This position paper outlines the Fair Trade movement’s submission to the issued European Commission (EC) monitoring report on retailing services COM(2010) 355 final, within the frame of the Retail Market monitoring exercise (2010).

FAIR TRADE & THE FAIR TRADE MOVEMENT

Fair Trade Principles
Fair Trade is a trading partnership, based on dialogue, transparency and respect, that seeks greater equity in international trade. It contributes to sustainable development by offering better trading conditions to, and securing the rights of, marginalized producers and workers – especially in the South. Fair Trade Organizations, backed by consumers, are engaged actively in supporting producers, awareness raising and in campaigning for changes in the rules and practice of conventional international trade.1

Fair Trade is, fundamentally, a response to the failure of conventional trade to deliver sustainable livelihoods and development opportunities to people in the poorest countries of the world. Fair Trade pursues two inseparable objectives: 1) to provide opportunities for development to marginalised producers and workers in developing countries through production and trading and 2) to influence the international trading system and private companies towards becoming more just and conducive to sustainable development.

The Principles of Fair Trade encompass not only market access for marginalized producers and workers but also sustainable and equitable trading relationships, capacity building and empowerment, consumer awareness raising and advocacy, Fair Trade as a “social contract” and labour rights and environmental sustainability. Therefore, Fair Trade goes beyond specifically “producer contractual arrangements” as described in the EC monitoring report but encompasses the economic, social and environmental impact of sustainable development.

This is why the Fair Trade movement welcomes this consultation and believes it is important that the EU works to bring about the improvements to actual trading practices across the supply chain in particular the fairness and efficiency of retail services, as this can have impacts on marginalized producers and workers in the South, particularly, where retail outlets are concentrated into the hands of a few.

Increasing Support to Fair Trade
From modest beginnings sixty years ago, Fair Trade has developed into a worldwide concept. By 2009, Fairtrade certified sales had amounted to approximately €3.4 billion worldwide, with a 15% annual growth. It’s estimated that roughly 27,000 Fairtrade certified products are now sold in over 70 countries.2 Total Fair Trade sales in Europe were estimated at €1,195m (€1,060m from Fairtrade certified sales and €135m from non-certified sales) by 2006.3 The majority of revenue generated by Fair Trade sales in Europe is attributed to food sales but there is also a growing market for Fair Trade handicraft products. The majority of Fair Trade sales occur in the EU15. However, Fair Trade activities are growing fast in all EU27 countries.

The Fair Trade movement has experience selling into a variety of retail outlets, which encompasses Fair Trade shops (over 4,000 shops mainly in EU15 countries with an estimated total net retail value of €178m by

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1 Definition of Fair Trade as laid down by the Charter of Fair Trade principles, available under http://www.fairtrade-advocacy.org/index.php?option=com_content&view=category&layout=blog&id=69&Itemid=143.
2006), supermarkets (over 75,000 supermarkets), independent shops and other outlets such as catalogues and out-of-home places. This experience of a diverse variety of retail outlets gives the Fair Trade movement a unique standpoint on what the best practices should be of purchasing by retailers.

The growing success of Fair Trade shows that the existing Fair Trade standards and monitoring systems enjoy high levels of trust among consumers. The success also shows that more and more marginalized producers and workers from developing countries are also benefiting from the increased sales of Fair Trade in the European market.

Fair Trade producers and importers, retailers, labelling organisations, volunteers and support organisations are organized into global Fair Trade networks (Fairtrade Labelling Organizations International FLO (www.fairtrade.net), the World Fair Trade Organisation WFTO (www.wfto.com) and the European Fair Trade Association EFTA, (www.european-fair-trade-association.org). Together these networks bring together over 2 million Fair Trade producers and workers from more than 65 countries, 19 labelling initiatives, over 500 specialised Fair Trade importers, 4,000 World Shops and more than 100,000 volunteers.

FAIR TRADE SYSTEMS

Two complementary Fair Trade routes as best practice

Fair Trade products are produced, traded and sold in accordance with Fair Trade principles. In 2009, The Charter of Fair Trade Principles was adopted which provides a single international reference point for Fair Trade through a concise explanation of Fair Trade principles and the two complementary routes by which they are implemented.\(^4\) Compliance with these principles (and product and organisation standards) are verified by credible, global, independent assurance systems such as those operated by FLO (FAIRTRADE certification Mark) and WFTO (Sustainable Fair Trade Management System). All Fair Trade products originate from producers and workers committed to Fair Trade principles.

However, in the subsequent supply chain, Fair Trade products are traded and marketed through two distinct but complementary channels. The traditional or integrated Fair Trade supply chain route is where goods are produced, imported and/or distributed by specialized Fair Trade Organizations who have Fair Trade at the core of their mission and activities. The other route to market is through Fairtrade labelling and certification of products. In this case, goods (mainly food products) are Fairtrade certified by an independent third party verification body to guarantee that their production chains respect Fairtrade standards. The importers and traders can be traditional commercial companies, and the distribution channels can be regular retail outlets.

To foster market access under fair conditions for marginalised producers and workers, standards are combined with producer support, awareness raising, campaigning and flexible and multi-stakeholder governance systems that are able to respond and be meaningful to the different realities and conditions of the more than 70 countries Fair Trade works in.

The advantage of the integrated supply chain route is that it shows that fairness in the supply chain is possible, affordable and that consumers choose these retailing operators because of their commitment to fairness. Throughout the supply chain, operators have chosen to work according to the Fair Trade Principles. Both the downstream and upstream customers are involved in the system. For the downstream customers, they not only have a choice of products produced in a fairer way but they are informed about the process and chain that the product came through. This integrated supply chain route should be used as a leading best practice example using their expertise and experiences in regards to introducing fairness into retailing in Europe. All information about the integrated supply chain can be found on the World Fair Trade Organization’s website.\(^5\)

The added-value of the Fairtrade labelling and certification system for products is that it is an initiative that introduces more fairness in a broader supply chain, bringing the concept of fairness from a niche market to global brands and retail outlets who are keen to support and provide Fairtrade labelled products. FLO makes ongoing efforts to bring a clear and precise message to consumers and monitors consumers’ understanding of Fairtrade. The use of the FAIRTRADE Certification Mark (the guarantee that Fairtrade standards have been met) follows very strict guidelines and is rigorously monitored. All the information about the standards and how Fairtrade works is available on the website.\(^6\) Companies trading Fairtrade certified products must: Pay a price to producers that aims to cover the costs of sustainable production: the Fairtrade Minimum Price; Pay an additional sum that producers can invest in development: the Fairtrade Premium; Partially pay in


\(^5\) www.wfto.com

\(^6\) www.fairtrade.net
advance, when producers ask for it; Sign contracts that allow for long-term planning and sustainable production practices. This should also be considered as a best practice and its lessons learnt used as guidance when introducing fairness into the larger retailing outlets in Europe.

These two routes of Fair Trade products getting to market, demonstrates that through evolving practices it is possible to build better trading terms for producers and workers in developing countries. The movement aims to encourage commercial traders that trading in a ‘fairer way’ is commercially sustainable. It also tries to prevent that producers are further squeezed in the supply chain by bringing direct livelihood benefits to the producers.

Robustness of systems beyond social and ethical claims
The Fair Trade movement fully agrees with the European Commission (EC) that more transparency is needed with existing social and ethical claims. The Fair Trade movement is however, concerned about ‘fairwashing’ which has imploded as ethical and social schemes have increased. There are retailers that make claims about fair and ethical products.

The Fair Trade systems described above fully endorse this and invest large amounts of time and resources in informing consumers about their systems and the processes that they follow. Economic Operators (including retailers) making social or ethical claims should back up their claims with serious and robust certification systems. Making sure that there is transparency and robust systems will prevent consumer confusion and mistrust that could negatively affect all operators, including those honestly working to achieve fairer supply chains.

Fair Trade movement as part of the leading alliance on social and environmental standards
The Fair Trade movement considers credibility by consumers a key aspect of its work. FLO and WFTO are, respectively, full and associate members of the ISEAL alliance, the global association for social and environmental standards. The ISEAL alliance has developed a number of codes and guidance to ensure that such schemes are robust, their impacts measurable and that, consumers are provided with the right information. Its members are ISO 65 certified. ISO 65 is the leading, internationally recognized quality norm for bodies operating a product certification system. Concretely, ISO 65 certification guarantees that: A quality management system is in place; Transparency in all processes; Independence in the certification decision making. All members are checked by an independent third party to ensure compliance with ISO 65 rules.

The Fair Trade movement is supportive of the Code of Good Practice for Setting Social and Environmental Standards, a best practice in this area, as recently recognised by the European Commission. This code supports a common approach to monitoring and evaluation.

The Fair Trade movement is also fully supportive of the forward-looking work of ISEAL, such as the draft “Credibility Principles” for ethical claims and the initiative Sustainability Claims Taxonomy, which aims at outlining the various parameters that can be used to categorize different sustainability claims. These initiatives share the eventual objective of scaling up not only the 10% of the existing ethical / sustainable trade market but also the remaining 90% of the (conventional) market.

An initiative that will try to bring together information on the different social and ethical schemes is the International Trade Center’s Trade for Sustainable Development Database (T4SD). It is still at the development stage and should be ready by December 2010. This database will attend to enhance transparency on voluntary sustainability standards and to increase opportunities for sustainable trade. These types of schemes that give crucial and objective information for not only consumers but all operators including producers should be welcome and supported by the European Union.

Similar to the efforts by the ISEAL alliance’s work to scale up and mainstream fairness and sustainability across the board, the Fair Trade movement calls on the EC not only to promote transparency with the currently small market of “social or ethical trade” but also with the remaining 90% of (conventional) trade. EC measures should support best practices and encourage the rest to follow. Focusing EC action on the 10% of best practice would be missing the “whole picture” and would risk resulting in less effective action in the long run.

In this regards, it is important not to confuse “private labels” by retailers differently from social and ethical schemes run independently with independent & representative boards. These “private labels” do not have the same goals as social and ethical schemes and if treated in the same could mislead consumers and put extra

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7 More information on the ISEAL under www.isealliance.org
burden on the upstream operators such as the producers themselves. As noted in the EC monitoring report on retailing services, sometimes these private labels are “bargain price” products which could force upstream operators to cut costs including on wages, working conditions and environmental aspects so that their products meet the “bargain price” demanded by the retailing outfit. There needs to be more transparency in how these products are made and processed through the supply chain. We welcome retailers that buck the trend and choose to purchase from suppliers with good working conditions or suppliers who operate as a social enterprise to benefit marginalised producers and workers, rather than prioritise “bargain price”.

**Fair Trade keeps costs to producers at a minimum**

It is important for the Fair Trade movement to not intentionally exclude any marginalised producers or workers who wish to become part of the Fair Trade systems. The Fair Trade movement is aware that costs to enter the Fair Trade systems can be in some cases high for producers and are searching for viable alternatives. Each Fair Trade system has its own way to make the producers costs as minimal as possible. For the integrated system to be part of the network, World Fair Trade Organization (WFTO), the annual WFTO Membership Fee is based on the annual turnover; according to membership type. Through its board, annual general meeting, committees and regional networks, producers are involved in decisions regarding overall strategy and development of standards.

For Fairtrade labelled products, certification costs depend on several factors, including the type and size of the producer organization as well as the number of products that need to be certified. These costs are located at the organization level rather than at the individual producer. Certification costs are included in the calculation of the minimum granted price. As an example, APPBOSA, an organization which gathers small banana growers in Peru, estimated the annual cost of its certifications (organic and Fairtrade) to about 100 USD per container exported, on a total cost of about 10 000 USD per container, which means 1% of the total cost. Moreover, FLO has established a fund to help producer organizations to pay the certification fees in case they need it, called the Producer Certification Fund. Grants never fully cover certification fees and are intended as co-financing support. This certification fee is paid only once. FLO is also looking into partnerships and alliances to expand access to credit to farmers. Through the Board and the Committees of FLO, producers are involved in decisions regarding overall strategy, the setting of the Fairtrade prices, premiums, and standards.

Both systems involve producers in their governance and these structures make producers joint partners in Fair Trade, aiming to ground Fair Trade systems in actually delivering reducing of poverty for workers and farmers and enabling them to influence decisions that affect their future. These mechanisms have been set up so that producers do not have to “pay to be ethical” under Fair Trade.

**No need to re-invent the wheel**

Part of the success of Fair Trade is due to its non-governmental nature that has allowed continuous innovation and growth. The EC itself has recognised the added value of sustainability schemes being private and voluntary. Rather than re-inventing the wheel, the EC should support in allowing the best practices, like Fair Trade systems, to fully realise their potential. Otherwise, a possible EU standard would lead most likely to a lowest-common denominator.

We think this is because the ownership of the concept and the initiative to develop it further would be taken away from Fair Trade stakeholders and other actors will define what Fair Trade is and how it operates. Given the wide range of Fair Trade and non-Fair Trade stakeholders that would be involved in the development of a EU standard it is highly possible that any regulation will denote lower standards for Fair Trade than the currently existing FLO and WFTO systems which, as explained above, consist of much more than standards (e.g. awareness-raising, empowerment and capacity building of producers, advocacy). In this case, these more ambitious and well established systems would co-exist with lower standards. Under these conditions, an additional regulation could even increase confusion among consumers. The experience of the organic movement verifies this risk, after EU regulation the proliferation of organic labels has continued.

The central role that Fair Trade producers play in the current systems (in terms of governance, decision-making, standards setting, etc) would be diluted. The Fair Trade community questions whether any external regulation can develop an appropriate structure to capture the development approach and reflect the Fair Trade values that consumers support nowadays; equity in relationships, dialogue, transparency and respect.

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9 Communication from the Commission to the Council, the European Parliament and the European Economic and Social Committee: Contributing to Sustainable Development: The role of Fair Trade and non-governmental trade-related sustainability assurance schemes, 5th May 2009, COM(2009) 215 final, reiterate the importance of maintaining the non-governmental nature of Fair Trade and other similar sustainability schemes throughout the EU.

10 In the case of the organic movement, the first regulation aimed to reduce consumer confusion and to clarify the conditions for the use of the word ‘organic’. Private standard setters took the EU regulation as base and then differentiated themselves by adding additional requirements.

11 Either from FLO or WFTO.
BUILDING FAIRNESS IN RETAILING IN EUROPE

The Fair Trade movement welcomes the EC’s desire to bring about increased fairness in the retail sector. This needs to be put in the context that increasingly power is moving to European retailers, so the desire of the EC to improve the operation of the retail sector needs to recognise and address this trend. We hope that this consultation will lead to a process which assesses the fair functioning of different EU retail sectors and leads to recommendations which improves fairness in practice in the concentrated retail sectors, or other retail sectors which (for reasons other than concentration) where retailers purchase in a manner which abuses their buyer power that result in excessive risks being passed onto labour intensive stages of production.

At the consumer end, very cheap prices subsidized ultimately by vulnerable workers can result in products being sold at price point which do not enable a living wage to be paid in the countries where the labour-intensive stages of production occur. This is then problematic for ‘ethical’ or ‘Fair Trade’ Organisations and companies who wish to sell comparable products based on paying a living wage (and operate in a manner which contributes to EU public policy objectives) because the price differential from the cheapest commercial products is increasing.

The year-on-year increase in Fair Trade sales indicates that consumers are not only bargain hunters, valuing social and environmental considerations of production. Sales of Fair Trade would be even higher if commercial practices improved so that businesses purchased in a manner which paid minimum wages and met legal employment minimums in production countries so that price point difference on the shelf between Fair Trade and conventional was less.

WHAT FAIRNESS?

Although “fairness” is mentioned in the title of the monitoring report on retailing services, “fairness” does not seem to be mentioned systematically through the text. The objective of this process is to introduce fairness in the retailing services in Europe. We therefore would like to see that the EC confirms clearly that this is the objective. This can be done by each section systematically going through a number of questions related to the EC’s definition of what is ‘fair’, using the three pillars of sustainable development: is this economically, socially and environmentally sustainable? Who is it fair to? How could it be made fairer? Crucially, the EC needs to recognise that when power is imbalanced within supply chains, those with more power use it to their advantage, undermining opportunities for other businesses, farmers and workers to participate in trading activities in a manner which benefits them, as well as undermining space/potential for innovation. Fairness should be a common denominator of all future EC follow-up actions and proposals.

WHAT SCOPE?

As stated above, the Fair Trade movement considers that the EC should be ambitious about its goal to mainstream fairness across all trade, not only focussing on the 10% of already ethical or sustainable market.

There is a need to recognise which retail sectors are able to exert buyer power and the resultant harm this may do to fairness in supply chains and consumer offering. Understanding that fairness towards producers and workers contributing to supply chains going into the EU (e.g. through better working conditions) needs to be integrated into purchasing/sourcing practices (relating to price, accurate forecasting, specifications, payment terms & fair allocation of risk when orders are changed etc) rather than applied as an add-on.

FOR THE SAKE OF WHOM?

Though the monitoring report focuses on retailing in Europe, retailers use supply chains that go beyond the borders of the European Union. The impact of the fairness of supply chains in Europe is very much felt by non-Europeans. The analysis should not focus solely on EU operators that are already part of the internal market but to test whether there is “fairness” in the retailing services in the EU. The analysis has to take into account whether it is “fair” for marginalized producers and workers of the South, particularly for the millions of workers currently involved in supply chains which serve the EU market. This would be in line with Art. 21 of the Treaty of the European Union that includes policy coherence, “The Union shall ensure consistency between the different areas of its external action and between these and its other policies”. It may be wise to considering prioritising assessing trading practices of retail sectors which sell labour-intensive products (e.g. agricultural products, garments and other assembly type products), since these are sectors where power imbalance within supply chains seems to be increasing.

All operators along the supply chain (in particular the smallest and most vulnerable) should be in a position to negotiate between parties in equal terms. One party should not impose conditions on the other.
By providing shelf-space, retailers are not service-providers (or making favours) to producers: they are simply offering products to consumers. Retailers should not impose abusive conditions upstream. This ultimately has impact on marginalised producers and workers in the South.

**PROPOSED EC ACTIONS**

**Looking at how markets function**

The EC needs to assess the practices within a market, and whether the market as a whole is functioning well, rather than only focus on company-by-company analysis. Greater attention needs to be paid to how companies operate within a market, in particular the effect of companies copying one another which can result in co-ordinated effects which are problematic for the viable functioning of a market, and how risks get magnified and then distributed into supply chains. While understanding the need for certain degree of confidentiality on market data on specific companies, Member States and EU institutions should do their utmost to make as much market data public as possible.

**Looking at practices of specific companies**

The EC should look into the practices of individual retailers and retailer alliances. Buying Groups i.e. alliances of retailers set up to compete with large volume purchases by large volume retailers, also have the ability to abuse buyer power if they gate keep access to certain markets.

The findings of the 2000 investigation into 4 UK supermarkets should not be ignored: in the context of company mergers, 8% market share was found to be the level at which retailers did abuse their buyer power in the UK market.

**Tackling excessive “Buyer Power”**

Excessive “Buyer Power” (which comes for example from the concentration of market share in a country, or volume of sales) should be avoided in order to ensure a smooth functioning of the Internal Market and free and fair competition between economic operators. In the long run, this “Buying Power” does not benefit anyone: in particular consumers and marginalised producers and workers.

Retailers which have buyer power are able to impose and pass ‘excessive risks and unexpected costs’ onto their suppliers (the conclusion of the UK Competition Commission), this can then result ultimately in suppliers and employees, passing risks down the supply chain, onto farmers and workers in the form of poor Health & Safety practices, evading benefits (maternity, sickness, pension), short term/precarious contracts, forced and dangerous levels of overtime as well as poverty wages. So ultimately the risks are passed back to those individuals who are the least able to bear the risk, particularly those in developing countries who do not have social security systems which enables them to access healthcare, education, pensions, shelter/housing.

Allowing this trend of increasing buyer power at the retail end of the supply chain directly undermines the achievement of the EU’s Treaty and public policy objectives, including its commitment to achieve United Nations Millennium Development Goals.

The European Parliament Plenary issued in 2007 a declaration on investigating and remedying the abuse of power by large supermarkets operating in the European Union. The European Commission should ensure proper follow-up is given to this declaration.

Specifically on the groceries market, recent UK Competition Commission investigations found that ‘excessive risks and unexpected costs’ were passed onto suppliers, and into the supply chain, and they made a recommendation for a Complementary Code for Primary Producers. Building on this learning it would be important that any European Commission follow-up to the above-mentioned EP written declaration included supply chain effects onto primary producers, due to the direct impact of retailers on these supply chain operators.

**Pro-actively tackling anti-competitive practices**

The EC should take a pro-active stance to avoid anti-competitive practices, which can be a symptom
of concentrated buyer power. The latest EC Communication on the food supply chain in Europe\textsuperscript{13} gives some examples of such practices (e.g. similar prices of food products) that should be critically looked at by the EC and follow-up measures proposed.

Concentrated buyer power also often results in a number of abusive practices occur in supply chains: e.g. changing or late payments and orders, unilateral changes to contractual relationships, unwillingness to do joint-forecasting and then stick to the predicted volumes/specifications/pricing. This could be tackled by the introduction of certain \textbf{principles} that should be respected by all actors. Such principles might include fair dealing, and no-unilateral changes to volumes, prices, specifications, or other terms and conditions.

A “banned list” of practices would seem, in principle, like a good way-forward that such list should only be proposed if the EC will implement an effective enforcement regime which recognises the climate of fear that exists within supply chains which experience abuse of buyer power by retailers. For example, experience from the 2001 voluntary UK Supermarket Code of Practice (P/2001/606)\textsuperscript{14}, which had inadequate monitoring and enforcement, was that some retailers copied the poor practices prohibited in the code, knowing that there was ineffective monitoring and enforcement.

\textbf{By encouraging transparency across the supply chain}

Information is key when addressing aspects of buyer power. The EC should be commended for recognizing that weak economic operators in the supply chain face “fear of retaliatory measures”. EC action to gather and make market-level information public should be considered a priority. Ad-hoc anonymous reporting on abusive practices can be a good way to encourage whistle-blowing but alone it will not be enough. However, the EC should be cautious in pursuing measures which will result in social or sustainable development audits just been done for the sake of providing information. Experience shows that auditing is useful if part of a process where there is follow-up.

\textbf{By raising awareness of EU citizens:}

Numerous existing initiatives aim at giving information to the general public on the fairness in the supply chain and empower consumers to take informed choices. The more consumers are empowered to make informed purchasing choices, the more they will drive the market towards more fairness.

They should be supported from the EC from a policy and financial point of view, for example:

- Fair Trade initiatives (as described above) share the EC objective to introduce more fairness in the supply chain. Fair Trade initiatives should be taken as best practice and a coherent EU policies in support of Fair Trade (which include internal and external EU policies) should be put in place.

- ISEAL work (as mentioned above) such as the draft “Credibility Principles” for ethical claims and initiative Sustainability Claims Taxonomy that aims at mainstreaming social and sustainability considerations in trade.

- Business and Human Rights website\textsuperscript{15} which puts up onto the website information about human rights impacts of companies from \textbf{independent} reports or newspaper articles on that company’s positive or negative impact on human rights. This is increasingly providing a useful resource to investors, consumers, civil society and public authorities.

\textsuperscript{13} COM(2009) 591 A better functioning food supply chain in Europe.
\textsuperscript{14} http://www.oft.gov.uk/news-and-updates/press/2005/52-05
\textsuperscript{15} http://www.business-humanrights.org/