

FLO Trader Application Evaluation Policy

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1. INTRODUCTION

1.1 Purpose of this Document

The purpose of this FLO public document is to provide guidance to FLO Trader Applicants, FLO Certification Unit, FLO Product Management and FLO National Member staff on the evaluation FLO Trader Applications.

2. THE FAIRTRADE CHAIN OF SUPPLY

2.1 Diagram of the Fairtrade Supply Chain

The following diagram illustrates the actors in the FLO Fairtrade chain of supply.



2.2 List of Activities in the Fairtrade Supply Chain

- Production of Primary Product
- Transport to Processing
- Processing, including Fairtrade Labelling for fresh fruit
- Exportation
 - transport to Port of Origin,
 - loading on the ship,
 - obtaining an export license if necessary,
 - preparation of export documentation
 - payment of FLO Fairtrade Farm-gate Price, if applicable (e.g. fresh fruit)
 - locating importers
 - receipt and distribution of FLO Fairtrade FOB Price
 - seller's risk (sale to importer)
- Importation
 - transport from Port of Origin to Destination Port
 - payment of FLO Fairtrade FOB Price
 - locating producers and/or exporters
 - buyer's risk (purchase from exporter)
 - clearing customs
 - locating customers
 - seller's risk (sale to licensee and/or manufacturer)
- Distribution to Manufacturer
- Manufacturing
- Fairtrade Labelling of Product (except fresh fruit)
- Distribution to Retail

3. **DEFINITIONS**

3.1 **Definition of Actors in the FLO Fairtrade Chain of Supply**

3.1.1 **Producer**

A Producer is a small holder group, plantation or factory that is engaged in the production of the primary product.

3.1.2 **Processors**

A Processor is defined, for the purposes of FLO, as a company that processes product in the country of origin before it is exported.

3.1.3 **Exporters**

An Exporter is defined, for the purposes of FLO, as a company that completes all the paperwork required to permit the Export of product from country of origin, and is responsible for getting the product free on board (FOB). The Exporter may also perform transportation and processing functions in the country of origin.

3.1.4 **Importers**

An Importer is defined, for the purposes of FLO, as a company that purchase products from the original producing country.

The term "Importer" therefore has a special significance and meaning within the FLO system, because the FLO Fairtrade Price and/or Premium is generally defined as an FOB price in the port of the original producing country. Importers are special, because in general they have been given the responsibility of paying the FLO Fairtrade Price and/or Premium.

Therefore where, for example, a trader in the USA buys from a trader in Germany, the trader in the USA is not an "Importer" *for the purposes of FLO*. For FLO the "Importer" is the company that originally bought the product from the producing country and paid the FLO Fairtrade Price and/or Premium.

3.1.5 **Manufacturers**

A Manufacturer is defined, *for the purposes of FLO*, as a company, other than an Importer or Licensee, that manufactures or distributes products in the consuming country. FLO Manufacturer is a residual category that was created to cover a gap in the chain of supply.

3.1.6 **Traders**

Traders are defined, for the purposes of FLO, as Processors, Exporters, Importers, and Manufacturers. Note that the above definition of Manufacturer does not include Licensees. Trader does not include subcontractors or agents as described below.

3.1.7 **Licensees**

Licensees are defined as companies that have entered into a License Contract with a FLO National Member for the use of a Fairtrade Label on FLO Fairtrade Products.

Licence Contracts are signed with the FLO National Member for each country that the company wishes to sell Fairtrade Labelled products in.

3.4 Definition of "FLO Registered"

"FLO Registered" refers to a trader whose application has been accepted by FLO and who is entitled to engage in FLO Fairtrade transactions. Traders become registered for a specific product or products.

All Traders in the FLO Fairtrade Chain of Supply who take legal ownership of the FLO Fairtrade product must be registered with FLO. Subcontractors and agents, who as outlined below do not take legal ownership of the product, do not need to be registered with FLO.

3.4.1 "FLO Registered" Importers

FLO Registered Importers purchase FLO Fairtrade Products from the original producing country, and, in general, and pay the FLO Fairtrade Price and/or Premium.

3.4.1.1 Definition of FLO Fairtrade Import

Following from the definition of the FLO definition of "Importer", a FLO Fairtrade Import is defined as the purchase of the product from the original producing country.

Where a shipment of product is sold FOB more than once, for example an importer quotes an FOB price to a roaster, it is the first FOB sale by the producer that is considered the FLO Fairtrade Import and attracts the FLO Fairtrade Price and/or Premium.

3.4.1.2 FLO Fairtrade FOB Price

FLO Fairtrade FOB Prices cover the cost of the product, processing in the country of origin, transportation to the port of origin, finding an importer, the cost of obtaining an export license and preparing exportation paperwork, loading on the ship and the transaction costs associated with the exporter's seller risk. In other words the FLO Fairtrade FOB Price meant to cover the cost of production, processing and exportation activities.

The FLO Fairtrade FOB Price is paid by FLO Registered Importers.

FLO Fairtrade FOB Prices may vary depending on product specification.

3.4.1.3 FLO Fairtrade Farmgate Price

FLO Fairtrade Farmgate Prices cover the cost of the product FOT (freight on truck).

The FLO Fairtrade Farmgate Price is paid by FLO Registered Exporters.

3.4.2 "FLO Registered" Manufacturers

Manufacturers, who are not already covered by a FLO National Member Licensee Contract or a FLO Importer Contract, and who wish to trade in FLO Fairtrade Products, must be Registered as a Manufacturer with FLO and sign a FLO Manufacturer's Contract. As mentioned earlier, distributors who are neither Importers nor Licensees are categorised as Manufacturers for the purposes of FLO.

3.5 Definition of "FLO Listed"

"FLO Listed" means that an organisation is neither certified nor registered, but is merely kept on a list by FLO for informational purposes. FLO keeps such a list for agents.

Where an applicant Producer requires or desires the services of a Processor or an Exporter, the Producers application for certification shall include the registration of the Processor or Exporter. This process should include a detailed determination of how the FLO Fairtrade Price and / or Premium shall reach the Producer.

Where there is an application from a Processor or Exporter to be added as a new or additional export channel for an existing FLO Certified Producer, then the relevant FLO Certification Co-ordinator and the FLO Certified Producer shall be consulted. A detailed determination shall be made of how the FLO Fairtrade Price and / or Premium shall reach the Producer.

Where FLO approves a trader to be a FLO Registered Processor and Exporter, the trader shall sign a single FLO Exporter Contract which shall cover both activities.

4.3 Licensees

All applications to become a Licensee are handled by FLO National Members.

Licensees who wish to become Importers as well, must apply to FLO to become a FLO Registered Importer.

5. ENTRANCE, MAINTENANCE AND EXIT CRITERIA

5.1 Entrance Criteria

This document outlines the entrance criteria for the registration of FLO Traders. Once registered, FLO Registered Traders are eligible to engage in FLO Fairtrade transactions.

It should be noted that FLO certifies trading of FLO Fairtrade products but does **not** certify traders as *organisations*.

Where an entrance criteria requires that the trader give an undertaking, for example a willingness to engage in producer development, this undertaking shall be stated in the FLO Trader application form. Each trader must complete and sign the FLO Trader Application Form.

5.2 Maintenance Criteria

Since FLO does not certify traders, there are no process criteria for FLO Registered Traders. Instead, there are maintenance criteria. Traders must comply with FLO Standards, their FLO Trader Contract and continue to meet the criteria set out in this FLO Trader Application Evaluation Policy.

5.3 Exit Criteria

The exit criteria for traders is the failure to meet maintenance criteria, in other words the failure to abide by their FLO Trader Contract, FLO Standards or the criteria set out in this FLO Trader Application Evaluation Policy.

6. EVALUATION OF FLO TRADER APPLICATION

FLO will review the application for eligibility under a number of criteria. The applicants website should be reviewed for information relevant to the criteria.

The FLO Trader Application Form provides that the applicant's name and the product(s) applied for are not confidential. Other than that, **FLO guarantees full confidentiality with respect to all confidential business information.** FLO and FLO National Members may contact indicated suppliers and customers and other parties if necessary to evaluate this application.

6.1 New Markets for FLO Fairtrade Products

The applicant must show that;

- it will open up new markets for FLO Fairtrade products, OR
- a trader supplying an existing FLO Fairtrade Product must be replaced.

6.1.1 New Markets

The onus is on the applicant to show that their registration will open up significant new markets for FLO Fairtrade Products and therefore will result in an increase in volumes of FLO Fairtrade Products sold to consumers and not merely a reallocation of existing Fairtrade markets or supply chains.

The Trader can meet this requirement by submitting an outline of their FLO Fairtrade business plan, indicating;

- who their suppliers will be and what product forms they will supply,
- who their customers will be and what product forms they will sell to customers,
- what consumer end products will be sold at retail as a result,
- why this chain of supply will result in new markets and increased volumes of labelled FLO Fairtrade products to consumers.

If it is not clear from their submissions that the applicant will create new markets and increase volumes, FLO Trade Auditing staff should ask the applicant for clarification and may also contact the proposed customers and/or suppliers. FLO Trade Auditing staff should confirm whether the applicant is a new supply of FLO Fairtrade Products or that the customer is just changing suppliers and thereby merely reallocating existing FLO Fairtrade volumes.

6.1.2 Replacement of an Trader Supplier of an Existing FLO Fairtrade Product

However, where a customer of the applicant;

- has had serious and bona fide difficulties with their existing FLO Registered suppliers,
- these difficulties seriously threaten the viability of a FLO Fairtrade product,
- no other FLO Registered Trader can reasonably replace the problem supplier; and
- the applicant is necessary to solve these supply problems,

then the applicant may meet the "New Markets" requirement.

In these cases, FLO should satisfy itself that the volume of FLO Fairtrade Products would decrease unless registration of the applicant is accepted.

FLO should be vigilant to ensure that a FLO Trader is not feigning difficulty with another FLO Trader in order to improperly circumvent the "New Markets" requirement. Evidence

that the traders have tried to resolve their differences through dialogue or arbitration will assist in this evaluation.

6.2 Undermining FLO Fairtrade

Where FLO Trade Auditing staff conclude that the applicant would undermine FLO Fairtrade, then the application may be refused. Situations where FLO Fairtrade would be undermined are outlined below.

6.2.1 Public attacks on FLO Fairtrade

Where the applicant has made sustained and profound public attacks on FLO or a FLO National Member, then the application may be denied. Where the applicant has redressed the matter with public statements then the application may be accepted.

6.2.2 Monopoly in a FLO Fairtrade Product

Where the applicant is likely to achieve a monopoly or near monopoly in a FLO Fairtrade product or a particular section of a FLO Fairtrade product then the applicant may undermine FLO Fairtrade. Unless the applicant can rectify the situation or can clearly show that there will be no harm to the interests of any FLO Certified Producer, then the applicant should be denied.

The corporate organogram indicating ownership and/or control of all related companies submitted by the applicant will assist in evaluating the application.

6.2.3 Exclusive Contracts

Where the applicant has exclusive contractual arrangements with FLO Registered Trader(s) or FLO Certified Producer(s) that restrict the ability of a FLO Certified Producer to engage in FLO Fairtrade, then the applicant may be found to undermine FLO Fairtrade. The onus is on the applicant to show that there would be no harm or disadvantage suffered by any FLO Certified Producer.

For example, where a trader has made a significant investment in providing organic certification or creating processing capability for a FLO Certified Producer, and the period and conditions of the exclusive contract are proportional to the investment made by the trader, then FLO may permit the exclusive contract. However, wherever possible FLO should negotiate with the trader in order to try to minimise the scope of the exclusivity.

FLO may allow these arrangements, because in some cases FLO should not prevent FLO Certified Producers from raising capital using the offer of an exclusive contract.

6.2.4 Conflict of Interest between Trader and FLO Producers

FLO Registered Traders may discriminate between FLO Certified Producers on bona fide commercial grounds, such as quality or availability, however they must not discriminate between FLO Certified Producers on improper grounds.

Therefore, where an applicant trader has a commercial interest in a specific FLO Certified Producer that might result in serious disadvantage to other FLO Certified Producers, then the application may be denied. If the applicant is able to resolve the conflict of interest, then the trader may be accepted.

For example, an applicant is a large exporter with significant importer connections. If applicant were registered they would likely be the preferred exporter for FLO Fairtrade products in the region. The exporter would be able to service a number of FLO Certified Producers in its region, however, the exporter has an financial interest in a specific FLO Certified Producer plantation. There is a danger than the exporter would preferentially supply importers with product from the FLO Certified Producer that it has a financial interest in, to the detriment of the other FLO Certified Producers. In this case the application may be denied.

6.2.5 Bringing FLO Fairtrade into Disrepute

FLO reserves the right to exclude traders that engage in behaviours that, even though are not directly related to Fairtrade transactions, are so bad that FLO's association with the trader would seriously undermine the legitimacy of FLO Fairtrade in the minds of consumers.

FLO shall take into consideration any relevant information it receives regarding the trader from FLO National Members and others.

To justify denial of the application, the behaviour would have to be severe and the trader has not taken any measures to rectify the situation. In some cases, this criteria may cause the applicant to take corrective and preventative action. FLO therefore takes a rehabilitative approach to traders, and will respond to any criticism of their acceptance in this manner.

Therefore, where the applicant has engaged in serious and repeated:

- predatory commercial practises that resulted in disadvantage to producers,
- fraudulent product labelling; or
- contravention of core ILO covenants
 - Covenant 87 Freedom of Association and Right to Organise, 1948
 - Covenant 98 Right to Organise and Collective Bargaining Convention, 1949
 - Covenant 100 Equal Remuneration Convention, 1951
 - Covenant 111 Discrimination, 1958
 - Covenant 29 Forced Labour, 1930
 - Covenant 105 Abolition of Forced Labour Convention, 1957
 - Covenant 138 Minimum Age Convention, 1973
 - Covenant 110 Plantations Convention, 1958
 - Covenant 155 Occupational Safety and Health Convention, 1981

for which it;

- has not taken any measures to rectify,
- then the application may be denied.

The test is intentionally made difficult in order to prevent spurious denials of trader applications.

All FLO Trader Contracts shall provide that the trader shall not engage in any of the above activities that might bring FLO Fairtrade into disrepute.

6.2.6 Other Analogous Grounds

Since FLO cannot see into the future all the ways that an applicant might undermine the FLO Fairtrade system, the above list is not a closed list. FLO Trade Auditing staff has the latitude to conclude that there are other circumstances in which an applicant might undermine FLO

On the other hand, a large trader of considerable resources should show significant involvement in producer support.

6.5 Ability to Submit Accurate Quarterly Flow of Goods Reports

The applicant must satisfy FLO Trade Auditing staff that it has the capacity to accurately track and report FLO Fairtrade inventory separately from conventional products.

In general the applicant should;

- explain how their inventory system works, providing printouts if necessary,
- explain a credible system by which FLO Fairtrade inventory will be tracked separately from conventional products,
- submit a FLO quarterly report form which shows at least one example of each different type of transaction they engage in as well as opening and closing stock. The data may be fictitious and for illustration purposes only.

Wherever possible, FLO should seek quarterly reporting arrangements that minimize transaction costs to FLO Registered Traders, while at the same time ensuring that FLO's legitimate goals of accuracy and efficiency are met.