



## Kimberley Process

### 2019 ADMINISTRATIVE DECISION ON PEER REVIEW SYSTEM

*The KPCS Peer Review system was agreed at the Sun City Plenary meeting in 2003 and revised at the 2006 Gaborone Plenary and 2019 New Delhi Plenary, as a result of the 3-year Review of the Kimberley Process Certification Scheme (KPCS). The Peer Review system consists essentially of the following components: annual reporting, review visits and review missions, and is governed by the provisions of this Administrative Decision.*

#### 1. Annual Reporting

- a. In accordance with Section VI, paragraph 11 of the KPCS document, Participants are to prepare, and make available to other Participants through the Chair of the Kimberley Process, information on an annual basis on the way in which they are implementing the requirements of the KPCS. The information submitted should make particular reference to Sections II, III, IV and V of the KPCS document. Participants are also encouraged to provide information on the extent to which they are making use of the Recommendations set out in Annex II of the KPCS document and the complementary guidance on internal controls set out in the Administrative Decision on Internal Controls adopted at the Gaborone Plenary in November 2006.

The information submitted should follow the format set out in Annex I of the present Decision. The information should be prepared and submitted each year by 31 March, and should cover implementation of the KPCS during the preceding calendar year.

- b. The Chair should make the reports available to the Chair of the Working Group on Monitoring and, pursuant to the Administrative Decision on Procedures for Respecting Confidentiality (2010), publish such reports on the KP website with the support of ASM unless otherwise requested by the Participant. The Working Group on Monitoring should review the reports submitted by 15 August each year and prepare a summary of its main findings for each Participant, to be submitted to Plenary through the Chair. The Working Group on Monitoring should also draw in its assessments on the statistical data made available by Participants in accordance with the provisions of the KPCS, and should cooperate closely to this end with the Working Group on Statistics. The Working Group on Monitoring may also draw on the information provided by Participants to the Participation Committee.
- c. Any Participant or Observer may communicate additional information regarding implementation of the KPCS by any Participant to the Chair of the Working Group on Monitoring, who should make this information available to the Participant concerned and invite a reply.
- d. Participants are encouraged to share information on implementation of the KPCS on an *ad hoc* basis between Annual Report, through the Chair and the Working Group on Monitoring.

## 2. Review visits

- a. In order to enhance the credibility of the KPCS, Plenary decided that it would be desirable for the largest number of Participants possible to volunteer to receive a review visit by the date of implementation of the review mechanism as stated in Section VI, paragraph 20 of the KPCS document. Further to the 5-year Review of the KPCS, Plenary agreed that the Peer Review system should be retained and its main elements should be maintained, so that the largest number of Participants would invite and receive further review visits.
- b. To this end, and in order to encourage follow-up and verification of progress based on issues of infringement of KP minimum requirements identified in a first or previous review visit, Participants should invite and receive a subsequent review visit at the latest five years.
- c. Where the issues related to the infringement of KP minimum requirements identified in a first or previous review visit are of such nature that, pursuant to the specific recommendation of the review visit team, they require particular attention, Participants are encouraged to invite and receive a subsequent review visit within one year thereafter. The Working Group on Monitoring Chair and Vice-Chair should remain engaged with Participants directly to ensure that these timelines are implemented.
  - d. Participants should send a formal communication to the KP Chair and the WGM Chair requesting a review visit in line with the timeframes stipulated in paragraph (b) above. The latter will seek contact with the KP focal point of the Participant concerned to determine dates for the RV.
- e. In a case of failure by a Participant to invite a review visit within the timeframes provided in paragraph (b), the following steps should be implemented:
  - i. The WGM Chair should notify the KP Participant on the first year of default of hosting a review visit, reminding it of its responsibility.
  - ii. Failure to respond to the notice by the KP Participant to invite a review visit within 60 days, a letter from the WGM Chair supported by the KP Chair should be forwarded to the KP Participant indicating the infringement of KP minimum requirements. The KP Participant should be given additional 45 days to respond.
  - iii. In a case where the Participant does not respond within these additional 45 days, the WGM chair should within 45 days refer the KP Participant to the Committee on Participation and Chairmanship to take appropriate action in line with the 2008 Guidelines for interim measures. The WGM Chair should write to the KP Participant informing it of such referral.

- f. The schedule of review visits to the Participants who have volunteered to receive a review visit should be decided by Plenary (including by written procedure) upon a Recommendation through the Chair from the Working Group on Monitoring. Efforts should be made to reflect adequate geographical balance and adequate balance between Participants that are primarily engaged in production and Participants that are primarily engaged in trading or processing in drawing up the recommended schedule. Efforts should also be made to improve efficiency and to reduce costs, inter alia, by conducting regional reviews or using representatives from local diplomatic missions, where feasible, and provided that the requirements in Annex II paragraph 3.b are met.

All review visits should be based on the standard terms of reference attached in Annex II of this Administrative Decision. Where appropriate, these may be supplemented by specific regional questions. In case of further review visits to a Participant, particular attention could however be devoted to issues identified in the first review visit. The composition of teams conducting review visits should be based on the principle of broad, consistent, expert participation.

- g. The KP Participant under review should prepare the requested documents and information as listed in Annex 4 at the latest 2 weeks before the review visit takes place.
- h. Participants should report in writing to the Working Group on Monitoring on any subsequent follow-up steps undertaken in relation to the issues identified by the review visit. This should be done through Annual Reporting, separate communications and/or standardised template (Annexure).
- i. The team leader of the review visit, together with the WGM Chair or its designee should provide a continuous oversight on the reporting and follow up on the implementation of the recommendations and conclusions of the review visit. The WGM Chair, or its designated member together with the team leader of the review visit, should use a standardized reporting mechanism to verify progress and ensure equal assessment amongst KP Participants. The team leader of the review visit, should provide an updated reporting matrix in writing to the WGM Chair at the KP Intersessional and/or Plenary meeting.

### **3. Review missions**

- a. At any time between Plenary meetings, and without prejudice to the provisions of Section VI, paragraph 13 of the KPCS document, the sending of a review mission to a Participant where there are credible indications of significant non-compliance with the Certification Scheme, as provided in the KPCS, may be recommended to Plenary by written procedure by the Chair of the Kimberley Process on a recommendation from the Working Group on Monitoring.
- b. Review missions should normally be based on the standard terms of reference attached in Annex II, without prejudice to the provisions of Section VI, paragraph 14 of the KPCS document.

### **4. Expert Missions**

In co-operation with the Committee on Participation and Chairmanship (CPC) expert missions could be organized on a needs basis, including to applicant countries.

## **Annex I**

### **Guidelines for the Annual Report on the implementation of KPCS in accordance with Section VI, paragraph 11 of the KPCS document**

Participants submitting an annual report for the first time (for example, Participants that have only recently joined the KPCS) are requested to follow **in full** these Guidelines. In other cases, as indicated below, where there has been no change in the response, Participants may refer to previous annual reports.

#### **A. Institutional Framework**

In this section, up-to-date information on the designated authorities or bodies responsible for implementing the provisions of the KPCS should be provided, in particular on:

1. The Authority with responsibility for the implementation of the KPCS, including the full address and the names of contact persons (in accordance with Section V (a)).
2. The Import and Export Authority, including the full address and the names of contact persons (in accordance with Section IV (b)).
3. The address for the website established by the KP authorities to facilitate domestic implementation.

***Based on a Recommendation – reply is optional:***

*In addition, information might be provided on whether an official coordinator to deal with the implementation of the KPCS has been appointed, as suggested by Recommendation No. 1.*

#### **B. Legal Framework**

In this Section, a confirmation of the legislation in place for the implementation of the KPCS should be provided, with particular reference to:

1. The laws and regulations enacted or amended for the implementation of the Kimberley Process (Section IV (d)), in particular the specific legislative or administrative provisions for
  - export and import of rough diamonds
  - issuance of certificates
  - internal controls
  - penalties introduced for individuals and companies contravening diamond laws and regulations
  - collection and exchange of official production, import and export data

2. Information on changes of legislation that have occurred since the last annual report, including the text of any new legislation adopted (if any).

*If there have been no changes in the legal framework since the previous annual report, Participants may wish to refer to the reply given in the previous report, and indicate clearly that there have been no changes. If there have been changes or additions to the legal framework since the period covered in the previous report, Participants should provide full information on the nature of these changes or additions.*

*Where appropriate, Participants are encouraged to provide information under this heading on the measures they have taken to give effect to recent Decisions with respect to the implementation of the KPCS (such as the Decision by the 33rd HS Committee of the WCO with regard to the change of the Explanatory Notes to HS*

*Codes 7102.10, 7102.21 and 7102.31, the Administrative Decision on the Validity Period of KP Certificates, and Technical Guideline No 15), even if such measures have not affected the legal framework as such.*

### **C. Import and Export Regime**

In this section, an overview should be given of how the undertakings in the KPCS on the international trade in rough diamonds (Sections II and III) are implemented. The overview may also refer to the Recommendations set out for the Export and Import Process. It should also refer to the issuance and receipt of Kimberley Process certificates by a Participant. In particular, the following questions might be addressed:

#### **Outgoing shipments**

- What is the procedure for issuing KP certificates?  
(Section II (b))
- Does the KP certificate fulfil the security features and requirements set out in Annex I of the KPCS document and as per the attached checklist? (Section II (c))?
- What evidence does an exporter have to provide in order to prove that the rough diamonds being exported have been handled in accordance with the KP and are not conflict diamonds?  
(Section IV (a) and Recommendation 18)?
- How many Kimberley Process certificates were issued? To which Participants were the KP certificates issued actually sent?

***Based on Recommendations – reply is optional:***

- *Are rough diamonds sealed in a tamper proof container together with the Certificate or a duly authenticated copy?  
(Recommendation 19)*
- *Is the exporting authority sending advance notice of shipments by e-mail to the relevant Importing Authority containing information on the carat weight, value, country of origin or provenance, importer and the serial number of the Certificate?  
(Recommendation 19)*
- *Does the Exporting Authority record all details of rough diamond shipments on a computerized database?  
(Recommendation 20)*

#### Incoming shipments

- Describe the sequence of events for an incoming shipment from the physical entering of the shipment in your territory to the validation of the Certificate, with particular emphasis on the following questions
- Is confirmation of receipt sent to the relevant Exporting Authority (Section III (b))?
- How do you ensure that only rough diamonds with a Certificate (Section III (b)) and placed in tamper resistant containers (Section IV (c)) are imported?
- Where the originals of the Certificates are kept accessible? (Section III (b))
- How many Certificates were received? From which Participants were Certificates received?
- Have there been cases of shipments which were not in conformity with the provisions of the KPCS? If so, how were these followed up by your authorities?

#### ***Based on Recommendations – reply is optional:***

- *Are prior notifications of rough diamond shipments received by e-mail  
(Recommendation 21)?*
- *Do you verify that the seals and the container have not been tampered with and that the export was performed in accordance with the Scheme (Recommendation 22)?*
- *Do you check that the content of an incoming shipment matches the information declared on the certificate (Recommendation 23), e.g. by the use of diamond valuers and other expertise?*

- *Is the return slip or import confirmation coupon sent back to the relevant Exporting Authority?*  
(Recommendation 24)

*If there have been no changes in the import and export regime or other points in this heading since the previous report, Participants may refer to the previous replies and indicate clearly that there have been no changes.*

*All Participants should provide information on the numbers of KP certificates issued and received in the year (clearly indicating the number of certificates issued or received per Participant), and on shipments which were not in conformity with the KPCS (if any).*

#### **D. System of internal controls and Industry Self-Regulation**

*(Based on Recommendations – reply is optional :)*

In this section, a description of the internal system of controls designed to eliminate the presence of conflict diamonds from shipments of rough diamonds, as stipulated by Section IV (a), may be given. In drawing up this information, reference could, among other things, be made to the options and recommendations for internal controls as elaborated in Section IV and Annex II of the KPCS document and the Administrative Decision on Internal Controls, and in particular:

- *The existence and functioning of a voluntary system of industry self-regulation which provides a system of warranties, (such as the WDC System of Warranties), underpinned through verification by independent auditors of individual companies and supported by internal penalties set by industry, which will help to facilitate the full traceability of rough diamond transactions by government authorities. (Section IV*
- *Have the names of individuals or companies convicted of activities relevant to the purposes of the Certification Scheme been made known to all other Participants through the Chair?*  
(Recommendation 6)
- *Licensing of diamond mines, miners, buyers, sellers and agents*  
(Recommendations 9, 11, 12, 13, 14)
- *The existence of a computerized database of licensed diamond mines, miners, buyers and sellers*  
(Recommendation 16)
- *The keeping of records of buying, selling and/or exporting transactions, listing the names of buying and selling clients, license numbers, volume and value of transactions*  
(Recommendation 15)



*If there have been no changes under this heading, Participants may refer to previous replies, and indicate clearly that there have been no changes. If there have been changes in implementation of any elements of internal controls or industry self-regulation since the period covered in the previous report, Participants may wish to provide full information on the nature of these changes.*

**E. Statistics**

In this section, information supplementing the data already submitted to the Chair of the Working Group on Statistics in accordance with the provisions specified by Annex III of the KPCS may be submitted. This information might also refer to procedural and methodological questions. The statistical data submitted in accordance with Annex III are considered to be part of the annual report. *The statistical data submitted by Participants under the reporting obligations set out in the KPCS document, although formally considered part of the annual report, should continue to be submitted by Participants directly to the Chair of the Working Group on Statistics in accordance with the methodology endorsed by Plenary. Participants are therefore not required to submit statistical data with their annual reports.*

*Participants are however encouraged to indicate which statistical reports they have provided in the year covered by the annual report.*

**F. Implementation of recommendations of Kimberley Process Review Visits and/or Review Missions**

In this section, steps undertaken to implement the recommendations made in the report of review visits and/or review missions should to be recorded. Requests for technical assistance following review visits and the progress made in this regard may also be recorded in this section. Participants are encouraged to provide detailed information in this section.

Reporting on steps which go beyond the KPCS minimum requirements is encouraged, albeit optional.

When the assessment of a Participant's Annual Report to the KP notes "outstanding issues to be followed up", the Participant in question should provide the requested information and/or the description of follow-up actions taken, in this section of the following year's Annual Report.

**G. Infringements and Cooperation with Respect to Enforcement**

In this section, information on infringements of the KPCS may be submitted as well as information on measures undertaken in this regard, such as number of seizures of rough diamonds shipments with details, as well as information on prosecution and outcome of specific cases. Participants are also encouraged to report on what steps they have taken to implement the cooperation measures



related to enforcement outlined in the Administrative Decision on Cooperation on KP Implementation and Enforcement (2009).

**H. Miscellaneous**

In this section, experiences, observations, problems (and solutions) or additional information related to the implementation of the KPCS can be noted with a view to improving the overall functioning of the Scheme and to establish a “best practice” policy. Information on irregularities encountered or non-compliance with the KPCS by other Participants may also be supplied in this section.

Participants may also set out here, or in separate correspondence with the Chair for technical assistance or with other Participants, any requests for technical assistance that they feel should enhance their implementation of the KPCS.

**ANNEX to the Guidelines**

**Checklist of Minimum requirements for Certificates according to ANNEX I of the KPCS Document**

|  |  |
|--|--|
| Each Certificate bears the title "Kimberley Process Certificate" and the following statement: "The rough diamonds in this shipment have been handled in accordance with 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 issued in English or English translation is incorporated  |  |
| Tamper and forgery resistant   |  |
| Date of issue and 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 |  |
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## **Annex II**

### **Standard Terms of Reference for review missions and review visits conducted as part of peer review in the KPCS**

#### **1. Mandate of review missions and review visits**

Review missions and review visits should seek to assess on the ground and in an analytical, expert and impartial manner a Participant's implementation of the KPCS, in consultation with the competent authorities of the Participant concerned. Specifically, each review mission or review visit should seek to:

- a. Establish whether the Participant under review has in place relevant laws or regulations, procedures and practices to implement the minimum requirements set out in the KPCS document, with particular reference to sections II, III, IV and V of the KPCS document.
- b. Establish whether the Participant has designated authorities or bodies to implement these requirements.
- c. Establish whether the requirements of the scheme are being met overall through the specific and systematic application by the designated authorities or bodies of those laws or regulations and procedures.
- d. Where appropriate, and with the agreement of the Participant concerned, Review missions and review visits should also seek to establish whether and to what extent implementation of the KPCS by the Participant includes making use of any of the Recommendations set out in Annex II of the KPCS document and the complementary guidance on internal controls set out in the Administrative Decision on Internal Controls adopted at the Gaborone Plenary. At the request of Participants, review visit and review mission teams should enter in a dialogue on the implementation of measures recommended with a view to improve the effectiveness of internal controls with a view to supporting the Participant's efforts through appropriate follow-up.
- e. Identify areas where the Participant could benefit from technical assistance and/or training for the implementation of the KPCS.
- f. This mandate may be supplemented in individual cases by more detailed indicators, according to the specific circumstances of the Participant under review, with the consent of the Participant concerned and in consultation with all Participants.

#### **2. Co-operation with authorities of the Participant under review**

- a. Each review mission or review visit should expect to receive the full co-operation of the authorities of the Participant under review, subject to applicable domestic laws, regulations and

policies. At the same time, the members of the peer review mission or review visit would be expected to carry out their work in an analytical, expert and impartial manner with the consent of the Participant concerned.

- b. The authorities of the Participant under review should facilitate access by the review mission or review visit to governmental institutions and governmental organisations relevant to the implementation of the KPCS, and should be willing to solicit the cooperation of relevant industry and other non-governmental entities, consistent with domestic law, regulations and policy, and consistent with organizational rules and regulations.
- c. Review missions and review visits should respect local law, regulations and policy on confidentiality of private companies or businesspersons, the privacy of individuals, and the confidentiality of law enforcement or judicial investigation, and any other sensitive information. No Participant would be expected to provide information to a review mission or review visit that is precluded by domestic laws, regulations or policy.
- d. Applicable law, regulations and policy pertaining to commercial confidentiality should be observed in all aspects of a review mission's or review visit's activities.
- e. Host Participant should provide a draft itinerary for the consideration by the review visit team, well in advance, ideally at least within one month ahead of the visit to the Host Participant so that the Host Participant may consider the persons or facilities to be reviewed during the mission or visit. The Participant under review should ensure that the review visit team has the opportunity to meet the KP focal point and/or importing and exporting authorities of the country. The team must visit members of industry consisting of large, medium and small companies in that country where possible. Members or representatives of the communities may include in the itinerary where possible.
- f. The host Participant should compile the itinerary for the review visit and review mission and make all the documents available in accordance with the standardised template for hosting Review Visits/Missions (**ANNEXURE IV**)
- g. In their efforts to prepare the review visit, the team leader, the members of the team and the Host Participant should analyse all relevant background material to make the review visit a success.

### **3. Composition of Review Missions and Review Visits**

- a. In addition to experts identified by the Chair, participation in a review mission or review visit team should be open to any Participant, in particular to members of the Working Group on Monitoring, the Working Group on Statistics and the Working Group of Diamond Experts. Participants should be informed of coming Review Visits and Review Missions to enable them to inform the WGM Chair on their interest to participate to specific reviews. It is the privilege and responsibility of the Participant to identify its representative on the review. However, any

candidate that wishes to be included in a review team should be able to demonstrate to the team leader technical knowledge of the KPCS and in particular of the KPCS minimum requirements.

- b. As set out in the KPCS document, the size, composition and timeframe of each mission or visit would be based on the circumstances and be established by the Chair with the consent of the Participant concerned and in consultation with all Participants. Based on experience to date, a useful guide could be that review missions and review visits should generally number five members in total. Each mission or visit could include representatives of three Participants, as well as a representative of an Observer from civil society and an Observer from the private sector. Each review mission or review visit would be led by the representative of a Participant appointed by the Chair of the Kimberley Process. The Chair would seek to ensure geographical balance and adequate balance between Participants that are primarily engaged in (i) production, (ii) trading and (iii) processing of rough diamonds in the composition of a review mission or review visit. The participation of experts from artisanal-alluvial producer Participants should be encouraged. Team members should disclose to the team leader and the Chair any potential conflict of interest in advance of any review visit or review mission. A review mission or review visit should not include among its members a national of the Participant to be reviewed, (unless employed at an embassy of a participating country) or any person employed in the diamond and jewellery industry.

Bearing in mind the anticipated complexity of the proposed review visit, and whether Participants have previously received a review visit, the timing, composition and duration of review visits may be handled with greater flexibility, depending on the consideration of, *inter alia*, the size of the Participant's trade and industry, whether the preceding visit identified substantial issues and whether major issues have since developed.

- c. After consulting with the hosting Participant regarding the composition of the review mission or review visit, the Chair should convey the names and functions of the members of a review mission or review visit to the other Participants and Observers at least two weeks before the mission or visit is to commence its work.
- d. Participants and Observers should be notified at least 8 weeks in advance to provide names of their representatives to join a review visit team. Inability and withdrawal from participation from the review visit or review mission should be indicated in writing, and a replacement should be provided by the said Participant and Observer.
- e. Participants and Observers who have committed to participate or lead a Review Visit are compelled to provide a replacement of an individual who is no longer able to join the team for whatever reason. Participant/Observer obligations may also be distributed among other team members without replacing a member.
- f. KP Participants and Observers are encouraged to participate in at least one review visit or review mission in a year.

- g. KP Participants that are members of the WGM are encouraged to lead at least one review visit or review mission in a year.
- h. If the Participant and Observer of the review visit group due to various circumstances can no longer fulfil duties concerning review visit report compilation, the country he or she represents should notify review visit hosting country.

#### **4. Practical arrangements for review missions and review visits**

- a. Based on experience to date, review missions and review visits would generally be expected to last between 2 and 5 working days, taking into account the specific circumstances of the Participant under review, whether a review visit previously took place, the location of mines in the case of a producing country and the location and number of entry and exit points for goods and customs offices to be visited. The dates for the review mission or review visit should be determined by mutual consent between the leader of the review mission or review visit and the Participant concerned. Review visit and review mission teams should allocate sufficient time in their planning for timely reporting, in line with sections 5 and 6 below.
- b. Members of the review mission or review visit would be expected to be responsible for their own travel and accommodation expenses as well as any medical expenses incurred.
- c. The authorities of the Participant under review should ensure freedom of movement for members of the review mission or review visit and should take appropriate steps to protect their person and freedom where necessary.
- d. The Participant under review would be expected to assist if possible, and where appropriate, with domestic travel arrangements that are required to accomplish the mandate of the mission or visit.
- e. Where this is deemed necessary by at least one member of the review mission or visit, the Participant under review or the leader of the review mission or visit should make arrangements for interpretation to be provided during the visit of the review mission or visit.
- f. The host Participant should make following logistic arrangements:
  - i. Issue an invitation letter to each member of the team and assist, if required, for visa application process;
  - ii. Suggest a list of hotel accommodations meeting the requested safety standards;
  - iii. Provide advice on country's basic information unless there is any specific information that may be necessary to communicate at the time of the review visit
  - iv. Secure, as much as possible, interpretation and translation arrangements;
  - v. Secure, as much as possible domestic travel arrangements including all areas that are part of the review visit programme- where commercial alternatives are not easily accessible Liaise with relevant agencies to ensure freedom of movement of the RV/RM team;

- vi. Make necessary Protocol arrangements for short time courtesy calls to high officials, where appropriate;
- g. Notify the team in case local media should be involved in the program

## **5. Reporting**

- a. The leader of the review mission or visit, in agreement with the other team members represented on the mission or visit, should draw up a written draft report. This draft report should give an account of the activities of the mission or visit and set out its recommendations and findings. In particular, it should give an overview of the implementation of the KPCS as indicated in paragraph 1 of these standard terms of reference for review missions and review visits.
- b. The draft report should be submitted simultaneously to the Chair of the Kimberley Process and to the Participant under review at the latest two months after the review mission or review visit and the final report should be concluded within 12 months after the review visit has concluded its work in the territory of the Participant under review. The Participant may ask to receive the report in one of its official languages, where that language is one of the languages used in the Plenary of the Kimberley Process.
- c. Delays to finalise a review visit report should be brought to the attention of the WGM for discussion and intervention. Further delays should be referred to the Committee on Participation and Chairmanship and KP Chair.

## **6. Right of reply and mediation by the Chair**

- a. The Participant under review may convey in writing to the Chair any observations on the draft report at the latest one month after receiving it. The Chair should send the members of the review mission or review visit a copy of these observations.
- b. The Chair may invite the relevant authorities of the Participant and the members of the review mission or review visit to discuss and clarify their assessments in order to correct any mistakes or misunderstandings that may have occurred in the preparation of the draft report.
- c. If an agreement can be reached on corrections or additions to the draft report, this corrected version should then be circulated by the ASM to Participants and Observers. Either the entire report, or parts thereof, or a summary of the main findings (see Annex III) of the report should be made available on the public area of the KP website by the Chair of the Kimberley Process, in accordance with the Administrative Decision on Procedures for Respecting Confidentiality



(2010), and provided that the Participant concerned consents, and with a view to ensuring public transparency in line with KPCS data publication standards.

- d. If no agreement can be reached the Chair should circulate both the report of the review mission or review visit and the observations of the Participant reviewed to the other Participants and Observers.
- e. The Chair should inform Participants and Observers of the completion of review visit or review mission reports, with a link to the KP website.

#### **7. Use of data and information gathered by review missions and review visits**

- a. Until the report has been circulated by the WGM Chair to other Participants and Observers, the leader and members of the review mission or visit cannot disclose confidential materials gathered during the review mission or visit, any draft report or responses from the Participant under review, except to other members of the review mission or visit or within the Participant/Observer he/she represents.
- b. In accordance with section VI, paragraph 15 of the KPCS document, and the Administrative Decision on Procedures for Respecting Confidentiality (2010), Participants and Observers should refrain from disclosing the “KP only” contents of the report of the review mission or visit to any party which is not a Participant or Observer. The non- “KP only” contents of final reports are to be published on the public area of the KP website.
- c. The members of the review mission or review visit should at all times respect the confidentiality of additional information acquired during review missions and review visits and not mentioned in the report, and should not release any such information without the consent of the Participant involved.
- d. The visit team should in its review report by all means avoid to take any position or disclose (confidential) information on ongoing court cases.

#### **8. Follow-up action**

The Participant under review should report in writing to the Working Group on Monitoring on steps undertaken to implement the recommendations and finding made in the report of the review visit, within six months after the date when the report had been circulated by the Chair to the other Participants. The Participant under review is encouraged to provide written detailed information on each issue identified by the report. This follow-up report may include requests for technical assistance and the progress made on issues that could have relevance to the KPCS minimum requirements.

- a. Where a review mission or review visit considers that its findings merit more extensive discussion or follow-up on the part of the Chair and Participants, the leader of the review mission or review visit should so inform the Chair of the Kimberley Process and the members of the Working Group on Monitoring. The Chair may recommend taking further action in accordance with the relevant provisions of section VI, paragraph 16 of the KPCS document.
- b. Where the review mission deems this necessary and appropriate, the Chair may recommend to Plenary the sending of a follow-up mission or review visit, which should be subject to the same modalities as the initial review mission or review visit.

### **ANNEX III**

#### **Suggested guidelines for summaries of review visit reports**

##### **1. Background**

The standard terms of reference for review visits and review missions contained in Annex II of the Administrative Decision on the Implementation of Peer Review in the KPCS provide that, in addition to the report of a review visit being made available to all Participants and Observers, “a summary of the main findings of the report may also be made available publicly by the Chair of the Kimberley Process, with the consent of the Participant concerned.”

In order to ensure that such summaries are as informative and as consistent as possible, the Working Group on Monitoring believes that it would be useful for summaries to contain a number of standard elements. The present document is thus intended to provide (non-binding) guidance to review visit teams on such standard elements and on a possible standard structure for summaries.

##### **2. Length and level of detail**

As a general guide, a summary should not exceed two to three pages in length, although the precise length should depend on the circumstances of the review visit (including the number of recommendations). In keeping with the spirit of the Administrative Decision on Peer Review, it is recommended that a summary should focus on structural issues (such as the institutional framework,

the legal framework and standard implementing practice in the Participant under review, as well as any capacity issues where these are identified), rather than on individual cases. Similarly, as a general rule, given that summaries are public documents, references to specific companies or individuals (where these are considered necessary) should be limited to the review visit report as such.

### **3. Suggested structure**

As a general guide, a summary could include brief comments under some or all of the following headings:

#### ***a. Context of the visit***

Under this heading, summary information should be provided on the background to the visit (invitation from the host authorities; visit carried out as part of the peer review system of the KP), as well as on the team (composition). Basic information could be provided on the programme (e.g. towns/regions visited, official institutions met).

#### ***b. Summary of main findings***

Under this heading, a summary indication should be provided as to whether the Participant was found to be compliant with the minimum requirements of the Scheme. Where necessary, additional summary information should be provided on specific issues that need to be addressed, or findings that merit being highlighted, focussing in particular on the following categories of issues:

- *Legal Framework*
- *Institutional Framework*
- *Production*
- *Import and Export Regime*
- *Internal Controls*
- *Industry Self-Regulation (if appropriate)*
- *Statistics*
- *Other Issues (if appropriate)*

#### ***c. Recommendations***

The main Recommendations made by a review visit should be listed under this heading. It should be indicated whether particular Recommendations refer to binding minimum requirements of the KPCS, or whether they refer to Recommendations in the sense of Annex II to the KPCS document.

***d. Best practices (if appropriate)***

Under this heading, specific cases of best practices identified by the review visit could be highlighted.

***e. Capacity-building / Technical assistance issues (if appropriate)***

Under this heading, the review visit team could list any requests for technical assistance conveyed by the host Participant during the review visit, as well as highlighting any areas in which the team believes the host Participant could benefit from capacity-building assistance.

## ANNEX IV Kimberley Process Review Visit Guidance

**Country Name:** \_\_\_\_\_

### **Section 1.1: Legal Framework**

- 1.1.1 Current international, supranational, national, federal, regional and local legislation that implements, controls and enforces the KPCS
- 1.1.2 Customs legislation that implements the KPCS
- 1.1.3 Information on the export and import procedures and related controls performed by the KP authority
- 1.1.4 Regulatory framework regarding government oversight on companies active in the diamond industry
- 1.1.5 Known cases of infringements linked to KPCS (if applicable)
- 1.1.6 Relevant mining laws & regulations
- 1.1.7 Mining cadastre (if applicable)
- 1.1.8 All documents mentioned in the “legal framework” category of the Annual Report

### **Section 1.2 Institutional Framework**

- 1.2.1 Overview of the responsible government entities that implement and enforce the KPCS, notably:
  - KP Focal Point
  - Customs
  - Enforcement agents
  - Judicial authorities
- 1.2.2 Relevant additional documents clarifying the institutional relationship between the government and the diamond industry
- 1.2.3 All documents mentioned in the “institutional framework” category of the Annual Report

### **Section 1.3 Import and Export Controls**

- 1.3.1 An electronic copy of the KP Certificate / specimen
- 1.3.2 Example of relevant documents needed for customs clearance
- 1.3.3 Organisational chart of importing and exporting entity
- 1.3.4 Information on working procedures during import and export of parcels
- 1.3.5 All documents mentioned in the “import and export controls” category of the Annual Report

### **Section 1.4 Internal Controls**

- 1.4.1 Information on security and safety measures adopted
- 1.4.2 Information on databases and information registration methodology
- 1.4.3 All documents mentioned in the “internal controls” category of the Annual Report

### **Section 1.5 Industry Self-regulation**

- 1.5.1 Industry self-regulatory framework in support of the KPCS, including:
- Bylaws of diamond bourses
  - Code of conducts
  - MoUs and/or protocols that foster KPCS implementation by industry
  - Documents that explain the relation between the government and the industry in support of KPCS
- 1.5.2 All documents mentioned in the “industry self-regulation” category of the Annual Report

### **Section 1.6 Statistics**

- 1.6.1 Basic market information on the national diamond industry
- 1.6.2 Updated KP statistics
- 1.6.3 Information on statistics  
This information should be made available through the KP rough diamonds website at least three weeks prior to the Review Visit or Review Mission
- 1.6.4 Information on the process of reconsolidation of KP data
- 1.6.5 All documents mentioned in the “statistics” category of the Annual Report
- 1.6.6 WGS analysis of receiving country’s statistics (trends, anomalies, etc) of at least the most recent 3 years, including answers of hosting country to possible prior enquiries regarding its statistics

### **Section 1.7 Stakeholder Engagement**

- 1.7.1 Information on stakeholder consultation procedures , where applicable

### **Section 1.8 Cooperation and Transparency**

- 1.8.1 3 latest KP Annual Reports
- 1.8.2 An evaluation report of the KP focal point on the implementation of recommendations and findings mentioned in previous KP Review Visit and Review Mission reports.
- 1.8.3 All documents mentioned in the “cooperation & transparency” category of the Annual Report

## **Section 2. RECOMMENDED COMPONENTS OF REVIEW VISIT OR REVIEW MISSION**

- a. Meeting with the KP Authority presenting the legal framework, institutional framework and the import and export process  
Visits to the KP import/export authority.
- b. In case there are decentralised agencies, a minimum of 2 agencies should be visited, depending on their volume and role within the KPCS implementation process
- c. A meeting with customs and enforcement agencies, including judicial authorities who report on the enforcement mechanism of KPCS  
A meeting with local representatives of the diamond industry
- d. Visit(s) to mining operations, polishing entities and/or traders
- e. Meeting(s) with local communities and civil society representatives active on KP matter, where applicable

