays, discipline, occupational safety and health, termination of employment and retirement.

Discrimination can be direct or indirect. Direct discriminatory practices occur when laws, rules, customs or corporate practice explicitly cite a distinguishing personal characteristic to deny an equal opportunity. Indirect discrimination arises when rules, practices or attitudes seem to be neutral but in fact lead to exclusions or preferential treatment. Indirect discrimination is much more common and much more difficult to identify in practice.

### **Question 23**

**Does the company investigate all complaints of workplace harassment and provides for effective external/internal grievance mechanisms and remedies? – for Large companies only**

***About this Question to answer “Yes”***

Your policy addressing workplace harassment should establish grievance procedures and investigation processes for employees to report their grievances and for the company to receive, process, review and address them appropriately providing adequate response or remedy. Effectiveness criteria for grievance mechanism are set out by the UN Guiding Principles on Business and Human Rights. A grievance mechanism can only really serve its purpose if it is clear, accessible, confidential and unbiased. Grievance procedures should be communicated to all employees and be inclusive of all who may wish to use them. You should also ensure confidentiality and anonymity of the person raising the grievance to avoid retaliation for individuals filing complaints or engaging with the grievance procedure. A person responsible for receiving and investigating grievances must be trained, impartial and empowered to make decisions or at least have access to decision-makers.

You should keep relevant track records on all concerns raised and take appropriate decisions in due time. Record-keeping is critical to demonstrate that you have fair and effective grievance procedure. You should keep an accurate and updated record of all grievances and follow-up actions. To protect the confidentiality of those raising grievances, it must be ensured that the records are kept in a secure location, all complaints and investigations are treated confidentially to the extent possible, and information is disclosed strictly on a need-to-know basis. You should review the effectiveness of its grievance procedures regularly and update them accordingly to ensure the employees know how to use them and trust that they work fairly.

You should enable remediation of any harm due to workplace harassment. Regardless of the impact caused, you should develop an action plan to provide the appropriate remedy based on the situation and put in place controls to mitigate future risks.

The focus is to be made on helping affected individuals, preventing any further harm to them and others and taking disciplinary measures against perpetrators. In practice, the form of remedy can range from acknowledgement and apology to financial compensation for the harm.

***Further Comments:***

This refers to whether the company has an operating grievance and investigation mechanisms in place allowing it to receive, handle and address complaints of workplace harassment, discrimination or retaliation effectively and in compliance with the internationally accepted criteria.

All workers are entitled to a safe and healthy workplace. Employees who are harassed, disciplined inappropriately, paid incorrectly or treated unfairly, have their basic human rights infringed. One of the company's primary responsibilities is to provide for a strong internal responsibility system to address workplace harassment and remediate its consequences.

**Anti-corruption**

Promoting anti-corruption plays an essential role in combating corruption. Not only will it signal to the company's business partners and associates that the company runs a non-corrupt business, but it also encourages employees to refrain from being involved in corruption and have an open dialogue of the risk of corruption.

The company should comply with relevant national and international standards, conventions and agreements such as UN Convention against Corruption, The Inter- American Convention Against Corruption, The African Union Convention on Preventing and Combating Corruption, Anti- Corruption Action Plan for Asia and the Pacific, The Council of Europe Conventions on Corruption, The OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions, etc.

**Question 24**

**Does the company have a written anti-corruption policy in line with all national anti-corruption legislation?**

***About this Question to answer "Yes"***

You should uphold anti-corruption standards within all your business operations, ensuring not to engage in bribery and/or corruption via one of your employees, officers or agents, nor should you accept or facilitate any bribery and/or corruption coming from your counterparty. You should develop an anti-corruption policy as a formal demonstration of commitment to respect anti-corruption legislation. This anti-corruption policy may be a part of the company's overarching compliance policy / policy committing to responsible business practices or constitute a stand-alone policy relating specifically to anti-corruption. The key indicators:

- The company's CEO, director or president has declared that the company will not engage in corruption at any time or in any form.
- The company has a policy rejecting corruption and requiring all directors, managers and workers worldwide to behave ethically and in conformity with the law.
- The company anti-corruption policy includes how to handle requests for facilitation payments, giving and receiving gifts, engaging in sponsorships, giving political contributions.
- Management and staff are encouraged to report all cases of suspected corruption to the appropriate contact person.



***Further Comments:***

Corruption is a criminal offence in most countries and exposes the company and its personnel to the risk of prosecution, fines and imprisonment. Failing to implement adequate procedures to prevent corruption and bribery by the company's personnel or anyone acting on the company's behalf, no matter where in the world it takes place, exposes the company to the risk of fines and disbarment from certain government contracts. It also exposes the company to significant reputational damage.

*To meet the requirements of this Question the companies that are not large can make use of a policy commitment template provided herein (Annex 3).*

### **Question 25**

**Does the company have a mechanism to evaluate the risk of corruption when workers, agents, intermediaries or consultants deal with public officials (including workers of state-owned companies), officers and employees of other companies or any other persons capable of unduly assisting the company in any way?**

#### ***About this Question to answer “Yes”***

You should identify the third parties you deal with, whether those are public officials, officers, employees of other companies or other persons capable of unduly assisting your company. You should assess the risk of corruption of each third party and if applicable, take risk mitigating measures should there be an increased risk of corruption. The key indicators to look at:

- evaluate the potential areas of corruption including factors such as type of transaction, countries of operation, industries, and customers or business partners involved.
- evaluate the risk of corruption when workers, agents, intermediaries or consultants deal with public officials (including workers of state-owned companies).
- evaluate the risk of internal and external conflicts of interest in relation to business partners.
- develop an action plan to address the risk of corruption, and have defined responsibilities for each task, as a minimum for high-risk areas.
- identify internal functions with the highest risk of corruption within the company and seeks to address these weaknesses.

#### ***Further Comments:***

Risk assessment is the foundation of implementing anti-corruption tools in businesses. This assessment will have a different focus depending on the specific situation and context and should relate to the internal structures of the company. It is important to include this analysis in the overall evaluation of business relationships and opportunities and look for ways to minimize the risks by providing appropriate countermeasures. Operating in countries with a high level of corruption the risk assessment should be implemented in all procedures.

Depending on the risk level, the company takes appropriate additional mitigating measures to do further due diligence on the third party and to reduce the risk of corruption if possible.

For example, generally public officials are considered to be more vulnerable to corruption. When dealing with a public official, the company can therefore take measures such as obtaining permission of the higher management in the company to enter into or continue the business relationship with these persons; taking appropriate measures to determine the origin of the funds which are used in the business relationship or transactions with these persons; exercising a stricter supervision on the business relationship and the execution of the transaction.

**Question 26**

**Does the company ensure that payments to agents, intermediaries and consultants are legal and in line with standard payments for other service providers of similar ranking?**

***About this Question to answer “Yes”***

You should ensure that only legal payments in conformity with prevailing standards are made for the services/products provided by the third party. You should not give money or anything of value to any person if the circumstances indicate that it is probable that all or part of the money or other thing of value is being given to another individual in order to influence official action or to obtain a business advantage. Moreover, you should ensure that records are kept which accurately and fairly reflect all transactions.

**Question 27**

**Does the company require all directors and managers to behave ethically and in conformity with all relevant national laws following its anti-corruption commitments?**

***About this Question to answer “Yes”***

You should put procedures in place to make sure that the anti-corruption policy is duly implemented by the management. All your staff, personnel and agents, including all directors and managers, are to comply with all national anti-corruption legislation at all times and to behave ethically. If you operate abroad, you should take appropriate measures to determine the local legislation regulating anti-corruption and adapt your operations accordingly where necessary to ensure you operate in compliance with these national laws at all times. The key indicators to look at:

- designate a person in charge of running your anti-corruption procedures, providing advice and receiving complaints or concerns about compliance with your anti-corruption policy. This includes being aware of applicable law. If uncertain, seek advice from qualified legal advisors.
- make sure your anti-corruption procedures are reflected in formal policies that are written down.
- establish awareness of corruption issues and risks and embedding an anti-corruption culture in the company.

***Further Comments:***

Awareness-raising is essential for the long-term success of fighting corruption. Awareness is not established instantly, but created through ongoing dialogue, training and information about corruption, its impact and how to prevent it.

The measures taken by the company should be in accordance with national regulatory requirements, international conventions, agreements, the precautionary approach and best practice.

The company may have an internal code of conduct in which further specification is given to the anti-corruption commitments expected from its staff/ board/ management, and which its personnel, including its directors and managers, have signed and endorsed.

### **Question 28**

**Do the company's anti-corruption procedures include how to handle requests for facilitation payments, giving and receiving gifts, engaging in sponsorships, giving political contributions, and how to conduct responsible lobbying? – for Large companies only**

#### ***About this Question to answer “Yes”***

You should establish formal mechanisms on dealing with anti-corruption issues when engaging with external stakeholders on the matters mentioned in the question while doing business. The key indicators to look at:

- get acquainted with the applicable law on facilitation payments and make sure that:
  - your anti-corruption policy and procedures provide guidance on acceptable and unacceptable facilitation payments;
  - all facilitation payments are approved by a person in charge;
  - all facilitation payments are accounted for and recorded.
- inform external stakeholders receiving facilitation payments about your policies limiting their nature and scope.
- look at ways of reducing or eliminating facilitation payments.
- create a gift register and record all gifts given, received and accepted, including major charitable contributions, sponsorships, community payments and any significant hospitality expenses that are offered.

#### ***Further Comments:***

In many national anti-corruption laws, facilitation payments are prohibited. These are generally small sums of money paid to someone as a way of ensuring that he/she performs his/her duties more promptly, or at all. As per the national laws, the direct or indirect offer, payment, giving, soliciting or acceptance of bribes in any form, including facilitation payments, by the company's personnel when conducting business activities, should be prohibited.

### **Question 29**

**Is the information on disciplinary procedures for violations of company anti-corruption policies available to employees? – for Large companies only**

#### ***About this Question to answer “Yes”***

You should ensure that relevant workers are acquainted with company policies, internal disciplinary action, and are properly trained. The key indicators to look at:

- inform all workers about your anti-corruption commitment
- provide regular anti-corruption training for all relevant (procurement, sales, etc.) workers within your company.
- disclose information on disciplinary procedures for violations of company anti-corruption policies to workers.
- seek worker feedback and dialogue on anti-corruption initiatives.
- make sure that workers can safely report suspicion of corruption related cases (e.g. hotline or mailbox) and allocate resources to systematically address the issues that are identified.



### **Question 30**

**Does the company have a whistle-blowing policy by which employees can safely report suspicion of corruption-related cases (e.g. hotline or mailbox) and allocates resources to systematically address the issues that are identified? – for Large companies only**

#### ***About this Question to answer “Yes”***

You should make sure that workers can safely report suspicion of corruption related cases and allocate time and resources to systematically address the issues that are identified. The key indicators to look at:

- create a whistle-blowing or other suitable mechanism (e.g. hotline or mailbox) for employees and others to anonymously report bribery and corruption concerns.
- monitor the risk of bribery (e.g. financial analyses, interviews and approvals).
- periodically review compliance with your anti-corruption policies and procedures.
- install sanctions for non-compliance, communicate these to all workers, agents, intermediaries or consultants, and implement them for all confirmed cases of bribery or attempted bribery.

### **Question 31**

**Does the company evaluate the risk of internal and external conflicts of interest in relation to business partners? – for Large companies only**

#### ***About this Question to answer “Yes”***

You should manage bribery risk in the company in view of potential conflicts of interest in relation to business partners. Bribery risk varies across different businesses and geographies, but they often involve people with the power to influence transactions or external relationships, including with governments and public officials. The key indicators to look at:

- you should identify those parts of your business that are exposed to conflict of interest risk, incl. with an expert help, especially if you have a complex business model.
- your risk assessment should cover all types of conflict of interest risk relevant to your business and local context; it should also distinguish between different parts of the business according to their level of risk so that you can concentrate on areas of greatest risk.
- work to mitigate all identified conflict of interest risks.

### **Question 32**

**Do the company's internal procedures support its anti-corruption commitment? – for Large companies only**

#### ***About this Question to answer “Yes”***

Your company's internal procedures should support your anti-corruption commitment. The key indicators to look at:

- You have different persons or departments responsible for handling contracts, placing orders, receiving goods, processing invoices and making payments.
- You mention "anti-corruption" and/or "ethical behaviour" in its contracts with business partners.
- You prohibit informal employment and any 'off the books' record-keeping.
- You perform internal audits in connection with all anti-corruption commitments.
- Your procurement, financial and internal audit workers have clear instructions to look for and to identify alarms, report them to management, and follow-up countermeasures.
- You request external auditors to maintain a critical eye and follow all alarms and irregularities. Any alarm or irregularity reported by external auditors is systematically addressed by management.
- You continuously identify strengths and weaknesses in the anti-corruption procedures to remain effective and up-to-date in addressing changing risks.

#### ***Further Comments:***

Implementing anti-corruption standards into the core structure of the company relies heavily on the development of suitable procedures which are resistant to corruption and able to raise internal alarms. These alarms are signals regarding occurrences that should be investigated at a higher level in the company.

### **Question 33**

**Does the company conduct due diligence (e.g. financial, legal, labour, tax, IT, environment, market/commercial) on all agents, intermediaries and consultants? – for Large companies only**

#### ***About this Question to answer “Yes”***

Your company's anti-corruption initiatives should separately cover agents, intermediaries and consultants. The key indicators to look at:

- You conduct an inquiry and/or attentiveness (e.g. financial, legal, labour, tax, IT, environment, market/commercial) on all agents, intermediaries and consultants. All agreements with agents, intermediaries and consultants are fully documented in written, signed contracts.
- selection and terms of reference of agents, intermediaries or consultants are approved at a level above that of the management involved in the operations for which the intermediary is hired.

- contracts with agents, intermediaries and consultants include a section on anti-corruption and that the contract-holder must comply with all applicable laws and regulations.
- Agents, intermediaries and consultants are provided with information on your anti- corruption commitment, anti-corruption policies and information on disciplinary procedures for violations of company anti-corruption policies.
- You ensure that payment to agents, intermediaries and consultants are in line with standard payments for other service providers of a similar kind.
- You only make payments by bank transfer or check in the country of the agent, intermediary and consultant and never to a third party without prior examination.

***Further Comments:***

Using agents, intermediaries, consultants or other external service providers does not free the company of its responsibility of implementing its anti-corruption initiatives. Following international law and other anti-bribery legislation, the criminal offence of bribery occurs when a financial benefit or other advantage is offered, promised or given to a public official directly or through agents, intermediaries or consultants. Information and monitoring of agents, intermediaries or consultants' activities should be carried out continuously with a clear line of responsibility within the company. The measures taken by the company should be in accordance with national regulatory requirements, international conventions, agreements, the precautionary approach and best practice.

## **Anti-money Laundering / Counter Terrorism Financing (AML/CTF)**

### **Question 34**

**Does the company have a written AML/CTF policy in accordance with relevant national laws and in line with FATF Guidance for Dealers in Precious Metals and Precious Stones?**

***About this Question to answer “Yes”***

You should have a written policy on the prevention and combat of money laundering and financing of terrorism, in line with the national laws as well as the FATF Guidance for Dealers in Precious Metals and Precious Stones. Your written policy should include a documented Know Your Counterparty (KYC) policy and procedures which enable you to maintain an understanding of the nature and legitimacy of your business partners. The key indicators to look at:

- identify and verify your business partners, by checking government- or industry body-issued identification and government listings for money laundering, fraud, involvement in prohibited organisations and/or financing conflict.
- monitor transactions and report suspicious transactions to relevant authorities.
- maintain records for at least 5 years (or longer if required by national legislation).
- maintain records of all single or apparently linked cash or cash-like transactions equal to or above €10,000 euros/\$10,000/USD or the threshold defined by applicable law (whichever is lower) and, where required by law, implement a process to report such transactions to the relevant designated authority.

### ***Further Comments:***

Your AML/CTF compliance is required with national, and where appropriate international legislation and regulations.

Your financial auditors should be alerted to applicable national legislation imposing special anti-money laundering/combating the financing of terrorism compliance rules on dealers in precious stones or high value goods. You should demonstrate that they have taken appropriate action to satisfy the relevant provisions in the FATF Guidance for Dealers in Precious Metals and Precious Stones.

*To meet the requirements of this Question the companies that are not large can make use of a policy commitment template provided herein (Annex 4).*

### **Question 35**

**Does the company have a procedure in place to ensure that all company employees who buy or sell diamonds are well informed regarding AML/CTF policies and procedures adopted in the company?**

***About this Question to answer “Yes”***

You should demonstrate that your company is fully informed of all relevant legislation and regulations regarding Anti-money Laundering and Counter-Terrorism Financing in all relevant jurisdictions ensuring policies are developed and clearly explained to the relevant employees.

***Further Comments:***

The company can, for example, without being exhaustive, distribute all relevant information on AML within the company, send staff to specialized AML seminars or circulate the company's AML policy internally. It should be clear to all staff members what potential indicators of money laundering or financing of terrorism are and how to address those.

**Question 36**

**Does the company obtain, update and maintain due diligence (KYC) of all its counterparties to screen for potential risks and to develop a (risk) profile of the business partner, incl. enhanced due diligence for higher-risk countries, products, services and business partners if involved in international transactions?**

***About this Question to answer "Yes"***

You should apply high standards in the selection, screening and acceptance of suppliers and purchasers of rough and polished diamonds, ensuring anti-money laundering policies and procedures are adopted, mandating due diligence during the selection process, continued transaction monitoring and relevant and appropriate employees training.

***Further Comments:***

The company should always identify its counterparties (in particular its clients), verify their identity and conduct a risk assessment on them. It should obtain all identifying information related to the counterparty's company (official company name and address, proof of incorporation, business license, VAT number...) and the company's directors and representatives. It should scrutinize if there are any risk indicators for money laundering or financing of terrorism, by checking for example if there are any politically exposed persons related to the company, adverse media, if the company is located in a high-risk country with an increased risk of money laundering or financing of terrorism. The company should, based on the information it finds on its counterparty, place the counterparty in a particular risk category (low – medium – high). Depending on the risk category, appropriate measures should be taken to be vigilant and to reduce the risk of money laundering or financing of terrorism, e.g. ask the counterparty for additional information, conduct an update of the KYC information more regularly etc. The company should make sure to actively monitor its client portfolio and the risk assessments made of those.

**Question 37**

**Does the company have designated one or more employees responsible for AML/CTF issues?**

***About this Question to answer "Yes"***

You should nominate a person responsible for the implementation of AML/CTF policy and procedures. This anti-money laundering officer has the necessary reliability, expertise, experience, hierarchical level and competence to perform these functions in an effective, independent and honest manner.

Someone at the highest level of your company (director and/or manager) should in any case monitor the implementation of and compliance with the anti-money laundering legislation. In smaller companies, this can be one and the same person at the highest level who is charged with the practical execution and monitoring on the (internal) organization and implementation of the anti-money laundering law.

**Question 38**

**Does the company follow internal and/or external reporting procedures for potentially suspicious or atypical transactions in accordance with relevant national laws?**

***About this Question to answer “Yes”***

In case of suspicions of money laundering or financing of terrorism, you should report this to the relevant bodies as per the applicable national legislation. The key elements to look at:

- you should have internal reporting procedures available to your staff members which instructs them when, how and to whom to report in case of any such suspicious.
- you should subsequently take appropriate action and, as per the national legislation, notify the suspicion to the competent authorities (often the financial intelligence unit).
- you should not inform the client/supplier or third parties about the fact that you notified the suspicion to the competent authorities and await any specific instructions from these authorities where appropriate.

#### **Section 4. Sourcing from Artisanal Sector**

Artisanal and small-scale mining (ASM) of diamonds accounts for about 15% of the global diamond production by volume and 5% by value. This sector employs an estimated 1.5 million and impacts the livelihood of about 10 million, mostly in Africa. ASM plays a fundamental role in the national and local economies of developing resource-rich countries. For many communities, artisanal and small-scale diamond mining can be the only way to create a reliable source of income. ASM often provides more resilient livelihoods to rural households. ASM operations also help to stimulate trade and subsidiary business development around mine sites.

The biggest issue with artisanal and small-scale mining is that it tends to operate in an informal economy, and workers can find themselves vulnerable to exploitation and lacking the protection of legal frameworks. They may also be unable to access world markets and fail to secure fair prices for their diamonds.

Therefore, many global and regional institutions launch initiatives on responsible sourcing of minerals to ensure that international standards do not marginalize the informal ASM sector and focus on legalisation and formalisation of artisanal mining communities. The diamond industry can support them through building secure and transparent supply chains and ensuring that legitimate artisanal mining communities can further develop.

#### **Question 39**

**When sourcing rough diamonds from the Artisanal sector does the company promote the implementation of the intergovernmental Forum on Mining, Minerals, Metals and Sustainable Development “Mining Policy Framework” and Moscow and Washington declarations of the KPCS to enhance the quality of life of artisanal miners and their families?**

#### ***About this question to answer “Yes”***

If you are sourcing from the artisanal sector your company should be aware of and guided by the following instruments supporting artisanal and small-scale diamond mining:

- Mining Policy Framework of the Intergovernmental Forum on Mining, Minerals, Metals and Sustainable Development (IGF)
- Moscow Declaration on Improving Internal Controls over Alluvial Diamond Production
- Washington Declaration on Integrating Development of Artisanal and Small Scale Diamond Mining with Kimberley Process Implementation.

To assist in addressing the challenges of ASM if you are sourcing from the artisanal sector your company should promote the implementation of the IGF Mining Policy Framework and the KP Moscow and Washington Declarations using your best endeavours as an inherent element of responsible business conduct. You are expected to cascade the expectations of responsible business practices throughout your business relationships when sourcing from ASM sector.

#### ***Further Comments:***

The Intergovernmental Forum on Mining, Minerals, Metals and Sustainable Development (IGF) is a voluntary initiative supporting more than 75 countries committed to leveraging mining for sustainable development to ensure negative impacts are limited and financial benefits are shared.





It is devoted to optimizing the benefits of mining to achieve poverty reduction, inclusive growth, social development and environmental stewardship and focused on improving resource governance and decision making by governments working in the sector.

The IGF established the Mining Policy Framework (MPF). The MPF was tabled over the course of the 19th session of the United Nations Commission on Sustainable Development in May 2011. It was presented as a compendium of best practices for governments to best deal with the full range of issues related to mining.

The framework sets out concrete objectives and processes to achieve good governance in the mining sector. It represents the commitment of the IGF members to ensuring mining activities within their jurisdictions are compatible with the objectives of sustainable development and poverty reduction. ASM is one of the six key pillars of mining policy and law in which the MPF lays out international best practices.

The MPF is available in [English](#), [French](#), [Spanish](#) and [Russian](#).

For more information about the IGF and its MPF check <https://www.igfmining.org/>

Moscow Declaration on Improving Internal Controls over Alluvial Diamond Production adopted by the Kimberley Process in 2005 emphasizes the crucial importance of effective internal controls in alluvial mining areas for the overall effectiveness of the KPCS in preventing conflict diamonds from entering the legitimate diamond trade. The Declaration outlines recommendations for participants with alluvial production on key policies and actions necessary to guarantee the conflict-free origin of diamonds as well as for other participants and stakeholders on assistance needed to ensure effective internal controls.

<https://www.kimberleyprocess.com/en/2005-moscow-declaration-alluvial-diamond-production>

Washington Declaration on Integrating Development of Artisanal and Small Scale Diamond Mining with Kimberley Process Implementation was adopted by the Kimberley Process in 2012. Building upon Moscow Declaration, the Washington Declaration encouraged the KP participants to advance and deepen development of the ASM sector to improve the KP implementation. The document provides important recommendations on how to improve formalization of artisanal mining and social conditions in ASM communities.

<https://www.kimberleyprocess.com/en/2012-washington-declaration>

For more information about the KPCS check <https://www.kimberleyprocess.com>

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## Glossary

### **Adherents of SoW Guidelines**

Companies or self-employed persons apply the SoW when they buy and sell diamonds. They do so through the implementation of the SoW Guidelines using a self-assessment toolkit and the use of affirmative SoW declarations on their invoices and/or other sales documents.

### **Bonded Labor**

A practice in which employers give high-interest loans to workers, whose families then labor at low or non-existent wages to pay off the debt. Bonded labor also may occur when a worker and his or her dependents inherit a debt from a relative.

### **Bribe**

Money or favor given or promised in order to influence the judgment or conduct of a person in a position of trust.

### **Brussels Declaration**

Issued by the KP Plenary in Brussels, Belgium in November 2007, the declaration outlines internal controls that need to be implemented by KP Participants to ensure adequate government oversight over the trade in rough diamonds in their territories.

### **Company Policy**

A written set of procedures set in place to establish the rules of conduct within an organization, outlining the responsibilities of both employees and employers.

### **Compulsory Labor**

All work or services that is exacted from any person under the threat of any penalty, for which the person has not offered himself or herself voluntarily. Also referred to as forced labor.

### **Conflict Diamonds**

As defined by the Core Document of the Kimberley Process and endorsed by resolutions of the UN General Assembly and UN Security Council, conflict diamonds are rough diamonds used by rebel movements to finance wars against legitimate governments.

### **Diamond**

A mineral created by nature consisting essentially of carbon crystallized in the isometric (cubic) crystal system, with a hardness on the Mohs' scale of 10, a specific gravity of approximately 3.52 g/cm<sup>3</sup> and a refractive index of approximately 2.42.

### **Due Diligence**

Due diligence are reasonable steps, through investigation, audit or review, performed by a person or company to confirm details of a matter under consideration or to satisfy a legal requirement. Completing the SoW self-assessment is considered to be reasonable due diligence in that it confirms information about the party conducting the self assessment and its chain of supply.

### **Entity**

"Entity" means a business or similar that operates one or more facilities owned or controlled by the member/applicant. A member/applicant can be one or more entities.

**External Auditor**

A trained individual who conducts an independent examination of the records prepared by an organization, to verify that the information provided is true and accurate.

**Explanatory Notes**

The set of explanations, clarifying each of the questions in the SoW self-assessment questionnaire, informing the respondent as to what is understood by answering “yes” to a specific question.

**Facilitation Payment**

A payment made personally to a government official or company representative with the intention of expediting an administrative process, where the outcome is generally pre-determined.

**Facility**

“Facility” means a site or premises that is under the member/applicant control and that actively contributes to the diamonds and diamonds Jewellery supply chain.

**Grievance Mechanism**

A procedure that provides a clear and transparent framework for addressing grievances related to the recruitment process and occurrences in the workplace. This typically takes the form of an internal procedure for complaints, followed by consideration and management response and feedback.

**Group**

A “Group” of companies are defined as any company / facility / entity / that is owned / controlled by the member/applicant if any of the following hold true:

The “Group” scope: This refers to all the facilities the member/applicant owns and/or controls that contribute to the diamond and diamond Jewellery supply chain.

The “Group” scope refers to all the business entities and/or facilities (including retail stores, trading offices, manufacturing sites, etc.) that are owned by, or under the control of the member/applicant and which actively contribute to the diamond and diamond Jewellery supply chain.

“Control” means having the beneficial ownership of 50% or more of the issued share capital of a company or the power to direct or cause the direction of the management of the company (including by setting work place standards and enforcing their application.)

**Internal Controls**

Mechanisms and rules implemented by an organization to ensure the integrity of the organization’s financial and accounting information, operational procedures, as well as to promote accountability, improve efficiency and prevent fraud.

**Kimberley Process**

The Kimberley Process (KP) is the tripartite international forum established by governments, industry and civil society to eliminate conflict diamonds from world trade. Established in 2000 and endorsed by both the United Nations General Assembly and the United Nations Security Council, the tripartite structure aims to protect individuals and communities living in conflict-affected areas, thereby facilitating the conditions necessary for social and economic development.

**Kimberley Process Certification Scheme**

The KP’s key mechanism for eliminating the flow of conflict diamonds, within its framework rough diamonds can only be traded between parties in KP Participant countries. International shipments of rough diamonds must be accompanied by a KP certificate, issued by an authorized KP Authority in

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the country or region (in the case of the European Union) from which they are being exported, ensuring that they are conflict-free.

#### **KP Authority**

A body designated to manage the Kimberley Process Certification Scheme in any KP Participant country or region.

#### **KP Certificate**

A forgery resistant document, issued by an authorized KP Authority in a KP Participant country, which identifies a shipment of rough diamonds complying with the requirements of the Kimberley Process Certification Scheme.

#### **KP Chair**

A government-appointed official from one KP Participant country or region, who oversees the implementation of the Kimberley Process Certification Scheme (KPCS) and operations of the working groups, committees and administration that activate the KP. The KP Chair serves for a single calendar year. Each year, at the annual Plenary Meeting, the KP Participants select a new country or region to serve the position of KP Vice Chair. The country that is selected will become KP Chair the following year, subject to ratification by KP Participants.

#### **KP Focal Points**

Individuals appointed by each KP Participant and Observer, who serve as a contact point and source of information for the industry and public in that country or organization for all matters related to the Kimberley Process. An updated list of KP Focal Points is available at <https://www.worlddiamondcouncil.org/kp-focal-points/>.

#### **KP Minimum Requirements**

The elements, institutions, procedures and internal controls that each KP Participant country or region undertakes so as to be eligible to export and import rough diamonds, as stated in the KPCS Core Document.

#### **KP Observer**

An organization representing industry or civil society, which alongside government form the three pillars of the tripartite Kimberley Process. While active in all KP Plenary Meetings, KP Working Groups, KP Committees and KP Review Visits, KP Observers do not have voting rights, which are held exclusively by government Participants. The WDC is the industry representative in the KP and is a KP Observer.

#### **KP Participant**

A state or a regional economic-integration organization (like the EU) that is a member of the KP, and in which the Kimberley Process Certification Scheme is effectively implemented. KP Participants, which are represented by officials appointed by their respective governments, have sole voting rights in the KP.

#### **KPCS Core Document**

The foundational document governing the implementation of the Kimberley Process Certification Scheme, including requirements for KP certificates, the undertaking of KP Participants and internal controls.

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### **Moscow Declaration**

Issued by the KP Plenary in Moscow, Russia, in November 2005, the declaration outlines best practices to be implemented by alluvial diamond producers, and proposes ways in which further progress could be made towards proper traceability of alluvial diamond production.

### **National Law or Applicable National Law**

Laws of the land where the invoice is generated by a seller of diamonds.

### **Reconciliation**

The process of reporting and analyzing of statistical data on the production and trade of rough diamonds, and KP Certificate counts, to identify anomalies in reported data to ensure effective implementation of the Kimberley Process Certification Scheme.

### **Risk Assessment**

An orderly process to identify of hazards that could negatively impact an organization's ability to conduct business. These assessments help identify inherent business, geopolitical and environmental risks, according to which measures, processes and controls can be employed to reduce their impact.

### **Secondary Market**

The rough diamond trade that does not receive its supply directly from rough diamond producers, but rather from traders dealing in rough diamonds.

### **System of Warranties (SoW)**

An industry self-regulation system that was created by the WDC to support and strengthen the Kimberley Process Certification Scheme through the full length of the diamond distribution chain. The SoW also protects the integrity of the diamond supply chain in areas that currently are outside of the scope of the KPCS, respecting the universal standards of responsible business practices, human rights and diamond sourcing processes. The adherence to the SoW is expressed in an affirmative statement that is made on every invoice of the adherent.

### **SoW Guidelines**

The basic set of rules for WDC members and other buyers and sellers of diamonds-adherents to the SoW beyond the minimum requirements and recommendations of KPCS, based on national laws, practicality and applicability in the country, environment and ecosystem where a particular adherent operates. The SoW Guidelines aim to complement and support self-regulation and continuous improvement of industry practices in the process involved in buying or selling rough and polished diamonds with the aim of creating a chain of accountability in the diamond pipeline from mine to retail.

### **SoW Guidelines Self-Assessment Toolkit**

A dedicated online mechanism of facilitating and understanding of the implementation of the SoW Guidelines by all buyers and sellers of diamonds that are willing to adhere to them, taking into consideration the size and structure, sector, risk, operational context, of business enterprises to make it a universally applicable mechanism. This mechanism consists of a questionnaire, explanatory notes and template policies.

### **Washington Declaration**

Building on the earlier Moscow Declaration from 2005, the declaration issued in Washington, D.C.,

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USA, in November 2012, defines policy goals and procedures to formalize artisanal diamond mining.

### **Whistle-Blowing**

An act by which a person, who often is an employee, exposes information or activity within a private, public, or government organization that is deemed illegal, illicit, unsafe, or a waste, fraud, or abuse of taxpayer funds.

### **Acronyms**

<b>AML</b>	Anti-Money Laundering
<b>ASM</b>	Artisanal and Small-Scale Mining
<b>CIBJO</b>	Confédération Internationale de la Bijouterie, Joaillerie, Orfèvrerie des Diamants, Perles et Pierres (World Jewellery Confederation)
<b>CTF</b>	Counter Terrorism Financing
<b>FATF</b>	Financial Action Task Force
<b>IDMA</b>	International Diamond Manufacturers Association
<b>ILO</b>	International Labor Organization
<b>KP</b>	Kimberley Process
<b>KPCS</b>	Kimberley Process Certification Scheme
<b>KYC</b>	Know Your Customer/Counterpart
<b>MPF</b>	Mining Policy Framework
<b>OECD</b>	Organization for Economic Cooperation and Development
<b>RJC</b>	Responsible Jewellery Council
<b>SoW</b>	System of Warranties
<b>WFDB</b>	World Federation of Diamond Bourses
<b>WTO</b>	World Trade Organization

## **International Conventions**

### **UN Guiding Principles on Business and Human Rights**

Endorsed unanimously by the United Nations Human Rights Council in 2011, the document articulates 31 essential principles, outlining a state's responsibility both to protect human rights and to offer access to remedies in the event that those rights are not respected. It also addresses the business sector's obligation to do due diligence, so as to avoid infringing on the rights of others and to address any negative impacts.

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### **ILO Declaration on Fundamental Principles and Rights at Work**

The International Labor Organization's Declaration on Fundamental Principles and Rights at Work, released in 1998, commits member states to respect and promote principles and rights in four categories. These are: (1) freedom of association and the effective recognition of the right to collective bargaining, (2) the elimination of forced or compulsory labor, (3) the abolition of child labor, and (4) the elimination of discrimination in respect of employment and occupation.

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### **UN Convention Against Corruption**

The UN Convention Against Corruption, adopted by the UN General Assembly in 2003, lists various acts of corruption and calls upon countries to establish a series of specific criminal offences to cover a wide range of relevant acts, if these are not already crimes under domestic law. The convention covers five main areas: (1) preventive measures, (2) criminalization and law enforcement, (3) international cooperation, (4) asset recovery, and (5) technical assistance and information exchange.

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### **FAFT Recommendations on money laundering for dealers in precious metals and stones**

The Financial Action Task Force (FATF) is an inter-governmental watchdog body, which sets international standards to prevent money laundering and terrorist financing. In 2008, it published a guidance on the risk-based approach to combatting money laundering and terrorist financing for dealers of precious metals and precious stones

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