

Oversight Committee Minutes

Meeting 35: 28 November 2023 Physical meeting

Present:

OC members: Jules Colombo (online), Jannis Bellinghausen, Theresa Glammert-Kuhr, Martin de la Harpe, Ben Huyghe, Richard Kwarteng, Marike de Pena, Iresha Sanjeewanie, John Young (Chair)

Fairtrade International S&P: Eleonora Gutwein, Oksana Forkutsa, Margret Loeffen, Christine Knickelbein

Observers: Kerstin Cron (FI): item 3, Subindu Gharkel (Fairtrade Foundation UK): item 7, Ernesto Gonzalez (FI): item 8

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: No conflict of interest was identified.

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:

HML Red list exceptions:

- Follow up on actions related to exceptions to the HML Red List
 - → on the agenda for this meeting (item 6)

Assurance Provider compliance to the Requirements for Assurance Providers (RAPs):

- The A&O team flagged the urgency of the status of the certification services by Fairtrade Australia and New Zealand (FTANZ) to the FI Board chair. The FI Board was informed about the OC recommendation.
- FTANZ was informed about the OC decision affecting their certification services.
- Add to the licensing and certification risk management plan the threat of operational issues, so mitigation strategies can be defined.
 - → the topic is on the agenda for this meeting (item 2 and 10)



Sugar Exception:

- Assurance Manager (AM) to draft the exception granting letters following the OC decision
- OC Chair to sign the granting letters
- AM to inform parties involved and other members on a need-to-know basis
- Implement measures according to the OC decision
 - → All items have been completed.

Item 2 - Updates

FTANZ

The FI Board decided to revoke the license to certify for FTANZ and the transition process of their 146 clients to FLOCERT has started.

RLB assessments

The Assurance Coordinator (AC) updated the OC on the status of FI's Licensing Bodies' assessments against the Requirements for Licensing Bodies (RLBs):

- 5 LBs are ready to be audited.
- 5 LBs submitted objective evidence which still needs to be reviewed.
- 5 LBs still need to submit objective evidence.
- 5 LB self-assessments are still pending (3 of them have not been submitted at all).

Audits will start in 2024 (pending budget) with an external auditor. The plan is to start with 5 audits for the LBs that are ready to be audited. The AC will follow up to finalize the assessments of the remaining LBs.

Discussion on the RLB assessments:

It was suggested to have a decision at the next OC meeting on informing the LBs with pending self-assessments that their licensing status will be reviewed.

One OC member raised their concern that 25% of the LBs are delayed with their self-assessment. It will be a top priority in 2024 to follow up.

It was suggested to add the lack of resources both at FI and the LBs to complete this exercise on the FI risk assessment plan.

Consequence for LBs not to complete their self-assessments could lead to revoking their licensing rights.

Item 3 - Smart Assurance

FLOCERT gave an update on the progress in their Smart Assurance programme. This programme is part of FLOCERTs 2021-2025 strategy to become more data driven and technology proficient, moving to more proactive assurance. The programme consists of various projects selected based on their potential to either increase credibility, bring efficiency and/or add value to customers.

FLOCERT's Programme Manager also presented the plans for the Audit Program for Producers (APPro), aiming to develop and combine additional assurance tools further increase credibility in producer certification – similar to the changes already done to trader certification.

APPro is planned to comprise of the following elements, that are currently in different stages development:

- Training as Assurance
- Self-assessment questionnaire
- Hybrid audit approach (onsite/remote)
- Observation concept
- Focused audits new methodology
- Workers/members voice surveys



Discussion:

Concerning the element "Training as Assurance" several concerns were raised and addressed:

- Conflict of interest with certification: The concept follows the same approach as the one
 implemented for traders. It will not create a conflict of interest as generic information on Fairtrade
 requirements will be accessible for all applicants.
- Certification cost increase: There is no plan to increase the certification fee because of these developments.
- Duplication with producer services provided by PNs: The training is not comparable to the service
 the PNs provide in the field, the purpose is to provide minimum knowledge on the Standard. There
 are potential synergies with the PN's services and FLOCERT is working with the PNs to identify
 them.
- Lack of access: It was acknowledged that in some contexts accessibility may be difficult. This will be considered in the pilot and testing phase. It was suggested not to make the training compulsory.

The OC suggested including additional webinars for capacity building on other procedures like exception applications, submission of complaints etc. at a later stage.

Concerning "Workers/members voice surveys" the following questions were raised:

- How the results of the surveys will be processed: The surveys are planned to be integrated in the assurance process to identify trends that require action.
- For the time being it is not planned to use the worker surveys to support the due diligence work of the traders.

The Program Manager confirmed to further explore these matters during the piloting and testing phase.

Next steps:

FLOCERT will proceed with piloting and testing the different tools in 2024.

The OC will be informed and asked to provide feedback as developments proceed.

As was the case with the changes introduced by the Trader Audit Program, the OC will be asked to decide on elements that affect the current RAPs.

Item 4 - FLOCERT reporting

FLOCERT's Credibility Assurance Manager (CAM) presented their complaints statistics from 2022 which can be found on their <u>website</u>, and asked the OC which additional information could be of interest for them.

The CAM then gave an update on FLOCERT's recently created Impartiality Committee followed by a brief glance on their whistleblowing cases in 2022:

FLOCERT's Supervisory Board used to act as Impartiality Committee. Based on the decision taken by FI's General Assembly in 2022, this function has been taken over by a newly created Impartiality Committee which is completely independent and separated from FLOCERT's Supervisory Board. The new independent committee started to work in May 2023, received a training on impartiality requirements of ISO 17065 (performed by AS in May 2023). The onboarding meeting happened in July 2023 and a first working meeting is planned for December 2023.

The tasks of the committee will be, amongst others, the review of all impartiality activities, the impartiality log from the whistleblowing and the random case checks FLOCERT is doing. The committee will work closely with credibility assurance and other departments to improve the Fairtrade system.

The two main issues reported through the Whistleblowing channel were about:



- Fairtrade's unique situation with FLOCERT as single certifier which causes external unclarity about roles and responsibilities and then leads to pressure on certification decisions or certification workflows.
- internal unclarities on roles and responsibilities leading to pressure on certification staff.

As mitigation measure trainings were conducted with the stakeholder service desk to clarify roles and responsibilities, in line with the new impartiality committee, a process that will continue in 2024 where more trainings on impartiality will be offered internally and to the whole Fairtrade system.

Discussion:

The OC asked to receive in the future complaints statistics on:

- a breakdown of allegations per certified operator per product category to understand more in detail the ratio of allegations per product.
- information on which channels are used by which stakeholder group, as this was deemed very
 important to assess the effectiveness of the assurance scheme. (→ Members of the Fairtrade
 system (NFOs, PNs and mainly FI) usually flag issues by email. The allegation channel is used by
 individual workers as well as by members of the organisations.) It was suggested to break down
 the number of allegations by continent.
- in the context of increasing unfair trading practices in bananas: to receive more details on the origin of allegations (countries, producers, importers, exporters)
- more detailed information on appeals (if they are related to decertifications or suspensions, where the decision was overturned or decision reconfirmed)
- more details on complaints related to the fee system. An OC member flagged cases of double invoicing of fees. As these irregularities should not happen, specific cases should be submitted to credibility assurance so that they can be investigated.
- the exact numbers of complaints related the audit process, fee system, auditor performance, delays in response.

The CAM announced that work will be done on the statistics and welcomed the OC to contact the credibility team for any additional insights and suggestions.

An OC member wondered about the low number of complaints about auditor performance as it does not seem to match the feedback from the field. Customers seem to be reluctant to complain about auditors as they fear the next audit might be worse. The PNs continue to receive the same complaints about specific auditors.

These kinds of issues should always be flagged to FLOCERT so they can investigate and act. FLOCERT has a whole system for investigating complaints about auditors.

The question was raised whether FLOCERT is training their customers on the complaints and allegation processes: Information on processes is available on FLOCERT's website and additionally all auditors are instructed to explain either before or after the audit the options to the customer on how to provide feedback.

It was suggested that NFOs should get trained as well to be a good relay to these processes for the customers. The OC members were encouraged by the CAM to address any specific training or information needs to her directly.

Item 5 - Brand architecture (BA) project

FI's Brand Integrity Manager (BIM) gave an update on the progress of the BA project.

The project started a couple of years ago to cover new services of the Fairtrade strategy (innovations, better offers to businesses).



Four scenarios and four solutions were identified and presented to the FI Board:

- Standalone service outside of certification scope or in addition to certification / Global Service Development offer (GSD) → Off-pack mention of Fairtrade in text only.
- Innovations outside of the Fairtrade scheme → creation of a new device including the word "innovation" to avoid confusion with other models which will be registered as an individual mark (not a certification mark), for use off-pack. The North-to-North (N2N) projects included in this solution, with exceptional use on-pack.
- Add-on to company own scheme, 'working with' / 'Partner of the Year' (for Global Fairtrade Award winners) → both use of roundel of the corporate identity of Fairtrade.
- Fairtrade Compliant including all sourcing models and innovations within the Fairtrade scheme (Standards Pilots, Conflict Areas (for which a Standard will be developed), going beyond certification provided the standards are amended to include the relevant area (pilots, conflict areas, going above and beyond. Proposal to merge the ATCB and FSI Marks into one mark still on the table, but no decision yet.

All scenarios were endorsed by the FI Board except the merge of the FSI and ATCB Mark despite support from the Fairtrade system. Noting that the Board did not hear the merging recommendation due to objections from one NFO. A new proposal will be submitted to the Board addressing the concerns and risks raised by this NFO and their proposals for mitigation.

Discussion:

- The concern was raised that the FSI mark is too similar to the innovation mark which could present a risk. The BIM explained that the consulted lawyer advised to have the innovation mark as similar as possible to be recognizable for consumers but not confused with the certification mark. The innovation mark will also only be used in a limited number of markets.
- Another concern was that using the innovation mark, which is so similar to the FSI Mark for N2N, could blur the message to the consumer that Fairtrade is about buying from the Global South. The BIM pointed out that only 3 countries will test it. They will each have a local Standard. This was also seen as risky as a global mark will be used on a local Standard.
- The question was raised for how long an innovation could be considered an innovation and the innovation mark used. The evolution of such innovation/project will have to be taken into consideration, potentially the device could be registered as a certification mark (without the word innovation) and be used once the innovation is not an innovation anymore if and when N2N is anchored in the constitution and thus in the global standards.

Next steps:

Timeframe	Tasks	
November 2023 – 2024	FI: Claims and narrative development	
November 2023 – January	FI: IP legal check	
2024		
November 2023	Partner of the Year licensing agreement	
December 2023	CEO Forum: N2N presentation; product-based plus status update	
December 2023 – January	'Working with' guidelines development	
2024		
December 2023	N2N guidelines development	
February – March 2024	Finalise: Merging of ATCB and FSI; guidelines for Innovations/N2N	
February 2024	Tentative start, rollout of approved elements of the BA: Disseminate	
	information	
March 2024	Board decision on ATCB/FSI merging and sign-off on new device	
	for innovations	
2024 (dates tbd)	BA info and training webinars	



<u>Item 6 – Hazardous Materials List exceptions</u>

Following the monitoring review of Hazardous Materials List (HML), some hazardous materials have been moved from the Orange List of the HML (restricted usage under special conditions possible) to the Red List of the HML (usage prohibited) as of 1 July 2022 and therefore cannot be used for Fairtrade certified crops anymore.

In March 2022, an interim process was approved by the OC to grant exceptions by end of 2023, to allow use of limited number of materials that were added to Red List (after 30 June 2022). The Standards Project Manager presented an overview of learnings from this time period and concluded with a recommendation as a next step to support producer organizations and ensure feasible implementation.

The OC was asked to decide on recommendation to extend the process to grant exceptions (given all terms and conditions are fulfilled) until December 2024.

Background:

The Exceptions Policy mandates the OC to decide on exceptions for the use of a Red List prohibited material, which can only be granted if outlined criteria are met. In March 2022, the OC decided on exceptions for the use of materials to be phased out from the Orange List to the Red List as of July 2022:

- to consider granting exceptions for 10 materials that will be moved to Red List as of July 2022.
- to request pre-evaluation (re. relevance to the product).
- to involve the Standards Team.
- to consider a 2-year exception period (until max end of June 2024), given all other conditions fulfilled.

The approved option by the OC in March 2022, for operators to apply for exception on materials that were moved to the Red List as of July 2022, was an interim solution to avoid a blanket extension of phase out timeline for a group of chemicals that are already added to the Red List.

Phasing out hazardous chemical materials could be expensive and put crop production to the risk. The list of materials that were phased out as of 1 July 2022 includes chemicals that are difficult for producers to replace and phase out due to one of these reasons: unavailability of effective alternatives, including alternative chemical solutions; specific climatic conditions where infestation levels are very high; alternative solutions are economically not viable or there is a pressure from importing country (e.g. Australia). The risks associated with phasing out some of the chemicals can be numerous, such as harvest loss, or producers may consider reducing the Fairtrade crop production area to satisfy market needs which then has a negative effect to local communities with decreased sales and thus less Fairtrade Premium.

The Producer Networks (PN) have been supporting the producers in their application for the exceptions. The supported applications were mainly from Network of Asia & Pacific Producers and Fartrade Africa, who also carried out various meetings and activities to support producers to succeed with their submitted phase out plans.

Recommendation:

Following the approved approach by the OC, the exceptions were granted based on evaluation. To this point the learning is that the process requires extra time from the team, and also is not always helpful for organizations to have clarity whether an exception will be granted to them or not within a reasonable time period. In addition, there are many challenges due to differences in categorization of chemical materials listed in the EU approved list and Fairtrade HML. The HML full review is planned to start in Q4 2024, therefore an interim solution is needed until the new HML list is applicable.

The Standards Project Manager recommended to the OC the following:

- to allow organization to continue applying for exceptions until the HML review starts.
- standards team to continue with analysis of applications in line with the approved approach.



• timeline for newly submitted applications (as of November) should therefore move from July 2024 to July 2025. This is given that any new applications could still be submitted until end of 2024.

To improve application process and processing, the Standards Project Manager will work on improving the format of applications and improve the process so its timely and more efficient. PN teams to ensure applications are complete, correct and submitted timely. The improved process will have a clear guidance on fixed list of supporting documents as a minimum threshold, systematized naming of submitted applications, timelines for submissions, etc.

Discussion:

The OC discussed the challenges faced by producers when phasing out prohibited materials, as there are no available alternatives, noting that allowing exceptions in certain situations is key to enable producers to keep on farming. They also highlighted the complexity of dealing with applications for materials beyond the restricted ones, with most requests coming from Africa and Asia. The committee also discussed the impact of specifics in approach to approve materials in EU list. The Fairtrade HML list categorizes materials based on their type of hazard criteria. The OC emphasized the importance of exploring alternative solutions and supporting producers. There was a conversation around the comparison of organic and conventional farming methods, with a focus on knowledge sharing between producers. An OC member proposed to strengthen the conditions to apply for exceptions by requiring a compensation plan for the harm caused by use of prohibited materials. This should be included in the decision as an additional condition for the exception. The OC also agreed that there should be stronger advocacy work to influence legislations around prohibited materials. It was also suggested to the Standards Team to consider looking at the Flower specific chemicals and separate it out from the general list. The Standards Project Manager confirmed that as of 2024 they will be looking into options to set a separate HML applicable to flowers and include those in Flower standard review consultation.

Decision

Based on the recommendation from the Standards Team and after the discussion at the meeting the OC unanimously approved the following:

- Producers can continue to apply for exceptions for the 10 chemicals for the use of materials
 that were added to the to the Hazardous Material Red List as of July 2022, and was agreed
 by the OC in March 2022. The exception is not a blanket exception. Producer organizations have
 to continue to apply for exceptions individually.
- Standards team will continue with the analysis of applications in line with the approved approach taking into consideration initial and additional conditions.
- The Standards team will introduce an amended process, to make the decision making more efficient.
- As an additional condition, producers that need to use the prohibited materials which fall in the scope of this exception, have to compensate for the harm they are causing or, could potentially cause, by using the prohibited materials. The compensation has to be meaningful; producers have to commit to it before filing the application for the exception and will have to liaise with their respective PN to develop and implement the compensation. PNs will report back to the Oversight Committee on the implementation of such compensations.
- The validity of the exception to be extended to July 2026.
- Application to use Red List materials that do not fall into the agreed 10 materials cannot be granted within this process. They have to be evaluated on a case-by-case basis and decided by the OC individually.



Next steps:		
Timeframe	Tasks	
November - December 2023	S&P to inform the FLOCERT and PNs about the outcome of the OC decision	
November 2023-December 2024	PNs to continue work with Producers on a monitoring plan for the phasing out of the materials	

Item 7 – Australian cotton pilot approval request

A pilot for blending Fairtrade cotton with 'Cotton Australia's 'My BMP'' cotton had been presented to the OC in September 2023. Before taking a decision, the OC required more due diligence in particular with regards to benchmarking Cotton Australia's my BMP scheme to the Fairtrade Standards. The pilot applicants have conducted this benchmarking, and the Pilot Facilitator (PF) presented the results to the OC. Based on the results, a 3-year pilot was proposed on testing blending Fairtrade cotton with cotton certified by 'Cotton Australia' in a 50/50 percentage blend. The OC was asked to decide on the proposal.

The PF had no strong recommendation but considered the associated 2 main risks manageable in the pilot setting. The decision whether the presented opportunity justified taking those risks was left to the OC to discuss and decide on.

Discussion:

The following was clarified during the discussion:

- ATCB Fairtrade cotton is not allowed to be blended with non-Fairtrade cotton (but blending with non-cotton fibres is allowed, as long as Fairtrade cotton ≥ 50%)
- The products that will be sold in in Australia will be sold by Fairtrade licensees. If they need to be certified they would be audited on the Fairtrade part as normal, and the product composition and the related claim and label would be assessed by the Licensing Body.
- FLOCERT would be able to check the Fairtrade content as the manufacturing will be done in India at Fairtrade certified entities. FLOCERT would not audit the remaining 50% that would be my BMP certified, which would be checked by cotton Australia.

The pilot was seen as a good opportunity to test working with another scheme and presenting manageable risk to Fairtrade's reputation as it would only be tested in a limited geographical scope.

Although the 50% Fairtrade cotton content would be checked by FLOCERT, concerns were raised regarding the oversight on the other 50% cotton content.

In general, the OC was concerned about the unclarity of responsibilities of assurance which could be tackled by an MoU between the Licensing Body and cotton Australia.

Another concern was that adding to the existing Fairtrade's cotton models (FSI, ATCB and the textiles Standards) could create more confusion. The pilot would represent a variation of ATCB and add to the multitude of models.

Resource considerations were also noted, acknowledging benefits from collaborating with Cotton Australia's, but highlighting the additional resources required from the OC, PF, and FLOCERT and the LB, which should not be underestimated.

The majority of the OC concluded, that although this would be a good opportunity to test working with another scheme, the small scale, the reputational risk, the extra resources that would need to be invested and the relatively low benefit for the Fairtrade producers, did not justify engaging in this pilot.



Decision:

The OC did not approve the pilot (5 members were against it, 1 member in favour, and 2 members abstained from the vote).

Next steps:

Ī	Timeframe	Tasks
	December 2024	Inform the PM and applicants about the OC decision.

Item 8 - South-south sugar India pilot

The OC was informed about a pilot to test south-south trading of sugar in India. The pilot was closed, because Fairtrade and the commercial partner could not agree on the conditions of the pilot.

Item 9 - Fairtrade Label Japan - variation request

FLJ has resubmitted a variation request to prolong the validity of the Permission to Trade (PTT) to traders that had no Fairtrade transaction in 12 months from the date of issue. The same variation request had been submitted and approved by the OC in 2020.

This Assurance Coordinator (AC) presented to the OC the variation request for decision submitted by FLJ in October 2023.

The OC was asked to decide on the variation request from Fairtrade Label Japan.

Discussion:

The OC discussed the potential consequences of not extending the PTT, including the financial cost of reapplying for certification and the loss of market. The majority of the OC concluded that it would be more efficient to extend the PTT but only after a desk check (remote audit) to make sure sales have not taken place.

It was pointed out that the trader Standard is currently being reviewed and HREDD principles introduced for traders. The whole concept of the PTT might change based on that. Hence the OC agreed to only approve the variation until the revised Standard is implemented and then to re-evaulate.

Decision:

The OC approved (6 in favour, 2 against) the variation request to extend the validity of the Permission to Trade submitted by FLJ under the following conditions:

- The variation is only approved for low-risk traders (e.g. non-payers, non-conveyors).
- FLJ proactively monitors the traders in question, by conducting a desk check (remote audit) before
 extending the Permission to Trade to another 12 months. This is to ensure that the trader indeed
 had no transactions, and the initial audit therefore cannot be done. In case it is found in the desk
 check (remote audit), that trader had transactions, FLJ will not extend the PTT but will conduct the
 initial audit.
- The variation is approved until the new Trader Standard is published, when it will be re-evaluated.

Next steps:

Timeframe	Tasks
December 2023 A&O to inform FLJ about the decision	
Q1 2024	FLJ to implement recommendation



Item 10 - 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 September 2023 and sent to the OC prior to the meeting. The SMART action plans were updated for the already identified risks and 2 newly identified risks were added to the plan, which are the following:

Assurance principle	Risk or Threat	SMART action plan
Credibility	The Fairtrade Scheme is not credible if false claims about origin sourcing are approved by the LBs.	a) Add a provision to the RLBs to clarify the rules for origin claims on pack.b) Conduct audits for LBs.
Credibility	Risk of Assurance Providers not performing according to the RAPs, due to the disruptions in tools and systems.	 a) Add a requirement to the RAPs to have a contingency plan. b) Add a requirement to the RAPs on updating the certification contract to address disruptions in operations.

Discussion:

The OC had two suggestions concerning the ALRMP in the consistency section:

- Concerning "RLB assessments will be finalized, and LBs will be audited (minimum 5 in 2024)": to separate the RLB assessments from the LB audits, to better reflect the delay in the LB selfassessments (discussed earlier during the meeting under item 2)
- Concerning "Implement results from Exceptions Committee work, revise reporting needs and how the reporting should be handled": to separate out the Exception Committee work to better reflect the delays here.

The OC agreed to add another risk to the ALRMP:

The pressure that HREDD directive is putting on the Fairtrade system about disclosure of certain audit results, which is a huge challenge regarding Fairtrade's requirements for assurance providers and as well regarding the ISO regulations. (The AM will look into adding this risk either under transparency, legal or credibility.)

Furthermore, the AM announced that A&O will work with the new FI risk management processes which are currently being rolled out so that the Assurance and Licensing risks get included.

In the past, the ALRMP has already been sent to the overall risk assessment so that they can be addressed also on a membership level if needed (e.g. the data systems, HREDD pressure, other legal topics that go beyond the scope of the OC).

Decision:

The OC unanimously approved the updated Assurance and Licensing Risk Management Plan.

Next steps:

Timeframe	Tasks
Q4 2023	Update the ALRMP after the OC's review and approval



Ongoing	Update the ALRMP regularly when new risks arise, but at least in	
	Q3 2024	

Item 11 - Chair and Vice Chair Election

The OC unanimously elected Marike de Pena as the new Chair and Iresha Sanjeewanie as Vice Chair. The new Chair agreed to serve for 6 months, a new Chair and Vice Chair will have to be elected thereafter.

Item 12 - AOBs

It was the last official meeting of John Young as a member of the OC as his term ends in December.

Next Meeting date:

The Oversight Committee meetings in 2024 will take place on

- March 18-19
- June 24-25
- September 16-17
- December 2-3

The meeting was formally closed.