Guidance for Determining Scope Under the APS

Fair Trade USA

Version 1.1.0

Introduction

The Fair Trade USA® Agricultural Production Standard (APS) is designed to cover diverse groups of farms and processing facilities under one general set of requirements. The scope of a Certificate can thus cover a single entity (for instance a farm) or a group of entities. For Certificates that cover a group of entities, those entities can be the same or different sizes and/or owned and controlled by a single party or multiple parties. Similarly, the Certificate Holder (the legal entity primarily responsible for implementing the APS) can be an actor at the farm level or an actor further along in the supply chain. For example, both a cooperative collectively owned by multiple small producers and an exporter buying from independent farms can become Certificate Holders under the APS.

Although the APS is flexible to different supply chain models, scope requirements must be followed as outlined in the Introduction of the APS and the Requirements for Certificate Scope under the APS. These requirements state that all workers, activities, and sites in the regular production chain, from the farm to the Certificate Holder, are in the scope of compliance and audit. This means that where that actor lies in the supply chain has a direct and important impact on audit and compliance costs, non-compliance risks, and buying and selling operations of Fair Trade USA product. It is therefore critical to understand scope requirements from the very beginning of the Fair Trade USA application and certification process. The exact scope of a given Certificate is determined at the application stage based on scope requirements and practicalities of the supply chain under consideration.

For changing the scope of a Certificate between audits, please see, Changes to Certificate Scope Procedure, also found on the Fair Trade USA website.

Purpose

The purpose of this document is to provide guidance in determining which entities, sites, activities, and workers must be included in the scope of a Certificate under the APS. The full set of scope requirements are presented in the Introduction of the APS and outlined in more detail in a separate policy, Requirements for Certificate Scope under the APS, which can be downloaded on the Fair Trade USA website (www.FairTradeCertified.org). This guidance document further explains these requirements, with greater detail and examples.
Scope and Applicability

This document applies to all entities certified against the Fair Trade USA Agricultural Production Standard, regardless of product, size, or any other characteristic.

Terms and Definitions

The following terms and definitions, cited from the Fair Trade USA Glossary, are key concepts for the understanding of this guidance document and are included here for reference:

**Certificate Holder (CH):** The legal, certified entity holding the Fair Trade USA producer certificate. The producer Certificate Holder is responsible for ensuring compliance with production standards, and cannot be a person, but rather a company or legal entity.

**worker:** The general term designating personnel working in or for entities included in the scope of the certificate, regardless of whether they are temporary or permanent, work full-time or part-time, or hired directly or indirectly via a labor contractor. It excludes middle and senior management, and normally only includes personnel who are eligible to join unions. In the context of the Capture Fisheries Standard, workers are those individuals working on land at processing facilities and/or landing sites; they are always waged.

**site:** A natural grouping of one or more buildings, farms, landing areas, or processing facilities with a common workforce which might work at different places on different tasks, or where workers and/or fishermen might cross paths during the day, even if they do not work together. It includes, for instance, a compound of buildings with a common entrance.

**subcontractor:** An individual or company that is not managed nor subject to a controlling interest by the Certificate Holder which does not take legal ownership of the Fair Trade Certified product but provides services to process, pack or transform the product.

Related Documents

- Agricultural Production Standard
- Requirements for the Scope of the Certificate Under the APS
- Changes to Certificate Scope Procedure
- Fair Trade USA Glossary
1. Certificate Holder Roles and Responsibilities

The first step in understanding scope requirements under the APS is to understand the roles and responsibilities of the Certificate Holder. The Certificate Holder is a single company or legal entity that holds the APS Certificate on behalf of one or more entities in its supply chain. Its primary responsibility is to ensure the entities in its supply chain comply with the APS. The Certificate Holder also holds sole authority for selling Fair Trade Certified™ product sourced from sites and entities in the scope of its Certificate.

1.1. Restrictions on and Responsibilities of the Certificate Holder

Generally, the Certificate Holder is an actor in the supply chain that buys and sells Fair Trade product. It can be a processing facility that buys raw product from farms, or it can be solely an exporter that buys finished or nearly-finished product from processors or farms. It can be a cooperative which buys directly from small producers, or from groups of small producers. In all cases, the Certificate Holder must be a legal entity that takes ownership of the certified product and is far enough along the supply chain such that farming and harvesting, at a minimum, are included in the certified activities (see Section 2.2.1).

Although all entities in a Certificate have a role in implementing APS requirements, it is the Certificate Holder who is ultimately accountable for complete compliance with those requirements. The Certificate Holder must, therefore, have the capacity to run the Internal Management System (outlined in Module 6 of the APS) that supports implementation and monitoring of the APS requirements. This means that it must have sufficient local staff, or have contracted a local support organization (e.g., a local NGO) to run internal inspections and ensure corrective actions are implemented, train suppliers and sign contracts with them, and make sure that traceability is maintained. If these conditions are met, the Certificate Holder can be in another country from where the product is farmed or processed.

It is important to emphasize that, generally speaking, the further along the Certificate Holder lies in the supply chain, the larger and more varied the entities are in the scope of its Certificate, and the greater the complexities and the risks of non-compliance. Non-compliance of any site or entity in the scope of a Certificate has an impact on the validity of the entire Certificate.
1.2. Identifying the Certificate Holder

The simplest model is a single site, for instance Farm A in the diagram below which grows, harvests, and packs its own tomatoes. Farm A can be the Certificate Holder.

![Diagram of Farm A selling Fair Trade Product](image)

A more complicated but very common supply chain structure is where an entity grows or processes its own product and also buys from others. In the example below, Farm B grows, harvests, and packs its own tomatoes, and also buys tomatoes from Farm C and Farm D. If Farm B has a mechanism to ensure that the standards are followed on its own farm as well as Farm C and Farm D, Farm B can be the Certificate Holder, include Farms C and D under the scope of its APS Certificate, and sell certified product from all three farms.

![Diagram of Farms B, C, and D selling Fair Trade Product](image)

Farm B can buy and sell certified tomatoes from Farm C and Farm D because these two farms fall under the scope of Farm B’s APS Certificate.
If Farm B is also a Licensee under the Fair Trade USA Trade Standard, it can also buy certified tomatoes from other Certificate Holders, like Farm A, and sell those as Fair Trade Certified. With a Fair Trade USA License, this kind of trade is possible even though Farm A is not under Farm B’s own Certificate. Because Farm A is also an APS Certificate Holder, it can sell Fair Trade Certified product to other Fair Trade USA Licensees.

It is also possible for a Certificate Holder to only include some of their suppliers in the scope of their Fair Trade Certificate. For example, Farm B may buy tomatoes from Farm C, Farm D, Farm E, and Farm F, but only include Farm C and Farm D under its Certificate. They may do this if there is an adequate traceability system to ensure only products supplied by Farm B itself or Farm C or Farm D are sold as Fair Trade. In addition, it is recommended that Certificate Holders evaluate the potential risks to compliance and unintended consequences of having some certified suppliers or sites and some non-certified suppliers or sites, especially if these suppliers or sites are geographically near to one another, have common or related management or ownership, and/or have a mixed work force. Products from Farm E and Farm F can never be sold as Fair Trade Certified unless the scope of the Certificate is expanded to include them by following the Changes to Certificate Scope Procedure. Note that products from all five farms can always be sold under non-Fair Trade terms.
Because Farm C and Farm D are included under the scope of Farm B’s Certificate, they can only sell tomatoes on Fair Trade Certified terms to Farm B. Farm C and Farm D are not individually certified (i.e., they are not APS Certificate Holders), so any product they sell to other buyers, regardless of whether those buyers are licensed under the Trade Standard (for instance Exporter E in the diagram below), is not Fair Trade Certified and cannot be sold on Fair Trade Certified terms. If Farm C wants to sell to buyers other than Farm B on Fair Trade terms, Farm C would need to be removed from the scope of Farm B’s Certificate and become the Certificate Holder of their own, separate Certificate.

2. Identifying Sites and Activities to Include in the Scope of the Certificate

A Fair Trade Certificate is held by a company or cooperative. However, not all the Certificate Holder’s sites, nor all its suppliers, must be included in the scope of the Certificate. This section explains which sites and activities must be included and be in full compliance with the APS for the Certificate to be granted. Section 4 describes the requirements for other sites which are part of the supply chain but not included in the scope of the Certificate. In all cases, a site can only be included in the scope of a single Certificate.

Note that while not all sites and suppliers must be included in the scope of the Certificate, excluding certain sites and suppliers has the potential to create additional implementation and audit complexities and increase risks. Fair Trade USA recommends that these questions be fully examined prior to finalizing the scope of the Certificate.
2.1. Defining a Site

At Fair Trade USA, a site is defined as any natural grouping of farms and/or buildings with a common workforce who might cross paths during the day even if they do not work together\(^1\). It includes, for example, a complex of greenhouses with a common entrance, even if some of the greenhouses do not have Fair Trade product. This means that all the greenhouses, fields, processing facilities, etc., in the same site must be compliant with the full APS even if they are not growing or processing Fair Trade product – for instance, they must respect the wages and working conditions requirements equally for all workers, regardless of whether they touch Fair Trade product. The intent here is that workers sharing living spaces, eating areas, or rest areas have similar working conditions, even if not all of them are producing or processing Fair Trade product.

While all operations within the site must comply with the full APS requirements, some compliance criteria may be not applicable to areas where non-Fair Trade Certified crop is grown. For instance, the compliance criteria covering restrictions on pesticides and use of GMOs specify only that they are not permitted on Fair Trade crops. In those instances where areas growing Fair Trade certified crop are treated differently than areas growing non-Far Trade Certified crop, it is necessary that traceability systems have farm-level capabilities. Auditors must be able to verify that Fair Trade Certified crop complies with the outlined requirements. Unless specifically indicated, APS requirements apply to all farms and activities in the site.

The sites included in the Certificate must comply with the APS at all times, even when not growing or processing Fair Trade Certified product. For instance, an APS-certified mill processing both Fair Trade Certified and non-Fair Trade Certified product must follow the full APS at all times, even when not processing certified product. Likewise, an APS-certified growing site that rotates between Fair Trade Certified crop and non-Fair Trade Certified crop must also follow the full APS at all times.

Any worker housing provided by the Certificate Holder, farm, facility, or employer is considered part of a site, even if it is located elsewhere, and must be included in the scope of the Certificate and APS audit. This includes housing provided by a labor contractor to workers in the scope of the Certificate.

2.2. Determining Which Sites and Activities Must Be Included in the Certificate

2.2.1. Farming and Harvesting

All sites where farming and harvesting of Fair Trade Certified product occurs must always be included in the scope of the APS Certificate and audit, even if the farming or harvesting is done by a subcontractor or contracted labor force. Thus, if the Certificate Holder is buying harvested product on Fair Trade terms from suppliers, those suppliers must be included in the scope of the Certificate.

\(^1\) Farm size is determined at the management unit level, which can include multiple sites. Additional information on size definition can be found in the Introduction of the APS.
This means that if a farmer is selling fruit on tree on Fair Trade terms to a company which comes and harvests the fruit, this farmer cannot be the APS Certificate Holder because the harvesting step must also be included under the Certificate. The company responsible for harvesting (or another company later in the supply chain) must be the Certificate Holder so that at least the farming and harvesting steps are included.

### 2.2.2. Processing, Packing, Sorting for Quality, and Product Transformation

If processing, packing, sorting for quality\(^2\) or product transformation are done on a site managed by the Certificate Holder, even if done by a contracted entity on-site, they must be included in the scope of the Certificate. Similarly, if these activities occur on the site of an intermediary who purchases product from farmers and then sells it to the Certificate Holder, these sites and activities must be included in the scope of the Certificate.

Where such activities are subcontracted off-site to a third party but the Certificate Holder or other entity included in the scope of the Certificate retains ownership of the product, the activity does not need to be included in the scope of the APS Certificate but must comply with the requirements for *Sites Not Included in the Scope of the Certificate* as described under Section 4 of this document.

**Example**

The principles explained in Sections 2.2.1 and 2.2.2 are illustrated in the example below, in which a cooperative of small producers hires independent workers to harvest their avocados and sells to a packhouse owned by a separate entity, Company A. There are two options for setting up this Certificate.

**Option 1:** The cooperative can be the Certificate Holder, since the cooperative sells harvested fruit. The independent avocado harvesters are included in the scope while they are performing work on-site of the cooperative farms. Note that if these harvest workers also do harvesting work for other farms not included in the scope of the Certificate, their work on those farms is not included.

In this case, the packing activities do not need to meet the APS requirements since they occur later in the supply chain. However, the packhouse must be a Fair Trade USA Licensee under the Trade Standard.

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\(^2\) Sorting for quality occurs when there is processing (sorting) of the entire batch of product harvested, or processing (sorting) of the entire batch of product being transported from one facility to another. It does not include facilities where product is receiving spot checks. This means that in facilities where product is received, and a sample of the total batch is analyzed, this would be considered spot checking, not sorting for quality.
Option 2: The other option is for the packhouse to be the Certificate Holder. In this case, the farming, harvesting, and packing would all be in scope, and the packhouse would need to be compliant with the full APS. The independent avocado harvesters are still included in scope while performing any work on-site of the certified farms.

If the harvesting is instead done by the packhouse, it is required that the packhouse (or another entity later in the supply chain) be the Certificate Holder. The Certificate must always be scoped to include harvesting activities and workers.

2.2.3. Storage and Transport of Product

Other sites where Fair Trade Certified product is only being stored or transported do not need to be included in the scope of the Certificate, although the Certificate Holder may choose to do so. If not included, these sites must comply with the requirements for Sites Not Included in the Scope of the Certificate as described under Section 4 of this document.
3. Determining Activities and Workers in Scope at Covered Sites

For any site in the scope of the Certificate, all on-site regular work and workers in the production chain are included in the scope of the Certificate. This applies equally to permanent and temporary workers, workers employed directly, and those employed through a labor contractor.

Regular work includes any service that occurs at least annually related to production and transformation, even if it is not for a Fair Trade Certified product. This includes, but is not limited to, all harvesting, spraying, and regular maintenance/cleaning of equipment or facilities. It also includes regular support activities happening on-site, such as: food preparation, security of facilities or sites, and transporting workers and/or Fair Trade Certified product. Short-term non-production projects, such as special construction, are not considered regular work.

Note that in the case of Small Farms, the Small Farm manager and any family members performing work on the farm, even if unpaid, would be included in the scope of the Certificate and their working conditions would need to comply with the requirements of the APS.

It is important to note that not all of the workers in the scope of the Certificate will necessarily be included as Fair Trade Premium Participants, the group that is responsible for electing the Fair Trade Committee and decides on the use of the Fair Trade Premium. Once all sites in scope have been determined, the introduction to Module 1 of the APS explains which workers within each site must or can be included in the group of Fair Trade Premium Participants. A separate guidance document, Guide to Identifying the Premium Participants, is also helpful and can be found on the Fair Trade USA website.

3.1. Subcontracted Activities

At Fair Trade USA, a subcontractor is defined as an individual or company that is wholly separate from the Certificate Holder and any other farms or companies included in the scope of the Certificate, which provides services to process, pack, or transform Fair Trade product without taking legal ownership of it. This subcontracted work is performed off-site, so the subcontractor does not need to be included in the APS Certificate but must follow the requirements outlined in Section 4.

3.2. Labor Contractors

Note that, as stated above, any regular work on a site in the scope of the Certificate is included in the scope of the APS requirements, even if undertaken by a separate legal entity. Labor contractors are a common example of separate legal entity who perform regular work on-site and therefore must comply with the APS. For instance, companies hired to provide a harvest crew, fumigation services, or on-site transportation are considered in-scope if they are subcontracted to a third party, but would be subject to the requirements outlined in Section 4.
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packaging are all considered labor contractors under the APS. All labor contractors must provide auditors access to their accounts to check that proper wages and benefits were paid to workers providing services on Fair Trade Certified sites. For instance, the labor contractor providing a harvest crew must be able to prove that the harvest workers had working conditions and contracts that met the full requirements of the APS.

4. Considering Sites Not Under Scope

For any sites where Fair Trade Certified product is stored, transported, packed, processed, or otherwise handled that are not included in the scope of the Certificate, the Certificate Holder must have a contract with the entities that ensures that: traceability requirements are followed, that the entity meets the ILO Core Conventions, and that Fair Trade USA and/or an approved Conformity Assessment Body may enter the site to audit these contract requirements. These requirements are explained in APS Criterion 5.3.2.b. and Section 5 of the policy document on Requirements for Certificate Scope Under the APS.

5. Examples of Different Certificate Options in One Supply Chain

This section uses a coconut supply chain with various levels of processing to illustrate several different options for setting up an APS Certificate. In this example, individual Small Farms transport and sell harvested coconuts to independent coconut dryers, who then sell dried coconut (copra) to a mill, which presses the dried coconut for oil. The mill subcontracts independent entities to transport the copra from the dryers to the mill.

There are several options when determining the Certificate Holder.

Option 1: As shown in the diagram below, the individual farms can each be a Certificate Holder, since the farming and harvesting activities are included. Each Small Farm manager is included in the scope of the Certificate, as are all workers performing production, harvesting, or processing work on each farm. In this
case the dryers and the mill are traders buying from an APS Certificate Holder and must be licensed against the Fair Trade USA Trade Standard. This arrangement allows each farm to sell Fair Trade Certified product to any Fair Trade Licensee. (Note that this scenario is unlikely as it is typically too expensive for a Small Farm to get individually certified to the APS.)

**Option 2:** The independent coconut dryers can be individually certified, making each one a Certificate Holder. In this case the dryer and the farms are included in the scope of each APS Certificate. Each Small Farm manager is included in the scope of the Certificate, as are all workers performing production, harvesting, or processing activities at all farms and the dryer facilities.

Note that the farms included under each Certificate can only sell coconuts under Fair Trade terms to the dryer under whose Certificate they are included. For a farm to sell on Fair Trade terms to a different dryer, it would need to be removed from the scope of the current certificate and added to the scope of the other dryer’s certificate. One farm cannot be within the scope of two certificates at the same time. This scenario is also unlikely due to the high cost to each individual dryer; however, this arrangement would allow each dryer to sell Fair Trade Certified product to any mill they wished. In addition, as in Option 1 above the mill must be licensed against the Fair Trade USA Trade Standard.
Option 3: The mill can be the Certificate Holder. In this case the farms, dryers, and mill would all be included as sites in the scope of the single APS Certificate held by the mill. Each Small Farm manager is included in the scope of the Certificate, as are all workers performing production, harvesting, or processing activities at all farms and processing facilities (including both dryers and the mill). The two dryers may not sell any product as Fair Trade Certified to anyone other than the mill which is their Certificate Holder.

Note that as the mill subcontracts separate entities off-site to transport the copra from each dryer to the mill, and these subcontracted transporters do not take legal ownership of the product, they are not included in the scope of the Certificate. They must however comply with the rules for entities not included in the scope of the Certificate, outlined under Section 4 above.