

Guidelines for revised rules for Fairtrade Premium

The revised Hired Labour Standard¹ introduces a more flexible approach to using Fairtrade Premium that allows workers to decide more freely how they can use it. The revised approach to flexible Premium use is two-fold: 1) There is no longer a limit to projects in which the benefits are realized via “in-kind” uses and 2) up to 20% of Fairtrade Premium can be distributed in cash. In addition, up to 50% of Premium can be distributed in cash in exceptional circumstances, such as where there is a majority of migrant workers and in the case of natural disaster.

This document is intended to provide guidance to Fairtrade Premium Committees and employers to ensure workers understand all the implications of applying the new rules and to preserve harmony in the workplace. Fairtrade believes it is important to provide guidance to workers who are new to using Premium in this way, and to point at the prescribed process of the Standard. We also stress that the Premium belongs to workers and that it is their decision how to spend it.

Fairtrade International’s Standard for Hired labour, requirement 2.1.20²:

If workers so choose, up to 20%, and in exceptional circumstances up to 50%, of Fairtrade Premium money per year can be distributed equitably amongst all workers in cash as a Fairtrade bonus.

In the case that workers choose the option to distribute some Fairtrade Premium money in cash to workers, the Fairtrade Premium Committee **consults** with trade union/workers’ representatives to ensure that the collective bargaining process is not undermined.

Guidance: Workers themselves should be empowered to decide how best to use Fairtrade Premium money in order to improve their livelihoods. As with all Fairtrade Premium expenditures, if this option is exercised, any cash distribution must satisfy requirement 2.1.19, is presented in the Fairtrade Premium plan (2.1.15) and democratically approved in a general assembly of workers (2.1.16). Cash distribution is considered a major project and requires a risk assessment to be presented at the General Assembly of workers (GA) (2.1.17).

Equitable distribution means that any cash distribution made should be done at least in accordance to time worked, but it is encouraged to consider distributing cash on a needs basis, supporting those who have less security and higher needs.

The intention of the 20% limitation is to prevent that Fairtrade Premium is used to supplement regular wages, which can potentially undermine collective bargaining processes. The percentage of cash distribution may be increased to up to 50% of total Fairtrade Premium under exceptional circumstances only, such as where there is a majority of migrant workers in the work force that cannot benefit from Fairtrade Premium projects or in case of an emergency situation or other exceptional situation. In these cases exception requests are submitted to and approved by the certification body before any additional cash distribution can take place.

The FPC may already include elected workers’ representatives involved in the bargaining process and therefore may not need to consult outside the Fairtrade Premium Committee.

¹ http://www.fairtrade.net/fileadmin/user_upload/content/2009/standards/documents/2015-01-19_HL_EN.pdf

² Related requirements on Premium management and use include 2.1.13, -2.1.20 in the Fairtrade Hired Labour Standard pp. 11 and 13.

Application of the requirement

1. Prevention of undermining the collective bargaining process

The bargaining process takes place between trade unions and employers. **Fairtrade defines a trade union as: a permanent organization (of workers) established to represent workers, including through collective bargaining over the terms and conditions of their work.³ Any such organisation, regardless how it is referred to in different regions, is considered a trade union by Fairtrade.** It is feasible that offering Premium in the form of cash to workers might undermine the negotiation position of the trade union. For instance, the employer might argue that they do not have to pay higher wages since workers have already received additional supplemental income through Premium distribution.

The Hired Labour Standard clearly states that Premium cannot be a substitute for wages. This rule is included to protect the workers from the situation described above. Requirement 2.1.19 which outlines how Premium may and may not be used, states: *Premium **must not be used** as salary supplements to individual workers.*

Fairtrade recommends that when the FPC suggests cash disbursement to workers, the money should be distribute in the form of a Fairtrade bonus to avoid that it is confused with regular wages and benefits for which the employer is responsible.

In no way may the employer raise the issue of Premium pay-outs during the collective bargaining process. It cannot form part of any argument put forth by management during the negotiation process.

It is also stated in Section 2.1.20 that the Fairtrade Premium Committee must consult with the trade union(s) (see definition above) when proposing a Fairtrade bonus project to workers. This is to ensure that the trade union can weigh if cash distribution might in any anyway undermine the bargaining process. The views of the trade union leaders in the workplace must be considered, since they have the legal responsibility to bargain for wages, monetary benefits and even in-kind (non-monetary) benefits on behalf of the workers.

Fairtrade recommends an annual meeting take place between the FPC and the trade union representatives in the workplace and the full-time officer(s) of the union(s) to discuss plans for a Fairtrade bonus and how to avoid the risk of undermining collective bargaining or the position of the trade union in the workplace and how to reduce that risk. Fairtrade recommends that the FPC does not propose a bonus project as part of their annual Premium plan if it cannot come to an understanding with the trade union. Fairtrade recommends

³ Section 3.4.5 of the Standard for Hired Labour

that, when a proposal for a Fairtrade bonus is presented to the General Assembly by the FPC, it is done together with the trade union representatives elected in the workplace.

It should not be assumed that if a trade union member is on the FPC, he or she is involved in the bargaining process and has a mandate to speak on these matters (e.g. in case of sectoral bargaining). When in doubt, please contact the full-time union officer, when applicable.

Fairtrade recommends that cash payments or other individual disbursements to workers from Fairtrade Premium are recorded in collective bargaining agreements between management and trade union(s). Premium disbursements shall be clearly distinguished from negotiated pay and benefits. This demonstrates that trade union(s) are aware of and consulted on Premium use, and that all parties clearly understand the separate process of dealing with the Premium from collective bargaining processes.

This procedure seeks to avoid that the Fairtrade bonus will cause discord between workers in the workplace and to ensure that the local trade union can be effective in collective bargaining.

2. Workers deciding autonomously.

Premium is managed by workers for workers. Requirement 2.1.13 states that management has an important role to play in the meetings: *Management members of the FPC should facilitate but not lead the process and guide, assist, and support the workers, by sharing their know-how, experience and connections without imposing their views.* It is stated that management has a *non-voting advisory* role. This is important to recognize: on the one hand management is responsible for harmony in the workplace and offers a lot of expertise to benefit of worker-members of the FPC. On the other hand, **the employer should not lead or dominate the discussion in the FPC, let alone chair the meeting or prescribe the outcome.** The intention is that over time, with training and other support of the management, the leadership abilities of the FPC will improve. It is however a fundamental principle of Fairtrade that workers have the autonomy to decide on Premium use, being enabled to decide how their needs are best met.

This principle applies to all uses of Fairtrade Premium, including cash and in-kind projects. If workers decide to spend Premium in the form of cash, it means they want the liberty to use the money as they please. Suggestions from management on how to spend cash payments would limit the freedom of workers to use the money in a way that suits them best individually.

Similar to any other project, the FPC will meet with the management representatives to discuss their plans for a Fairtrade bonus before putting the

plan before the General Assembly. This allows for a first analysis of feasibility of the Fairtrade bonus and is part of a wider risk assessment. It should be stressed that cash distribution is considered a major project and requires a risk assessment to be presented at the GA.

3. Legal barriers to flexible Premium use

In some regions, there are legal consequences of paying Premium out in the form of cash. Workers may have to pay taxes on the cash from the Premium they receive. In some cases, a Premium bonus could lead to the Premium fund losing its not-for-profit status, with the risk that all Premium in the fund is subject to taxation. In some countries a pay-out of Premium could be prohibited altogether. Therefore, it is important that the FPC informs itself carefully so that the Premium fund is not jeopardized. Unfortunately Fairtrade is not in the position to give legal advice on these matters in every region where we certify hired labour companies. For this reason, Fairtrade requires that a risk assessment must be undertaken by the FPC when considering any distribution of the Premium in cash (requirement 2.1.17⁴)

Fairtrade recommends that the FPC contact local authorities to understand any legal and tax implications of a Premium pay-out and explore ways to avoid these or any unexpected costs. The General Assembly must be informed about the findings, before the proposal is put to vote. Illegal use of Premium cannot be proposed.

4. Equitable distribution

It is normal that with more freedom comes more responsibility. The Fairtrade Premium Committee is charged with the responsibility of determining the needs of workers, based on the input they receive from the workers themselves, including specific needs of women, temporary and migrant workers. Clearly, that is not an easy task. The needs of all types of workers are to be considered. In order to determine how migrant and temporary workers can best benefit from Premium, the Premium Committee must talk to them to assess their needs, including needs in their home communities (see requirement 2.1.14 for details⁵). Once needs are determined for all

⁴ **2.1.17** *The Fairtrade Premium Committee must administer the Premium funds responsibly; therefore a risk assessment must be undertaken for all major projects and reported on at the GA. This includes any distribution of Premium in cash, and for loans and investments, which must be carried out with all necessary formalities and guarantees.*

⁵ **2.1.14** *The Fairtrade Premium Committee **must meet** and **consult** with the workers to understand workers' needs and to discuss project ideas regularly. These information and consultation meetings **must be held** during working hours and according to a meeting schedule previously approved by the management, but do not necessarily have to be held during a general assembly of all workers. The results of these meetings **must be recorded**.*

workers, Premium projects, including cash distribution and in-kind projects can be planned with consideration to the different groups of workers and their needs.

The distribution of cash as a Fairtrade bonus must be done on an equitable basis, and in-kind distribution of non-consumable benefits must be equally accessible to all workers, whether male or female, permanent or seasonal.

Equitable distribution for example means that any cash distribution should be done at least in accordance to time worked, but it is encouraged to consider distributing cash on a basis of needs, supporting those who have less security and higher needs; for example, more money for single mothers.

5. Cash, individual benefits or collective projects

As part of its risk assessment for Premium use, the Premium Committee should consider how existing and future long-term projects would be affected by a Premium pay-out. Perhaps projects cannot be started or continued because workers prefer to receive cash instead. Perhaps staff of these projects or maintenance of buildings cannot be paid. In those cases, the Premium Committee should explain the consequences for collective projects to the workers in the General Assembly and why it proposes to pay out Premium.

While Fairtrade does not determine how Premium money is distributed, we provide examples for FPC to follow to ensure that Premium money benefits workers, their families and communities in the best way possible and continued investment in capacity building, economic development, the environment and community projects are encouraged.

Premium can be allocated in the following ways, keeping in mind greatest benefits for all intended beneficiaries:

- to projects that are of direct benefit to the worker (potentially the 20% cash distribution)
- to projects that are of direct benefit to the worker and family
- to projects that are of direct benefit to the community of which the worker and family belong
- to administration of the FPC
- Premium allocated to income generating projects

Fairtrade field officers can provide further guidance on considering various Premium projects and their beneficiaries.

Guidance: *The needs of all types of workers are to be considered. In the case of migrant and temporary workers, a needs assessment of their home community should be considered to determine how best they can benefit from the Fairtrade Premium.*



An example of decision making for Premium use:

A flower farm receives USD 200,000 in Premium in a given year and has 2000 workers. Twenty percent of USD 200,000 is USD 40,000. Divided by 2000, this means that each worker receives USD 20 over the period of a year. In Kenya, that is a little more than a week's salary for an experienced worker.

The opportunity costs of this proposal are any collective projects that would also cost USD 40,000 to start up or to maintain. In some cases, workers investing USD 40,000 together in a collective project could provide more benefits collectively than a one-time USD 20 pay-out per year. In those cases, it may be wise for workers to use the Premium collectively instead of individually.

In other cases, the size of the Premium fund compared to the number of workers will offer workers the opportunity to enjoy a significant cash payment and at the same time allow the workers to keep the benefits from their collective projects.

Whatever the outcome of the process to plan the use of Premium, the FPC should determine its options and weigh them carefully. The FPC and trade union representatives can always approach the Fairtrade liaison officer for more information, guidance or training. Fairtrade remains committed to work with workers and build their capacity to govern Premium and participate in the workplace according to their wishes.

Please contact the Standards & Pricing unit for questions on Fairtrade standards: standards-pricing@fairtrade.net