

Exceptions

Explanatory Document

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1 Purpose

FLOCERT is authorized to grant exceptions from Fairtrade Standard requirements in line with the Fairtrade International Exceptions Policy. This Explanatory Document describes exception types and the process. It lays out the conditions based on which FLOCERT decides whether to grant an exception request or not.

2 Area of Application

This document applies to certified customers applying for an exception or derogation and to all Certification staff at FLOCERT.

3 Process

To apply for an exception, please get in touch with your contact person at FLOCERT who will handle the request. A filled in application form must be submitted and an administrative fee will be charged along with your next annual invoice. FLOCERT will inform the result of your request (approval or denial, conditions, duration) within two weeks after the official submission of the request. During your next audit, FLOCERT will check if the conditions linked to the exception have been complied with.

An exception decision cannot be appealed.

4 Category A exceptions: generally accepted deviations from base rules

Category A Exceptions are situations that Fairtrade accepts as deviations from base rules, provided that certain criteria are met. The decision whether an exception request is granted will be mainly based on the conditions described below. Please note that there might be additional circumstances (like recurrence of the same exception topic, non-compliance with conditions of previously granted exceptions) leading to a denial of an exception request. A fee is charged to evaluate the exception request unless mentioned otherwise. In the following scenarios exceptions may be granted by FLOCERT¹.

4.1 Retro-certification²

Retro-certification is converting a product bought under ordinary conditions (non-certified) from a Fairtrade certified producer or conveyor into a Fairtrade certified product by paying the Fairtrade price and premium. Retro-certification may also be applied if the producer / trader gets its Permission to Trade shortly (maximum 12 months) after the product had been sold / bought.

FLOCERT may approve requests for retro-certification under the following circumstances:

The customer can demonstrate that they were not able to originally source the product as Fairtrade.

And if following conditions are met:

- It is a temporary measure (e.g., related to the launch of a new product, product from a newly certified producer bought before certification of the producer).
- Provide the calculation of the Price Differential (= Fairtrade Minimum Price – Price Paid) and the Balance Owing [= (price differential x quantity or volume bought) + (Fairtrade Premium x quantity or volume bought)] in the application form.
- Additionally, please submit
 - documentary evidence for the consignment (purchase contract with producer, bill of lading / airway bill / delivery notes as applicable, invoice)

¹ Please note that in other situations (e.g., non-FT product in food composite products, flower bouquets) you may need to apply for an exception with the responsible NFO.

² Systemic retro-certification of the following products is allowed by the respective Fairtrade Product Standard and therefore not considered an exception: tea of the *camellia sinensis* plant, sugar and fresh fruit.

- proof of payment for the consignment that was originally bought as non-Fairtrade.
- There will be a long-term benefit to Fairtrade producers.

Once the request has been approved, the following need to be ensured:

- Compliance with the conditions laid out in the granting letter.
- Notification to the supplier of the retro-certification and the amount owed and ask for an invoice for the same.
- Payment of the amount owed within the normal payment terms. This amount must include the Fairtrade Premium and the Price Differential owed.
- Inclusion of retro-certified volumes in the quarterly transaction reporting to FLOCERT.

4.2 Product Compensation

Product compensation is converting a product bought under ordinary conditions (non-certified) from a non-certified supplier, into a Fairtrade certified product by purchasing the equivalent quantity and quality from a Fairtrade certified source at a later date, which is then used as a non-certified product.

FLOCERT may grant a request for product compensation under the following circumstances:

- Sourcing the product in question as Fairtrade was not possible for reasons beyond your control (e.g., drought or other natural disasters, strikes, war, or similar).
- Planning for purchasing the product in question as Fairtrade was not possible also due to reasons beyond your control (e.g., new product launch, supply shortage; contracts not fulfilled by suppliers, but Fairtrade product needed in the market).
- Retro-certification is not possible.
- As part of a corrective measure proposal to correct a negative mass balance discovered during an audit, but only under the following conditions:
 - a. The request for an exception (product compensation) can only be a part of the corrective measure suggestion. The corrective measure suggestions thus need to take additional measures into account, especially with regards to measures to be taken to prevent a similar situation to reoccur
 - b. The compensating purchase cannot be conducted within the regular workflow deadlines for submission of objective evidence (i.e., 4 months for producers and 45 days for traders), due to large volumes, seasonality of the product or quality aspects ('like for like').

And if following conditions are met:

- Demonstrate the ability to source the product in question as Fairtrade certified in sufficient quantities within the timeline defined by FLOCERT (max. one year) not only to make compensation but also to fulfil the ongoing product needs.
- The final product cannot be produced without the product input in question.
- In case of composite products: The total Fairtrade content of the affected composite product still reaches the minimum threshold of 20 %.

Once the request has been approved, the following need to be ensured:

- Compliance with the conditions laid out in the granting letter.
- Inform your customer(s) about the product compensation.
- Purchase the compensating Fairtrade certified product until the date indicated in the granting letter (within max. one year).
- The Fairtrade certified product purchased at the later stage is of the same kind and quality as the non-Fairtrade product used (like for like).
- Keep documentary records to enable the product compensation transactions to be audited and to demonstrate traceability.

4.3 Product Composition Exception

Exceptions under this category are granted by FLOCERT only for Traders who are processing food composite ingredients (*ingredient made of several components not intended for consumer purchase*). All Traders processing food composite products (*consumer ready product composed of more than one ingredient*) must contact their respective NFO/Licensing Body for requesting an Exception.

However, it is not necessary to request an exception with FLOCERT and with the NFO. Therefore, please check with your supplier / buyer if an exception has already been requested.

FLOCERT may grant this exception³ in line with the Fairtrade Trader Standard requirement 2.2:

- a) Supply shortage: Inability to provisionally source Fairtrade ingredients for reasons beyond your control, e.g., drought or other natural disasters, strikes, war or similar.
- b) Inadequate quality: The quality of Fairtrade ingredients available causes insurmountable technical problems.
- c) Sourcing constraints: The ingredient form required is available, however the minimum order quantity is more than the trader needs or there is an import/export ban on the product form.
- d) New standard⁴: If sourcing problems persist after 2 years of publication of a new product standard.
- e) Unavailable ingredient: The ingredient form is not available as Fairtrade from any seller in the trader's region and the trader does not have the capacity to buy from origin. A list of unavailable Fairtrade ingredients is published on the [Fairtrade website](#).

Note: FLOCERT will not invoice an exception fee in this case.

Special cases

- If you produce food composite ingredients and use these in the manufacturing of a consumer ready product that you produce on behalf of a licensee, the exception request needs to be addressed to the responsible National Fairtrade Organization (NFO).
- If the request is related to the following⁵, the decision will be taken by Fairtrade International's Exception Committee. Therefore, the request needs to be directed to Fairtrade International's Exception Committee (exceptions@fairtrade.net).
 - a) Transitioning ingredient: You cannot fully source an ingredient as Fairtrade although the ingredient is generally available and being sold / processed as Fairtrade. However, volumes are insufficient for your needs. You need to have an agreed written plan for the ingredient to become 100% Fairtrade.
 - b) Provenance: For ingredients holding a provenance certification (e.g., Appellation d'origine contrôlée, Denominación de origen, etc.) you must indicate the ingredient claiming provenance as an exception on the back of the pack.

Once the request has been approved, the following need to be ensured:

- Compliance with the conditions laid out in the granting letter.
- Inform your customer(s) about the exception.
- After the period the exception has been granted for you provide evidence that Fairtrade ingredients are now in use.

4.4 Physical traceability for composite products

FLOCERT may grant exceptions for physical traceability for composite products in line with Fairtrade Trader Standard requirement 2.1.7 under following circumstances:

The composite product contains physically traceable and non-physically traceable ingredients.

And if following condition is met:

- It's proven that traceability is lost due to technical reasons.

Once the request has been approved, ensure Compliance with the conditions laid out in the granting letter. This will be checked at the next audit.

³ In the Fairtrade Trader Standard referred to as *Type I* exceptions.

⁴ When a new product standard is published, an exception of 2 years is automatically granted to all current Fairtrade traders to allow time for sourcing the new ingredient.

⁵ In the Fairtrade Trader Standard referred to as *Type II* exceptions.

This type of exception will be valid for a maximum of 1 year.

4.5 Worktime Exceptions

FLOCERT may grant exceptions regarding overtime and rest days in line with:

- Hired Labour Standard (3.5.10 and 3.5.11)
- Textile Standard (3.5.12)
- Gold Standard (3.3.29 and 3.3.36)

The exception may be granted under following circumstances:

In the event of an exceptional circumstance (e.g., peak production periods or changing weather conditions) requiring a deviation from overtime or rest day regulations.

And if following conditions are met:

- The exception request is handed in, and it is approved before the actual overtime or rest day exception occurs.
- The request does not exceed the maximums defined in the Standard (max. 14 hours of work per day **OR** max. 72 hours of work per week **OR** max. 18 continuous working days without rest).
- The request is not in contradiction with national legislation⁶.

Once the request has been approved, the following need to be ensured:

- Compliance with the conditions laid out in the granting letter.
- Compensation of overtime at a premium rate as defined in the respective Standard requirement.
- Agreed and legally stipulated lunch and work breaks are observed.
- Maintenance of adequate records to verify compliance.

This type of exception will be valid for a maximum of 12 weeks per calendar year.

4.6 Premium distribution as defined in the Hired Labour Standard

FLOCERT may grant exceptions to use 50% of the Fairtrade Premium for cash distribution in line with the Hired Labour requirement 2.1.20 and under following circumstances:

In the event of exceptional circumstance like most migrant workers in the work force that cannot benefit from Fairtrade Premium projects or an emergency situation.

And if following conditions are met:

- The exception request is handed in, and it is approved before the actual cash distribution takes place.
- Compliance with all requirements regarding Fairtrade Premium expenditure.
- Cash distribution is allowed under national legislation.

Once the request has been approved, the following need to be ensured:

- Compliance with the conditions laid out in the granting letter.
- Maintenance of adequate records to verify compliance.

⁶ In case local legislation requires approval from the authorities, the approval needs to be handed in with the exception request. If approval is not yet confirmed by authorities, proof of the request to the authorities needs to be handed in.

4.7 Mining in protected areas

FLOCERT may grant exceptions for mining in protected areas in line with requirement 3.2.21 of the Fairtrade Standard for Gold and Associated Precious Metals for Artisanal and Small-scale Mining.

And if following conditions are met:

- Mining in protected areas has already taken place with the relevant permissions before applying for Fairtrade Certification.
- The exception request is handed in together with the application for Fairtrade certification.
- Together with the exception request, evidence of authorization is handed in from the relevant authority, an environmental impact assessment, an environmental mitigation plan and evidence that you have been operating with a legal permit and under the monitoring of local authorities for at least five years.

Once the request has been approved, the following need to be ensured:

- Compliance with the conditions laid out in the granting letter.
- Maintenance of adequate records to verify compliance.

4.8 Maximum land size for wine grape producers and cane sugar (SPO)

FLOCERT may grant exceptions for SPOs in line with requirement 1.1.2 of the Fairtrade Fresh Fruit Standard, requirement 1.1.1 of the Fairtrade Cane Sugar Standard and under following conditions:

In case local legislation, production and processing methods, soil fertility or other product and regional circumstances require a larger cultivation area for the Fairtrade crop, application for an exception can be made to the certification body before including larger members.

The following conditions need to be met:

- Not more than 15 % of members have a land size above 30 hectares.
- The maximum size of the land where members cultivate Fairtrade product cannot be higher than 100ha in any case.
- Cane sugar: the organization requesting an exception is based in Belize, Fiji, Mauritius, or Paraguay.

The organization presents proof that the inclusion of members with more than 30 hectares is necessary, including as a minimum:

- evidence that the average farm of small-scale producers in the region and for the product in question is higher than 30has (e.g., statistics)
- evidence that due to lower productivity/production methods a bigger farm size is needed.

Once the request has been approved, the following need to be ensured:

- Compliance with the conditions laid out in the granting letter.
- Maintenance of adequate records to verify compliance.

5 Category B exceptions:

Category B Exceptions can be granted when 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. Category B Exceptions are granted in cases that are not covered by any of the Exceptions described in Category A.

5.1 Special Circumstances

In the below listed cases, FLOCERT may grant exceptions from Standard requirements.

- Force majeure situations (natural or manmade disasters),
- Other unforeseen events outside of the control of your organization (such as changes in legislation, pest outbreaks, abrupt prices changes)
- Specific organizational, environmental, social, or technical conditions of a particular case that make it exceptionally and justifiable different from other cases.
- The opportunity to bring substantial benefits to producers and workers via Fairtrade sales is made impossible by the application of a particular standard requirement.

And if following conditions are met:

- The exception request is handed in, and it is approved before the occurrence of deviation from the Standard requirement in question.
- It is a temporary measure.

Once the request has been approved, the following need to be ensured:

- Compliance with the conditions laid out in the granting letter.
- Maintenance of adequate records to verify compliance.

Note:

- Depending on complexity or sensitivity of the request, FLOCERT may refer the case to Fairtrade International's Exceptions Committee for a decision.
- Exceptions fees will be added to the next invoice.

5.2 Use of prohibited products in the Hazardous Materials List (HML) in all standards

Fairtrade International maintains the HML of agrochemicals (including pesticides) that are identified as highly hazardous in some form or other to human and animal health as well as to the environment. The HML list includes the 'prohibited' materials list (the Red List) with materials that must NOT be used on Fairtrade products.

Exception to use chemicals or pesticides listed on the Red List may be applied only under highly exceptional circumstances when all other forms of control have failed. This exception can only be granted by the Oversight Committee⁷.

⁷ Fairtrade International Oversight Committee refers to a multi-stakeholder subcommittee of Fairtrade International's Standards Committee. It defines the rules that govern the Fairtrade Assurance and Licensing Scheme and evaluates its effectiveness and adequacy.

And if the following conditions are met:

- The application for Exception is submitted to the Oversight Committee by the respective Licensing Body or Producer Network (on your behalf).
- The period for which the Exception is granted is as short as possible, with no possibility for extension.
- Exceptions will be considered only in specific cases where usage of any alternative material is not possible.
- The decision must be based on expert advice.
- The decision must be informed to FLOCERT along with details on the related conditions/limitations/phase-out details, etc. under which the exception is granted.
- There is a transparent and public communication about the Exception by the customer.
- The customer can demonstrate that usage of Red List material can be mitigated adequately to ensure little or no harm to people and environment.
- There is a monitoring plan for phasing out Red List material.

Once the request has been approved, the following needs to be ensured:

- Compliance with the conditions laid out in the granting letter.
- Maintenance of adequate records to verify compliance during the next audit.

Note:

- Exceptions fees are not charged.

5.3 Collective Exceptions

Collective Exceptions can be granted in cases when there are circumstances or a situation that affects all the customers in a region/country/product category and makes the full application of a Fairtrade standard requirement or requirements temporarily impossible.

These Exceptions can only be granted by the Exceptions Committee⁸ according to the following criteria:

- The application for a Collective Exception is submitted to the Exception Committee by FLOCERT or the respective Licensing Body.
- The Exception request was consulted with the relevant Producer Network prior to submission to the Exceptions Committee.
- The application clearly demonstrates that compliance with Fairtrade requirements is temporarily not possible and is beyond the control of Fairtrade certified customers (force majeure such as extreme weather conditions, pest outbreak, etc.).
- The Exception is only temporarily required and cannot be granted for longer than one year. Extensions are only possible when absolutely necessary.
- There is a transparent and public communication about the Exception by the customer.

Once the request has been approved, the following need to be ensured:

- Compliance with the conditions laid out in the granting letter.

⁸ Fairtrade International Exceptions Committee refers to a subcommittee of the Standards Committee. It has a multi-stakeholder representative membership and has the responsibility to take decision on Exceptions



- Maintenance of adequate records to verify compliance during the next audit.

Note:

- In case the Exceptions Committee find the case too complex, it may be referred to the Oversight Committee.
- Exceptions fees is not charged

6 References

- Fairtrade International Exceptions Policy
- Exception Application forms
- Fee structure documents
- Fairtrade Standard for Traders
- Fairtrade Standard for Small Producer Organizations
- Fairtrade Standard for Hired Labour
- Fairtrade Standard for Contract Production
- Fairtrade Standard for Gold and Associated Precious Metals for Artisanal and Small-scale Mining
- Associated Precious Metals for Artisanal and Small-scale Mining

7 Change History

Version	Author / Reviser	Date approved	Changes
10	M. Cervi/ C. Schmeling/ J. Meijer	16.03.2012	First version
11	J. Meijer	31.01.2013	Exceptions sub-contracting seasonal workers HL specified, no fee for sugar& tea retro-certification.
12	J. Meijer	27.03.2013	Corrections in process and all traders can apply for retro-certification for all products (not just importers)
13	D. Rosado	15.10.2013	Update of tea and sugar retro-certification to systemic retro-certification
14	T. Glammert-Kuhr	06.01.2016	Changed from WI to public ED; Clarification of situations, conditions and responsibilities relevant for exceptions, deletion of exception for subcontracting workers in HL; deletion of internal process description as now covered in Certification WI; deletion of section on systemic retro-certification; deletion of section on analysis on exceptions; addition of exception for premium cash distribution in HL; reference to CERT Derogation Prohibited Material ED deleted
15	T. Glammert-Kuhr	01.03.2016	Deletion of reference to fee list.
16	T. Glammert-Kuhr	01.06.2017	Alignment with revised Exceptions Policy of FI; structural changes; addition of mining in protected areas
17	T. Glammert-Kuhr	01.01.2018	Use of prohibited material deleted.
18	T. Glammert-Kuhr	16.05.2018	4.1 Retro can also be applied for if a trader bought products from a FT certified producer under non-FT terms and shortly after that got its PTT. 4.5 Ban on applying simultaneously for rest day and overtime deleted.
19	T. Glammert-Kuhr	26.09.2018	Correction of calculation for retro-certification. Decisions on Exceptions cannot be appealed.
20	U. Baoum	14.02.2019	Included chapter 4.8 Maximum land size for orange and wine grape producers (SPO)
21	M. Moreno	01.07.2020	4.1 Added "conveyor" and "maximum 12 months" 4.2 Product compensation included as part of a Corrective Measure. Clarification included as footnote. 4.8 Cane sugar included and orange deleted. Conditions included. 5.0 Category B exceptions are classified as particular circumstances that cannot be classified within the exceptions described in category A



22	Neetu	08/10/2021	Revised the overall language of the document. 4.5 Added requirements covered by Textile and Gold Standard Added Sections 5.1 Use of prohibited products in the Hazardous Materials List (HML) in all standards and 5.2 Collective Exception as per the Revised FI Exceptions Policy Revised Titles of Exceptions as per the Revised FI Exceptions Policy
23	Neetu	25/07/2022	Updated the Exception requesting procedure for Category B exceptions related to materials on the Red List of the HML: involvement of PN; no fee charged.