



LOOKING BACK, LOOKING FORWARD:

Fair Trade Certification in 2022

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Looking Back, Looking Forward: Fair Trade Certification in 2022

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FAIR TRADE CERTIFICATION IN 2022

Fair World Project got its start at a unique moment in fair trade certification. Public recognition of fair trade was growing. The number of certifiers backing fair trade labeling claims was growing. Fair trade labels were starting to show up on products beyond the original coffee and cocoa products, and had made the leap from niche to mainstream markets. Now, 12 years on, much has changed in the world of certification.

Fair trade certification has long straddled several contradictions within it. The question of whether fair trade was a movement or a market niche was hotly contested for many years. Is the goal of fair trade to upend trade imbalances rooted in colonization, or grow market share at a better price for small-scale farmers?

Yet as the fair trade movements discussed these questions, certification has grown into something far more than a market niche. Instead, fair trade, and ethical certifications more broadly, have become enshrined in companies' Corporate Social Responsibility Programs. Certifications have become a de facto benchmark for what's fair, for pricing, baseline working conditions, and more. Certifications are used to guide billions in public procurement, and are being pointed to as possible partners for corporations in adhering to the European Union's forthcoming mandatory due diligence legislation.

From food safety to forced labor, certifications are promoted as a solution.

Most recently, as Environmental, Social, and Governance (ESG) ratings grow as a hot trend in finance with over \$35 trillion in global assets invested in funds that make claims around vetting companies on ESG principles, certifiers are promoting themselves as a solution there as well.¹



Certifications, with rules written by corporate-friendly multi-stakeholder processes, offer an even more corporate-friendly form of soft law.

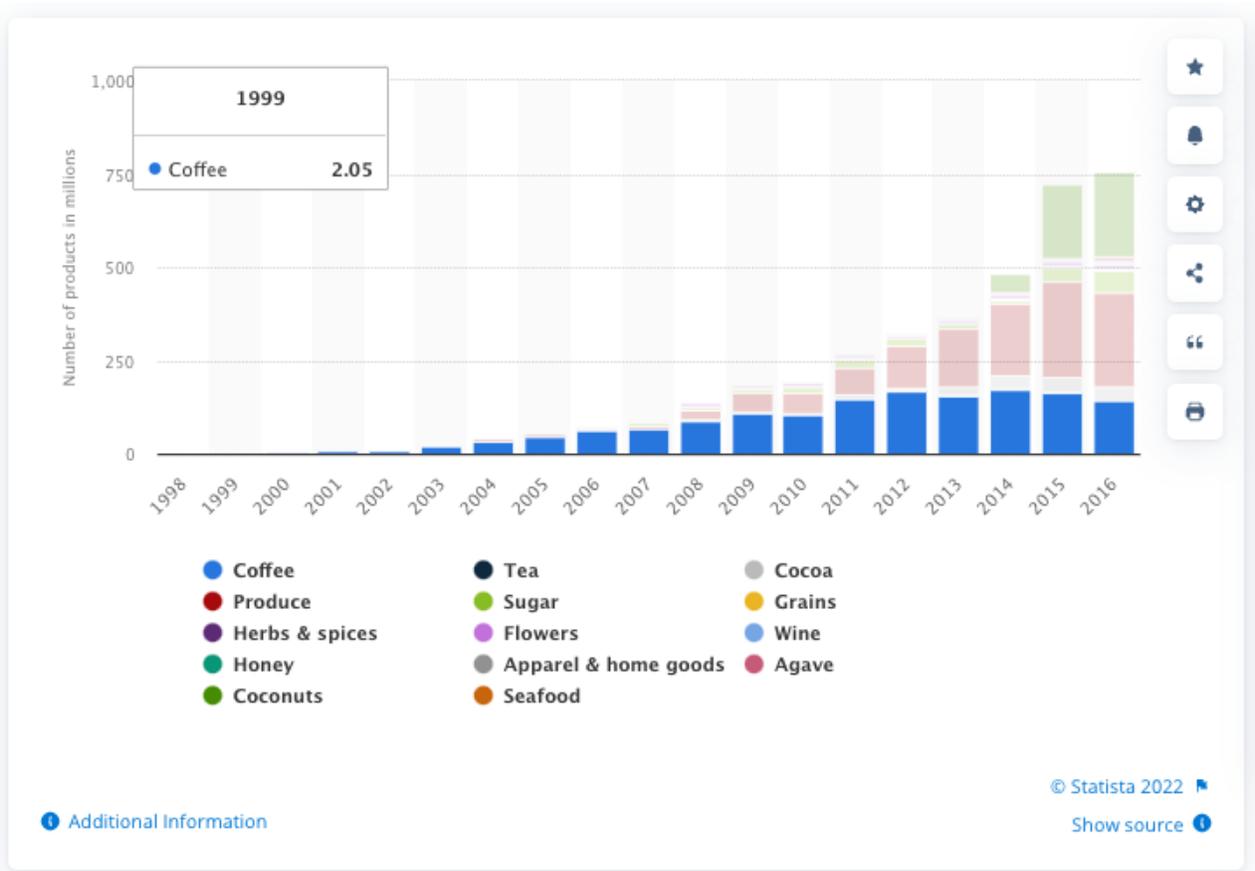
While many of us working for justice struggle to make legislative progress due to corporate capture of elected officials, certifications offer themselves as a solution to regulatory gaps and government failure to enforce basic rights. Yet these certifications, with rules written by corporate-friendly multi-stakeholder processes, offer an even more corporate-friendly form of soft law. Thus, the broader movements for food justice, human and labor rights would do well to pay attention to ethical certifications – they're definitely not just about choosing a chocolate bar these days.

MARKET CHANGES IN CERTIFICATION

Fair trade labeling originated with coffee and then cocoa grown by small-scale farmers.² While the faces of these farmers remain the dominant image of fair trade marketing, their actual share in the fair trade market is shrinking, at least in the U.S.

Fairtrade International is by far the largest fair trade certifier globally. Fair Trade USA (FTUSA) is the biggest certifier in the U.S. by volume of products sold. Unlike most other countries where the main fair trade licensing body for brands is an affiliate of Fairtrade International, Fair Trade USA split from the international system in 2012.

NUMBER OF FAIR TRADE CERTIFIED PRODUCTS IN THE UNITED STATES FROM 1998 TO 2016, BY CATEGORY³
(in millions)



That 2012 split over the certification of large farms and plantations has shaped the growth of fair trade certification in the U.S. over the last decade. Now, the fastest growing sectors include produce, grown on large-scale industrial farms. (Licensing/service fee revenue below reflects the fact that produce grew 36% from 2019 to 2020 and nearly 20% from 2020 to 2021).

FAIR TRADE USA AUDITED FINANCIALS DETAILING LICENSING FEES RECEIVED FROM BRANDS BY CATEGORY.⁴

Service fee revenue were from the following product lines as of December 31:

	<u>2020</u>	<u>2019</u>
Coffee	\$ 6,382,282	\$ 6,590,610
Consumer packaged goods	4,541,851	4,373,608
Apparel and home goods	2,674,056	3,199,667
Produce and flowers	3,116,226	2,291,699
Seafood	<u>332,200</u>	<u>333,227</u>
	<u>\$ 17,046,615</u>	<u>\$ 16,788,811</u>

This shift means that fair trade certification is being applied to an increasing number of situations in which the intended beneficiary of the program is hired workers instead of small-scale farmers reliant mostly on family labor. FWP has long raised concerns about FTUSA moving into certifying plantations from the movement perspective of concern about small-scale farmers' market share and the historic dynamics of colonialism.

Further, instead of a focus on guiding the terms of trade (through encouraging longer-term contracting, minimum pricing, and premiums), the function of certification has expanded to speak to broader human and labor rights protections. Yet the power analysis and mechanisms of fair trade certification, and 3rd party certification more broadly, is ill-suited to protecting the rights and well-being of workers as more and more research shows.

DEVELOPMENTS IN RESEARCH — THE ROLE OF CERTIFICATIONS

At the same time as this shift in focus towards certifying more plantations and other workplaces where hourly workers are the intended beneficiaries of certification, such as factories is happening, more research is emphasizing the inadequacy of annual audit-based certification to protect labor and human rights. Several key pieces of research published on this topic include:

- "The Global Business of Forced Labor" report⁵ found that "Ethical auditing and certification schemes are largely ineffective in rooting out forced labour in tea and cocoa supply chains." In the recommendations for certifiers, the report names key factors for this ineffectiveness as being a failure to address the root causes of forced labor and other human rights violations by failing to address purchasing practices and power dynamics that drive exploitation. Further, the report notes that auditing practices are inadequate to uncover rights abuses, especially when they are done without the engagement of workers' organizations. Loopholes in standards and enforcement also tend to exclude the most vulnerable parties, including workers on the smallest farms, temporary or contract workers. One key recommendation is that certification schemes "should seek to ensure that companies sourcing goods do so at sufficient margins to allow producers to pay workers a living wage." Finally, the report recommends "Where certifiers are unable to close these gaps, they should refrain from misleading marketing that gives consumers the impression that social standards in certified products are higher than non-certified products, when they are in fact broadly similar."
- MSI Integrity's "Not Fit for Purpose" report⁶ examines 40+ international standard-setting multi-stakeholder initiatives (MSIs), including familiar fair trade and ethical labels such as Equitable Food Initiative, Fairtrade International, Rainforest Alliance and others. The resounding conclusion of 10 years of research, culminating in this report is that "MSIs are not effective tools for holding corporations accountable for abuses, protecting rights holders against human rights violations, or providing survivors and victims with access to remedy." Despite the language of "fair," "sustainable," and "equitable," the report notes that the scope of standards and enforcement of these certification schemes does not measure up to these claims. As an example, just one of the 40 initiatives reviewed contains a timebound requirement to pay workers a living wage.

Further, certification standards tend to put more responsibility for compliance onto the least-resourced actors in supply chains, especially producers in the so-called Global South—while failing to substantially regulate more powerful actors in the Global North. One of the root causes named for these failures to make meaningful change is the fact that rights-holders, i.e. the workers and communities the standards are supposed to benefit, are not adequately represented in standards development or enforcement. Instead, the report points out that “‘Worker-driven’ models have emerged and specifically contrast themselves with MSIs. Such models are growing and may displace MSIs in the medium to long term.”

- Transparentem’s report, “Hidden Harm: Audit Deception in Apparel Supply Chains and the Urgent Case for Reform”⁷ delves into how the auditing industry, on which certifications rely to ensure compliance, is rife with issues. While the report focuses on the apparel industry, its findings echo research in other supply chains. Key recommendations from the report include: Increasing worker agency in the assessment process; improving auditing techniques; and enhancing transparency around audits and remediation processes. Finally, the report concludes that more than any single technique, the most critical measure is the strong commitment to freedom of association and worker organizing: “Legitimate worker participation and organizing that is free from fear of retaliation is critical to developing accurate systems for monitoring suppliers.” Know-your-rights training by local worker organizations and trusted, effective grievance mechanisms are also critical to developing rights-respecting workplaces throughout the supply chain.



Taken together, these reports underscore the importance of strong worker organizing and worker organizations to defend rights in the workplace and the need for solutions which address buyers’ disproportionate power to set conditions throughout their supply chains.

CERTIFICATIONS IN PRACTICE - PROTECTING CORPORATE REPUTATIONS NOT WORKERS' RIGHTS

Yet, instead of supporting worker organizing, recent high-profile cases tracked by Fair World Project suggest a trend in the opposite direction. Instead of supporting workers' organizing, certifications are aligning themselves more with large companies and multinationals to support their Corporate Social Responsibility programming.

In recent years, Fair Trade USA has applied their certification to multiple companies in the midst of organizing campaigns targeting labor and human rights violations, including Driscoll's in 2016 in the aftermath of the Driscoll's boycott,⁸ Fyffes/SOL melons in 2018 in the midst of an anti-union campaign,⁹ and developing fair trade dairy with Chobani¹⁰ in 2019 even as farmworkers in New York state decried the program.

Instead of moving companies towards more rights-respecting practices, case studies suggest that certifications have served more as public relations for the companies.

In the case of Driscoll's, six years after certification, labor struggles continue with one researcher writing,¹¹ "many of these companies have implemented Corporate Social Responsibility

programs that use third-party labeling organizations like Fair Trade USA and the Equitable Food Initiative to certify agricultural products as "fairly" and "equitably" produced—even as their labor practices fly in the face of the freedom of association clauses in the labels' provisions." In short, fair trade, and ethical certification more broadly is failing to live up to its claims when it comes to protecting working people and their fundamental rights.



IS ETHICAL LABELING HELPING THE FAIR TRADE MOVEMENT?

Ethical labeling has long straddled two rationales for existing. The first part of this paper has explored how it has grown as a component of corporate social responsibility programs - and in doing so, is in the process of shifting from small-scale farmers to plantation and factory workers as its intended beneficiaries.

The other aspect of fair trade - of which product labeling has been a growing component - is to build a movement for alternative trade. The movement perspective is that product labeling grew to highlight the work of alternative business models and small-scale producers, allowing their products to be distinguished from conventional, exploitative businesses on the shelf. The goal then would be for more people to buy these products, supporting these businesses and providing producers with more volume on fair trade terms, with the eventual vision of taking over the marketplace and making all trade fair, as various campaign slogans have called for over the years.

This section will take on the provocative question as to whether ethical labeling continues to be relevant to the fair trade movement and its goals. For the sake of this paper, these goals will be named as growing market share for small-scale producers and mission-driven brands, and changing the overall way that trade is done.



GROWING MARKET SHARE: THE EVOLUTION OF “LOOK FOR THE LABEL”

As awareness of fair trade has grown, so too has the proliferation of ethical labels. Fair World Project was formed in part to educate buyers about the distinctions between these labels. Yet the reality is that the distinctions are increasingly less relevant on a practical scale. The certifications with the strongest standards¹² remain the hardest to find on a supermarket shelf. In some industries, the very strongest programs have eschewed product labeling¹³ all together so as not to have packaging claims outpace workers’ lived experiences. The years-long campaign to get people to “look for the label” while shopping has been co-opted in perhaps predictable ways.

With product certifications focused on single supply chains, and not corporate practices more broadly, companies have nonetheless used certifications to make broad or inflated claims. Further, certification standards have focused the vast majority of their compliance requirements on the farm, instead of making the fundamental connection between a rights-respecting environment for farm families and workers and a companies’ buying practices. Thus, large multinationals, in many cases the very ones who helped define the current state of unfair trade, are able to benefit from fair

trade and other ethical labeling while making few substantial changes to their operations.

Because certification standards are voluntary, a company’s commitments are only good for as long as their goodwill lasts. The last decade is riddled with examples of companies dropping one certification for another with lower requirements,¹⁴ especially concerning price (as discussed at length in the first season of the For a Better World podcast)¹⁵ or to develop their own in-house label (as major players from Starbucks to Mondelez to Sainsbury have done).¹⁶

“ **Large multinationals, in many cases the very ones who helped define the current state of unfair trade, are able to benefit from fair trade and other ethical labeling while making few substantial changes to their operations.**

IMPACTS OF FAIR TRADE CERTIFICATION FALL SHORT OF MARKETING PROMISES

The presence of large multinationals in the fair trade certification system has been debated for well over a decade. And for a long time, the movement's response to critiques of either certifiers or companies has pointed to the need for continuous improvement. Yet, after two decades, there is little evidence that certification has been successful in moving companies to do more business on fair trade terms - or change purchasing practices throughout their businesses to be rights-respecting.

Instead, the challenges of market-driven change are evidenced throughout the fair trade system. The premise that fair trade seals will enable farmers to earn a premium for their crops that will then go to improving practices, working conditions, and cover the cost of production fails to hold up to market realities. Various studies have looked at the effectiveness of fair trade certification in improving livelihoods for farmers in various countries and for various crops. While the evidence regarding workers' rights is fairly clear-cut, as discussed in the first section, the effectiveness for small-scale farmers is far more nuanced. By and large, the themes that emerge suggest that fair trade standards can support farmer cooperatives, and that strong

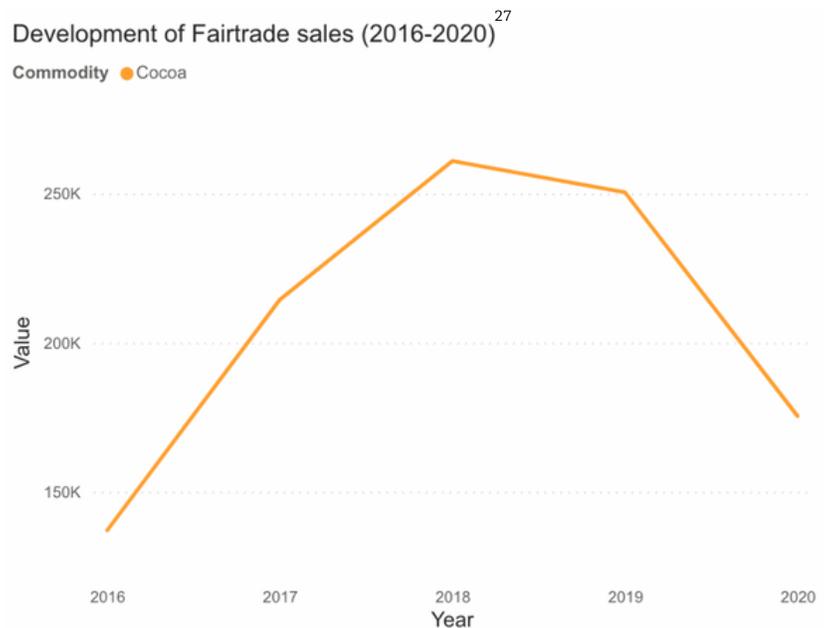
farmer cooperatives can support small-scale farmers in accessing markets, and, in some cases, obtaining better prices.

But, in aggregate, the fact remains that the impacts of fair trade certification fall far short of what the marketing promises. Despite years of describing fair trade as promising fair livelihoods for farmers, 85% of fair trade cocoa farmers in West Africa don't earn a living income²³ from cocoa, and nearly 36% live below the extreme poverty line. The headlines of the study lead with the fact that those numbers are an improvement over 2018 numbers²⁴—mostly because of increased diversification of crops, increased productivity, and because they were looking at farmers with more land than the previous study. The actual impact of fair trade pricing is cited as having a fairly minimal impact on farmers' livelihoods. This observation underscores the disconnect between the popular understanding of fair trade certification and its impact. Plenty has been written elsewhere about the issues of living income, especially for West African cocoa farmers—for the sake of brevity, it is complicated by a number of factors beyond the scope of product certification.

MARKET FORCES VS HUMAN RIGHTS: STRUCTURAL UNFAIRNESS IN FAIR TRADE CERTIFICATION

Yet the fact remains that fair trade minimum pricing remains below what is calculated as a living income for farmers. Attempts to raise minimum pricing remain curtailed by the voluntary nature of certification: when Fairtrade International raised the minimum price for cocoa in 2018, the volume of cocoa sold on fair trade terms went down. Fairtrade International shows that a total of 175,412 MT of cocoa was sold on Fairtrade terms in 2020, while a total of 609,047 MT tons were produced by Fairtrade certified farmer organizations. While sales contracts and production do not align precisely on calendar years, that data shows that just under 29% of cocoa grown by certified farmers was sold on Fairtrade terms (in 2018, that number was 33%).²⁵

This market pressure helps keep prices low - and even Fairtrade living income prices include an allowance for “market acceptance”²⁶ yielding a price that comes in below what human rights organizations calculate as a true floor for a living income for cocoa farmers.²⁸ This gap between the real cost of production plus living incomes and fair trade pricing remains across crops - per Fairtrade International’s own research.²⁹ And ultimately, the tension boils down to a question of primacy: is living income a human right, from which all others flow, or is a living income something that can only be achieved by a select group of farmers, dependent on various market forces? In many ways, fair trade certification tries to have it both ways - at least on the international scale (many other certifications, including Fair Trade USA, place even less emphasis on living incomes and living wages as a central goal).



Ultimately, there is a fundamental, structural unfairness in fair trade certification as it leaves vital human rights, including a living income for farmers, as a voluntary initiative for companies. The initial impulse to recognize that there should be a floor price for crops was a good one. Yet, several decades on, it is clear that this minimum price model, and the efforts to get companies to opt in to higher prices, is inadequate.

Further, certification implies that the standards have been met, building over-inflated marketing claims into the system. In many regards, fair trade certification schemes have been their own worst enemy on this count, as corporations and human rights advocates alike are able to point to the fact that poverty persists after two plus decades of certification as proof that the system does not work.

As multinational corporations have adopted fair trade and other certifications to fulfill compliance requirements within their supply chains, the rules-based language of compliance has overtaken the initial purpose of the movement. At this point, fair trade labeling focuses more on prohibitions for those with least power in supply chains versus challenging the power of the biggest brands.

There needs to be a reckoning with the scope of multinational corporations and their disproportionate market leverage to couple that with responsibility—and levers of power that are suited to holding them to account for the consequences of the decades, and centuries, of extractive purchasing practices that have left communities in poverty.



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WHAT COMES NEXT?

Fair trade certification reveals the complications and inherent flaws of looking to a market-based, voluntary system to address the fundamental injustices of our food and trade systems that are built on 500 years of colonization and extractive capitalism. Without a deliberate effort to recognize the power dynamics inherent in these relationships, too often certification has helped replicate, and even reinforce, the dynamics between worker and boss, and between the so-called Global South (producers) and Global North (purchasers). The mechanics of exploitation rely on defining some people as expendable, putting their human rights and their humanity, below the goals of protecting profits and maintaining business as usual. Oppression based on race, gender, caste, national origin, and immigration status, to name just a few factors, helps to define these categories of marginalization. Adding more rules alone does not change the fundamental power dynamics.

This paper has focused on the flaws of certification, the critical weaknesses where well-intentioned programs are falling short, and even causing harm. Fundamental transformations are urgently needed to change our food, farming, trade, and economic systems to put food justice, racial justice, human rights, and climate justice at the center.

Yet, short of that full transformation, this paper will conclude with some suggestions for reforms that could help shift the balance of power within supply chains, using the levers of purchasing and certification systems as they currently exist.



REFORM GOALS:

What could make voluntary certification more rights-respecting

These recommendations are compiled from a number of reports and research, including Business and Human Rights Resource Center, MSI Integrity's Not Fit for Purpose, and others.

- Establish that certifications have “duty of care”³⁰ to intended beneficiaries under law.
- Certifications shift costs of assuring human rights in their supply chains to corporations instead of continuing to push down un- and underfunded compliance requirements onto farmers, as is currently the case.
- Programs claiming to benefit workers have worker organizations involved at every step of standard setting and implementation as well as governance.
- Certifications have strong requirements for living incomes (prices benchmarked to actual cost of production + fair livelihoods for farmers & any farm labor + profit for farmers).
- Certifications have strong requirements for worker organizing in hired labor situations, including requiring just cause for termination and meaningful protections against retaliation.
- Certifiers mandate more transparency from brands, including disclosure of supplier data that could be actionable for workers in those supply chains.
- Certifications include requirements for timebound remediation of human rights abuses across supply chains for corporations.

BETTER BUYING:

Beyond voluntary certification to more fair supply chains

- Brands have binding obligations to supply chain actors (farmers, workers)
 - human rights written into contracts instead of voluntary commitments (Worker-driven Social Responsibility programs³¹ provide a model for this, as does Corporate Accountability Lab's templates for contracts³²)
- Conversations on living incomes for farmers include a focus on redistributing historic profits made by multinationals off low prices and recognizing the proportionate responsibility they have for contributing to farmer livelihoods.
- Kickbacks are phased out of university food contractor procurement³³ and procurement prioritizes values over revenue from vendors.
- Grocery stores opt out of food industry trade promotions, including slotting fees, and other trade spend³⁴ and prioritize companies with strong values and human rights records.
- Grocery stores and public institutions have strong supplier codes of conduct supporting labor and human rights in their purchasing.
- Strong, enforceable Human Rights Due Diligence requirements in U.S. (based on the fundamental understanding that social auditing is different in scope and ambition from a due diligence framework - being certified is not equivalent to a corporation doing due diligence).³⁵

ENDNOTES

1. <https://www.greenbiz.com/article/fair-trade-planet-and-people>
2. Fair trade as a movement has long included artisans making crafts as well, however, while they are arguably the oldest sector in the movement, product labeling is a much more recent addition to the handicraft sector.
3. <https://www.statista.com/statistics/633956/fair-trade-products-us/>
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