

Oversight Committee Minutes

Meeting 24: 22-23 September 2021 Teleconference meeting

Present:

OC members: Martin Boon (Items 1-5), Theresa Glammert-Kuhr, Martin de la Harpe, Richard Kwarteng, Marike de Pena, Iresha Sanjeewanie, Ludwig Tanchot, John Young (Chair)

Fairtrade International S&P: Alina Amador, Eleonora Gutwein, Gudrun Schloepker, Sebastian Wichterich

FLOCERT: Sugumar Raman

Contributing observers: Blaise Desbordes (Fairtrade Max Havelaar France), Stan Cutzach (Fairtrade International), Patricia Magana-Spiegel (Fairtrade International), Bronwyn Page-Shipp (FLOCERT)

Disclaimer:

The Fairtrade International (FI) Oversight Committee (OC) aims to reach consensus, but decisions may not always reflect the opinions of all members.

Item 1 – Opening

The chair opened the meeting and stated that the quorum was met.

Agenda: The agenda was agreed upon unanimously.

Conflict of interest:

A conflict of interest was identified for Item 7; respective member will abstain from voting on this agenda item.

Ground Rules:

The chair reminded the OC about the ground rules for the meeting:

- All confidential information shared within the committee is kept confidential and should not be circulated or disclosed outside the committee. This does not apply to public minutes.
- All decisions will be based on consensus whenever possible.

Review of actions items:

- The follow up on the Exceptions Report 2019/2020 (cocoa and sugar exceptions 2020) is planned for the November meeting.
- The comparison between the Fairtrade Hazardous Material List and MPS certification pesticide list is planned for the November meeting.
- FLOCERT's DAkkS audit report will be shared with OC members in October 2021.
- The report on FLOCERT's corrective actions for the non-conformities identified during the RAP's audit in May and June 2021 is planned for the November meeting.

- The revised version 2.1 of the FI Oversight Procedure will be shared with OC members in October 2021.
- The FI Public System Report version 2.0 was published and submitted to ISEAL.
- FLOCERT's appeal and review submission form will be shared with OC members after this OC meeting.
- Update on the project to create guidelines for conducting pilots in the Fairtrade system is on the agenda of this meeting (Item 2).
- The partial review of the RAPs to allow for the implementation of the Smart Assurance Model is ongoing. The topic will be on the agenda in the November meeting.
- The on-site assessment of Fairtrade Australia and New Zealand's compliance with the RAP's is not possible at the moment. Options for a remote assessment or postponed on-site assessment is being explored.

Item 2 – Updates

ISEAL evaluation

The independent evaluation of FI against the ISEAL Assurance Code has started. The FI Assurance Manager (AM) submitted the requested evidence by the deadline, 31st of August 2021. ISEAL's secretariat is currently reviewing this evidence for completeness. The OC will be informed about the progress and the results of the evaluation.

Licensing Body's RLBs compliance

As part of the assessment of their compliance with the Requirements for Licensing Bodies (RLBs), Licensing Bodies (LBs) had to complete a self-assessment checklist and to submit evidence to FI Assurance. Most of the LBs completed and submitted their checklists with required evidence. FI Assurance has reviewed them and provided feedback. The AM informed the OC about the status of compliance of the different LBs and presented the areas in which LBs are strong, or had the most concerns and compliance challenges.

Conducting Pilots in Fairtrade

The project to create a Pilot Standard Operating Procedure for the entire Fairtrade system is ongoing. Four different types of pilots have been identified, for which different criteria and procedures will be developed. A consultant will lead the project in coordination with the AM. It is also planned to have interviews with members, and key stakeholders. A project outline will be shared with the OC after the meeting.

Item 3 – FLOCERT's Strategy

FLOCERT presented its strategy for the years 2021-2025. The strategy was created in a participatory process with a diverse group of contributors and different modes of engagement. A set of core principles was defined which guided the direction FLOCERT is pursuing in the next five years. The strategy is based on the aspiration to put the customer at the centre, to harness digitalisation while embracing humanity and to build trust across the Fairtrade system. The concept of Smart Assurance and three main areas for innovation were introduced as well as how FLOCERT wants to increase its positive impact for its Fairtrade partners.

Discussion

The OC enquired about the risk that an expansion of FLOCERT's services beyond its core certification activities could lead to impartiality issues for its certification operations. FLOCERT explained that there are procedures in place to detect impartiality issues, for example during internal audits and through its Impartiality Committee. The OC requested to be informed about any new services by FLOCERT from which a risk for conflicts of interest could emerge. The OC was also interested to know if opportunities to offer combined audits, which include certification for other sustainability schemes, were reflected in the strategy. A particular interest to look into possibilities to offer combined organic certification was raised. During the

previous years, FLOCERT's offers for combined audits (Organic / UTZ / 4C etc) received only low demand from customers, therefore they were discontinued during the previous strategy cycle and are therefore not a priority of the current strategy. FLOCERT also pointed out that interests to offer combined organic certification would firstly need to be addressed through recognition on the scheme and standard level and not on the audit level. It was agreed to assess all past experiences around combining audits / reducing audit efforts in order to decide on the future course.

Next Steps:

- AM to share aggregated information from FLOCERT's impartiality log (which inherently captures new services that could involve risks for conflicts of interest) with the OC
- FI Standards and Assurance to look at FLOCERT's experiences in the area of combined certification and to explore if it is reasonable to invest further resources in this area.
- FLOCERT to keep the OC updated on the progresses for Smart Assurance.

Item 4 – FLOCERT reporting

FLOCERT reported a range of key performance indicators for 2020 to the OC. The number of certification analysts and auditors remained stable compared to previous years. The number of certified organisations increased slightly, but not as much as during previous years, due to new restricted entry requirements for coffee and cocoa operators and due to the onset of the COVID-19 pandemic. The pandemic led to a changed audit approach from Q2 2020 onwards with remote audits and temporarily reduced checklists, which contributed on average to less identified non-compliances per audit. The number of unannounced audits decreased slightly, because an approach for a remote unannounced audit had to be developed in the first place. Overall, the number of suspension and decertification issued remained mostly stable compared to 2019. Numbers on the classification of certified organizations into FLOCERT's risk categorization system was also shared with the OC, including the distribution across regions. The number of organisations participating in the small licensee scheme increased slightly compared to 2019.

Discussion

For clarification purposes, the OC recommended to make a change in the presentation of risk classification figures for the next reporting period. The OC also asked for more details on decertification due to non-payment of certification fees and voluntary decertification, as well as about the number of renewal and focused audits.

Next Steps:

- FLOCERT to incorporate the recommendation of the OC on the presentation of risk classification figures into the reporting for 2021.
- AM and FLOCERT to explore how additional details on decertification due to non-payment of certification fees and voluntary decertification, as well as on the number of renewal and focused audits can be provided.

Item 5 – Certifying in Conflict Affected Areas

FLOCERT's ASM and FI AM presented an assessment of FLOCERT's approach for offering certification in long-term conflict areas, based on two rounds of pilots conducted in 2019 and 2020/2021. The revised Requirements for Assurance Providers (RAPs 2.0) introduced new requirements for auditing in such areas and require that a special approach is in place for a certain time frame. After a broader first pilot phase, the second phase has focused on SPOs and traders in the Democratic Republic of Congo (DRC). The evaluation of both pilot rounds led to the conclusion that the circumstances in long-term conflict areas generally do not allow to certify organizations located in these areas against the current Fairtrade Standard. This is primarily linked to the impact a long-term conflict has on the organisations' ability to comply with the

Fairtrade standards, and less to the inability to conduct audits on site. New requirements, as a consequence of the Fairtrade marks' registration as a certification mark within the EU, also make the continuation of the certification approach applied in the second pilot unfeasible. Based on these findings, the AM proposed to phase out the pilot and presented two options for Fairtrade's future approach to long-term conflict areas. In addition, different scenarios for the phasing out of the pilot were presented.

Discussion

The idea of the development of a conflict area standard was raised by the OC. On the other hand, concerns about the likelihood of an implementation of an alternative approach were raised, because of the resources required for this. The AM stressed that first FI has to assess if there is a need for / priority of such approach within the Fairtrade system taking all affected countries into account, understand the risks involved and the resources needed and also explore options for financing, before the new standard and scheme would be developed. The OC furthermore raised a concern about the effectiveness of remote audits in conflict affected areas in general and for the currently certified SPOs. FLOCERT explained that the remote audit approach as such is quite robust, since remote interviews and site tours have been developed and included in the remote assessment. Furthermore, it was emphasized that the main obstacle to certification is not the ability to conduct audits, but rather the difficulty of organizations to demonstrate compliance during audits. Since even rudimentary infrastructure / governmental services in conflict affected areas are mostly not functioning adequately, SPOs struggle to meet the requirements in the Fairtrade Standards, including the legal requirements that are part of Standards.

Decision 1

The option to close the pilot and invest in developing an alternative approach (including assessment of need, cost, feasibility etc.) that addresses the standard compliance gap and related risks, was approved unanimously.

Scenarios for the phasing out of the pilot in the DRC

After the OC had agreed on the closure of the pilot and the next steps, the AM presented 3 scenarios to phase out the pilot in the DRC. The closing of the pilot will affect 5 SPOs and 3 traders, currently certified according to the certification under special conditions procedure. The scenarios differed in the timelines for the discontinuation of the certification under special conditions and the ways in which compliance would be checked for the remaining time.

Decision 2

The following phase out approach was approved (7 in favour, 1 against): The phase out will last until the certificates of the customers certified under special conditions expire in 2024/5. The upcoming focused audits will be conducted according to the new remote audit approach (incl. full checklist; remote interviews / site tours).

The OC recommended that Producer Networks and NGOs support the SPOs if possible, and that FLOCERT shares the date of the audit with the affected parties in advance.

Next Steps:

- AM/FLOCERT to develop a timeline to explore possibilities for an alternative approach for long-term conflict areas.
- FLOCERT/FI to develop communication that the pilot is closed.
- FLOCERT to develop a pilot phase out plan as approved by the OC.

Item 6 – Fairtrade Ethics and Compliance

The Global Director Ethics and Compliance presented the basis of FI's work on Ethics and Compliance. In this area, the Fairtrade Code serves as the core document for the organizations of the Fairtrade system, including FLOCERT. They are to report on an annual basis about their implementation of the Code's requirements, with different policy priority areas set by the General Assembly each year. The Global Director Ethics and Compliance introduced the process cycle that is being pursued to facilitate the implementation of the Code across the Fairtrade system. The work ahead consists inter alia into reviewing existing internal policies and potentially facilitating the development of new ones, elaborating processes and trainings as well as creating an online collaboration space and an online whistleblowing system. All organizations of the Fairtrade system need as per the Code to appoint a 'Code Champion', an employee who is the contact point with FI's Ethics and Compliance Unit with respect to the Code's implementation.

Discussion

The OC highlighted the importance of having flexible practical requirements for different organizations within the Fairtrade system, acknowledging their diverse structures, activities and geographical outreach. The AM pointed to thematic overlaps between the RLBs and the Code. Although the RLBs' scope is limited to licensing activities, both of them include reporting requirements for the same areas, e.g. for allegations and complaints. These could be harmonized to minimize the bureaucratic burden on LBs. As the Code clearly stipulates that it does not apply to licensees, traders or producer organizations but that the standards do, the OC emphasized the need to clarify how these relate to one another. The AM explained that the RLBs require from the LBs to assess (potential) licensees based on the criteria of the Code.

Next Steps:

- AM and Global Director Ethics and Compliance to look into ways to synchronise reporting requirements on the RLBs and Code.

Item 7 – Second instance complaint

The AM presented a 2nd instance complaint against a decision of AP's Appeals Committee. The complainant had received an immediate decertification decision as a result of an unannounced audit, which had found severe non-compliances related to price and premium payments, overselling and misleading information. The AM explained the arguments and claims of the complainant, the AP's response and FI's analysis of the case. The AM found that the AP proceeded with the decision and the appeal correctly and that the immediate decertification was justified.

As the outcome of the analysis of the complaint, the AM proposed a recommendation to the AP that the time between an audit and a decision for immediate decertification, whenever possible should not be more than 4 weeks. The AP agreed that the time passed between the audit and the decertification decision in the case at hand was long (although it was within the communicated timelines), however the AP argued against a specific timeline, since after an audit the (de-)certification decision cannot be established before the audit results are completely analyzed. Instead, the AP suggested an approach in which auditors would report signs of severe non-conformities quickly to the AP to allow for prioritizing the evaluation of such audit results.

The second recommendation was around the improvements in accepting Objective Evidence (OE). The AM proposed that the AP should improve the quality check of submitted OE and issue observations to be considered in future audits if there are indications of additional issues.

Discussion

Regarding the first recommendation, the OC asked the AP to explore whether a pre-warning about an impending decertification could be given to operators, before the final decision has been reached. The issuance of a preliminary suspension, which does not allow to conclude new contracts, was also suggested. Regarding the second recommendation, the OC emphasized that the AP should become active when potential non-compliances are noticed in documents, even if they are not in the scope of the

current audit. Trivial issues should be added to the ToR of the next audit and observations on them communicated to the operator. If a more severe issue is detected, a focused desk check should follow promptly. The OC highlighted its previous recommendation to the AP, to take into account additional information for certification decisions, even if they are submitted after an audit.

Decision 1

One member abstained from the vote due to a conflict of interest.

AP proceeded with the appeal correctly, and the immediate decertification was justified, thus the complaint would be denied by FI was approved unanimously.

Decision 2

One member abstained from the vote due to a conflict of interest.

The recommendation to the AP that the time between the audit (closing meeting) and that the certification decision in case of immediate decertification should be shorter was approved unanimously. The OC recommended that the procedure of immediate decertification should be revised and improved.

Decision 3

One member abstained from the vote due to a conflict of interest.

The recommendation to the AP to improve the quality of the oversight on accepted Objective Evidence was approved unanimously. There should be secure proper communication and feedback to the client if some of the evidence is not completely aligned with other components of the Fairtrade standards. If it relates to severe cases, a desk check should be conducted as soon as possible.

Next Steps:

- AM and OC chair to draft the response letter to the complainant.
- AM to inform the AP about the recommendations.
- AM to follow-up with the AP about the implementation of the recommendations.
- AM and AP to follow up on the recommendation as a result of a previous 2nd instance complaint.

Item 8 – Assurance and Licensing Risk management plan

The AM presented the current version of the FI Assurance and Licensing Risk Management Plan (ALRMP) for discussion and approval. ISEAL's Assurance Code requires the scheme owner to maintain a risk management plan that includes a list of the most significant risks to the integrity of the assurance system, a quantification of those risks, and a description of the strategies being employed to mitigate each of these risks. The plan has a revision schedule and has to be updated as risks arise or change. FI maintains its ALRMP to meet this requirement, to allow the system to identify opportunities for improvement and to develop and maintain a robust oversight system. The complete ALRMP was updated in July 2021. There were three newly identified risks added to the plan, and the SMART action plans were updated for the already identified risks.

Discussion

The OC requested a number of additions to the Risk Management Plan. These included the risk that Exceptions to the Fairtrade Standards are not granted and recorded correctly and the risk that Fairtrade Connect as a licensing tool cannot keep up with the needs of users. The OC also pointed out the risk of insufficient due diligence procedures before operators are allowed to enter the system and become



certified. The AM explained that the risk of illegitimate entry into the system is also part of the work stream of FI's Trading with Integrity Working Group. All items raised by the OC will be integrated into the ALRMP.

Decision

The updated Assurance and Licensing Risk Management Plan was approved unanimously.

Next Step:

- AM to integrate the items contributed by the OC into the ALRMP.

Item 9 – AOB

The AM proposed a change to the OC's ToR. The limitation that technical members can only serve two consecutive terms on the committee should not apply to the FLOCERT representative. Since this representative only represents one organization, there is no need for a rotation on this position. The proposal was endorsed and the AM was asked to update the OC ToR and present it to the SC for approval.

The AM also, introduced the idea to have an additional position on the OC for an external expert, who has in-depth knowledge about certification and accreditation schemes. The OC welcomed the idea and asked FI to explore the possibility and update the OC.

Next Meeting

The next OC meeting is scheduled for November 22nd - 23rd, 2021.

The meeting dates for 2022 will be set in the November meeting.

The meeting was formally closed.