

# Terms of Reference for Fairtrade International Exceptions Committee

## Version 2.1

Approved by the Standards Committee on 24 November 2020

### 1. Constitution

**1.1** In accordance with its Terms of Reference, the Fairtrade International Standards Committee (SC) establishes the Exceptions Committee (EC) as its permanent sub-committee. The Exceptions Committee (EC) was formed in 2011 serve as a body to provide clarity, guidance and decisions on section 2.2 of the Fairtrade Trader Standard on product composition, its responsibilities were extended in 2016.

### 2. Mission

**2.1** Act as the representative decision taking body that enables the implementation of Fairtrade approach to exceptions, as reflected in the Exceptions Policy and in compliance with the ISEAL Assurance Code.

### 3. Responsibilities

**3.1** Uphold the intent of the Food Composite Product (FCP) requirements (Trader Standard, Section 2.2), which is intended to provide the maximum benefit to producers via the labelling of composite products as Fairtrade. As such, it is the responsibility of the EC to ensure the integrity of the FAIRTRADE Mark is maintained when used on FCPs. In this area, the EC is responsible for:

- Approving written guidance and training materials for licensing and certification bodies on how to interpret and grant Type I exceptions;
- Deciding upon all written requests for Type II exceptions;
- Ensuring the maintenance and publication of the “Unavailable Ingredients List”;
- Ensuring the creation and maintenance of exceptions database for Type II exceptions

**3.2** Uphold the objectives of Fairtrade’s Exceptions Policy by taking the decisions on Category B exceptions that are referred to the EC by Fairtrade Assurance Providers and Licensing Bodies, as defined in said policy. Category B exceptions are defined as scenarios where there are exceptional and particular circumstances in a given case that make full application of a Fairtrade standard requirement or requirements contrary to the intention of the standard or the mission of Fairtrade.

**3.3** Support the continuous learning and improvement of Fairtrade Standards and Policies by providing expert guidance when needed as well as analysis and feedback on exceptions trends and suggested changes to standards and policies.

### 4. Reporting

**4.1** The EC is accountable to the Oversight Committee and shall report annually to the Oversight Committee on its responsibilities, as a minimum providing details of granted and denied exceptions, granted and denied appeals by the relevant appeals panel, guidelines issues and recommendations for amendment of the standards requirements and the applicable procedures.

**4.2** The EC also reports to the SC on an ad hoc basis, when considering that after analysing the exceptions granted in a year a change in the standard or related policies is advisable.

## 5. Governance

**5.1 Appointment:** The Standards Committee reviews the nominated members of the EC and appoints them. Nominations for EC members will be solicited from FLOCERT, Fairtrade International and its member organizations. For trader representatives, a call to all certified traders will be done by the EC Secretariat and a pre-selection of candidates will be done by the Standards Unit and discussed among the EC members. A shortlist of candidates is presented to the SC for the nomination, with an appendix with all other nominations received. In case a trader representative is decertified during its tenure, then a new call for candidates will be done. In case of suspension, the representative would be temporarily removed. The SC can at any time revoke the appointment of a member of the EC if membership criteria or member's responsibilities are not met. The SC needs to state the reasons for any revoke.

**5.2 Membership:** The EC shall be made up of representatives with combined relevant experience of managing Fairtrade stakeholders (producers, commercial partners, supply chain actors and consumers) and a high degree of understanding of the mission of Fairtrade and principles behind the Fairtrade Standards as one of its interventions.

The EC shall be composed of up to five members from different organizations:

- **producer representative:** one member from Fairtrade member organizations with experience in producer facing activities,
- **licensing representative:** one member from a Fairtrade member organizations with experience of managing the licensing relationship,
- **assurance representative:** one member from FLOCERT who has experience of managing the certification relationship of both Traders and Producers,
- **market representative:** one member from a National Fairtrade Organization (NFO) with experience of managing strategic commercial and consumer relationships,
- **trader representative:** one certified member from the supply chain (exporter, importer or manufacturer that holds Fairtrade certification)

It is strongly suggested that trader representatives alternate terms among exporters, importers and manufacturer.

**5.3 Substitution:** Permanent substitutes of EC members are not nominated. The EC member is however made responsible for ensuring that the interest he or she represents is present in all decisions. To enable that the following substitution process is applied: Every EC member who will be unable to respond to exceptions requests during 10 working days (holidays, business trips or other reasons) nominates a colleague who will replace him or her in decisions. The absent EC member is responsible to brief the substitute ensuring he or she is ready to convey the interest of the represented group in decisions.

**5.4 Term:** Each EC member will serve a three-year term, with the option of renewing appointments with the except of the trader representatives (see 5.2.). Appointments are conducted on a cyclical basis, so that an appropriate level of experience is maintained within the EC.

**5.5 Chair:** A chair and vice-chair are elected by the members. These positions will hold a three-year term

**5.6. Commitment:** EC members must be able to commit to conducting EC work in addition to their current responsibilities. The time commitment will vary depending on number of requests received, but will, in general, require a commitment of 5-10 working hours per month. As such, it is assumed representatives appointed to the EC will have the support of their line manager before accepting the appointment.

EC members commit to responding to exceptions requests by email or, when deemed necessary, to discuss the request via teleconference. EC members must commit to responding to requests within the timeframe established in this document.

**5.7 Remuneration:** Membership in the EC is an honorary position. If travel were required for the

performance of the EC work Fairtrade International would reimburse reasonable economy travel and accommodation costs upon submission of original receipts and, where applicable, an invoice.

**5.8 Decisions and quorum:** The EC shall seek to achieve decisions by consensus. If the EC chair feels that consensus is not achievable, the chair will ask the EC members whether further discussion could lead to consensus. If consensus cannot be reached, decisions shall be made by majority vote of the EC members present in the meeting or participating in the email discussion. In case of a tie the vote of the chair will decide. In case of a tie and of absence of the chair, the vote of the vice chair will decide. In case of a tie the chair or (in his/her absence) the vice-chair cannot abstain.

A presence or participation of the majority of the members of the EC shall be considered a quorum for the purposes of approval of decisions. Proxy votes are **not** possible.

**5.9. Balance and conflicts of interest:** When possible, no more than one representative per member organization should serve on the EC at any given time.

When a decision the EC has to take constitutes a conflict of interest for one of its members, the member may be excluded from any voting on this decision should it prove to be impossible to manage the conflict of interest effectively otherwise. Particularly if a request for a Type II exception originates from a member organization with a representative serving on the EC, this is considered a conflict of interest that can only be managed by the corresponding representative not voting or participating in the formulation of the decision. The exclusion of an EC member from voting due to a conflict of interest does not affect the pre-determined quorum. Declaration of conflicts of interest lies in the responsibility of the members but all EC members are encouraged to raise concerns they might have about the potential conflicts of interests of other members.

**5.10 Confidentiality:** EC members acknowledge that all information received and disclosed in the EC is considered confidential information and undertake all necessary and suitable measures to maintain an appropriate level of confidentiality. Confidential information is understood as all information and documents gathered during the course of involvement in the EC. The chair may decide and will be accountable for disclosure of information to a defined audience on a need to know basis. In case of breaches of confidentiality the EC may request the SC to withdraw membership of the respective member with immediate effect.

**5.11 Observers and advisors:** Meetings of the EC shall be closed (with the exception of secretarial support) and confidential, however the chair may allow observers and advisors as it deems appropriate and as requested via the secretariat support. Observers and advisors will need to follow confidentiality rules.

**5.12 Minutes:** Minutes shall be taken of all meetings, including a summary of the discussions and the decisions taken including voting results if decisions were not taken by consensus. The chair shall be responsible for approval of minutes by all participants as quickly as possible after the meeting. Minutes are not public but exception decisions are published regularly as defined in the Exceptions Policy.

**5.13 Further regulations:** The EC may develop further procedures to govern its activities. If so these activities shall not contradict the terms of reference.

**5.14 Authority of SC Terms of Reference:** The EC shall follow the SC ToR regulations when facing situations that are not addressed in the EC ToR.

## 6. Criteria for membership

- 6.1** EC members shall be appointed by the Standards Committee based on all of the following criteria:
1. Current working relationship with a Fairtrade member organization Fairtrade International or FLOCERT.
  2. Knowledge of the Fairtrade International Exception Policy and Standards or evidence of training received.
  3. Five or more years' work experience relevant to the type of representation sought (producer, commercial, etc).

4. Three or more years' work experience with Fairtrade standards as a reference.
5. Understanding of assurance risks and social, environmental, human rights, labor, sustainability, and/or ethical issues.
6. Alignment with Fairtrade International mission and values of integrity, impartiality, confidentiality, stakeholder responsiveness, and continuous learning.
7. Declaration of manageable conflicts of interest.
8. Ability to communicate easily in English.
9. For trader representatives, a currently valid Fairtrade certified status, with strong commitment towards Fairtrade's value, good performance on audits and more than 3 years of being Fairtrade certified

## **7. Responsibilities of members and conditions for removal**

**7.1.** Members are selected to represent the needs of their respective stakeholders insofar as their experience allows but are not selected to represent the views of their respective organisations. They are tasked with forming a strong, coherent group that can strategically advance the benefits to producers while maintaining the integrity of the Fairtrade brand.

**7.2** All members shall fulfil their tasks in a timely, objective, impartial, and non-political manner, and shall keep confidential all information submitted to them in their capacity as members of the EC.

**7.3** All members shall regularly attend the meetings and email discussion of the EC, be properly prepared and shall contribute to the follow-up actions as agreed and/or mentioned in the meeting minutes.

**7.4** All members are obliged to contribute to the knowledge transfer and to the induction of their respective successors on the EC for a period of six months following the end of their term on the EC.

**7.5** A representative may be removed from the EC under any of the following conditions:

- If an EC member fails to respond to more than 3 decisions within the course of one year without proper notification of absence (e.g. direct notification to the team via email);
- If the EC deems that an EC member is unable to act in the interest of the Fairtrade system as a whole, and is primarily serving the interest of a single member organization;
- If an EC member breaches confidentiality of information;
- If the trader representative loses its Fairtrade certified status (decertified). If the trader representative gets suspended, it is temporarily removed from the EC.
- Or if an EC member otherwise violates these ToR.

In these cases, the EC may vote to recommend to the Standards Committee that a member is removed. The Standards Committee shall inform the removed member and appoint a new EC member as soon as feasible.

## **8. Secretarial support**

**8.1** The Exceptions will receive secretarial support from Fairtrade International staff to perform their functions. Particularly the EC Secretariat will perform the following functions:

- Act as contact person and administer the receipt of exception requests;
- Provide guidance to Fairtrade members, with the support of EC members, regarding the Exceptions Policy and guidelines as well as the EC processes;
- Develop substantiated decision proposals, with the support of EC members, providing recommendation papers and necessary information to enable the EC to take a decision;
- Draft written guidance and training materials for licensing and certification bodies on how to interpret and grant Type I exceptions, for EC approval;
- Maintain the "Unavailable Ingredients List", for EC review;
- Develop and maintain of all necessary exceptions public and databases and reports

- Manage the publication of EC exceptions decisions, in line with the Exceptions Policy requirements on transparency.

## **9. Working procedures**

### **9.1. Requests for Type II and category B exceptions**

The Secretariat shall collect all relevant information pertaining to the recommendation from the stakeholders involved as per the Fairtrade Composite Product Exceptions Guidelines or Fairtrade International Exceptions Policy and distribute to all members. The Secretariat shall ensure that applicant understands that the quality of the information submitted is critical for the outcome.

Requests for exceptions, together with a substantiated recommendation, will be circulated to the EC members for decision via email or in a teleconference. The Chair decides if the best means for a decision is an email discussion and vote or a meeting.

In the case of email discussion and vote, comments and voting should be returned to all members and secretariat within timelines set by the Secretariat in agreement with the Chair.

The Secretariat and EC are committed to respectively facilitate and take decisions in a timely manner due to the normally urgent nature of exceptions decisions.

The possible outcomes of decision-making on requests for exception are:

- Approval of the proposed exception
- Approval with changes, specifying the required change in proposal
- Refusal of the proposed exception

The results of the EC decision are communicated to the organisation submitting the request by the Secretariat immediately after the decision and will be added to the Exceptions Log.

### **9.2 Recommendations for review of standards and policies**

The EC reviews exceptions granted as part of its annual report, both in terms of content and process, to determine if any exception(s) should be recommended to be permanently integrated into the Fairtrade Standard requirements or if any other change in policies or guidance is necessary.

## **10. Appeals process**

An exception decision cannot be appealed. However, complaints can be lodged (see Oversight Procedure 6.2).