

# **ADMINISTRATIVE DECISION**

## **Participation Committee**

### **Terms of Reference**

#### **1. Composition of the Committee**

1.1. The Committee shall be composed of no more than twelve members. No more than ten of these members, including the Chair of the Committee, shall be chosen from among candidates submitted to the Chair of the Kimberley Process by Participants. One shall be chosen from among candidates submitted by civil society Observers and one shall be chosen among candidates submitted by industry Observers.

1.2. The Chair will ensure that there will be an appropriate geographical balance among members whose candidatures were submitted by Participants. The Chair will also ensure that proposed members of the Committee possess the expertise required for performing the tasks set out in these terms of reference.

#### **2. Rules of Procedure**

2.1 Unless otherwise decided by plenary, the Participation Committee will apply Chapters II and V of the Rules of Procedure of the Kimberley Process Certification Scheme (hereinafter KPCS) to its proceedings.

#### **3. Task of the Committee**

3.1 The Committee will assist the Chair of the Kimberley Process in its role of handling the admission of new Participants to the KPCS in accordance with Sections II, V (a), VI (8 & 9) of the KPCS document.

3.2 Within one week of receiving an official application to join the KPCS through diplomatic channels, the Chair shall forward the documents received to support this application to the Chair of the Committee.

3.3 Within one month of receiving these documents, the Committee shall submit an assessment, based on a review of the documents, on whether the applicant meets the minimum requirements of the KPCS, set out in Section II, V (a) and VI (8 & 9) of the KPCS document.

3.4 The Committee may through its Chair seek clarification on information received and may enter into dialogue with the Applicant concerned on the issues to be addressed, and make best efforts to provide advice and guidance

on how the issues may be resolved. In addition, including where the Applicant was previously a Participant and is seeking re-admission to the KPCS, clarification may inter alia involve the provision of additional specific information based on the relevant provisions of the KPCS document, as well as any further verification measures, including, with the host's consent, in the territory of the Applicant.

3.5 The Applicant concerned should reply within a period of one calendar month. If it fails to do so, the Committee may make its recommendation to the Chair of the Kimberley Process.

#### **4. Compliance**

1. 4.1 The Participation Committee will consider any relevant information submitted to it by the Working Group on Monitoring regarding compliance by a Participant. It will determine whether, in its view, the Participant in question remains able and willing to meet the minimum common standards of the certification scheme, as required by Section VI (8) of the KPCS. This determination should include an assessment by the Committee based on Section V (e) of the KPCS.
2. 4.2 If the Committee determines that the Participant continues to meet the agreed minimum requirements of the KPCS it shall so inform the Chair, the Working Group on Monitoring and the Participant concerned.
3. 4.3 If the Committee concludes that the Participant no longer meets the said requirements it will inform the Chair in writing of the reasons for such a conclusion and may recommend any further action that the Committee believes is appropriate.
4. 4.4 The decision of the Committee in relation to paragraphs 4.2 and 4.3 above should be reached as a rule no later than 30 days following the referral by the Working Group on Monitoring.

#### **5. Information Exchange**

5.1 The Participation Committee will receive from the Working Group on Monitoring, via the Chair of the KPCS and no later than 30 April each year, a list of Participants that have failed to submit an Annual Report for the previous year. In addition, the Committee will receive from the Working Group on Statistics, via the Chair of the KPCS and within 30 days following the deadline for quarterly and bi-annual returns, a list of Participants that have failed to provide statistical data required by Annex III of the KPCS.

5.2 The chair of the Committee will inform each Participant on the two lists under paragraph 5.1 above, without delay and in writing, that the lack of an Annual

Report or a required statistical return constitutes a failure to implement the KPCS. The Committee should request that each Participant provides the required information within 60 days

5.3 The Committee will inform the Chair of the KPCS without delay of any Participant that has failed to meet the revised deadline in paragraph 5.2 above, as well as the Committee's understanding of the reasons for this failure, and may recommend any further action that the Committee believes is appropriate.

## **6. Conclusion**

6.1 The above Terms of Reference supersede those first established for the Participation Committee under the Administrative Decision adopted at the Johannesburg plenary in April 2003.

**Adopted by the plenary at Gatineau, Quebec**

**29 October 2004**