What is Living Income and why it needs to be included in Corporate Sustainability Due Diligence

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Fair Trade
ADVOCACY OFFICE

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Aim of this publication

To make a clear case for the inclusion of Living Income into the CSDD and address frequent questions about established definitions and practical steps of implementing it as part of human rights and environmental due diligence.

Useful links

[Link to the CSDDD proposal]
[Link to the Annex]

Introduction

The Corporate Sustainability Due Diligence Directive (CSDDD) proposal is a milestone opportunity to promote respect for human rights and the environment in global value chains. If the legislation and guidance are carefully designed and implemented, it can meaningfully contribute to a shift towards more sustainable global value chains. For this to be possible, the CSDDD must be shaped focusing on the needs of different stakeholders across global value chains. As stated in the General Principles of the United Nations Guiding Principles on Business and Human Rights (UNGPs), the framework should be implemented 'with particular attention to the rights and needs of, as well as the challenges faced by, individuals or populations that may be at heightened risk of becoming vulnerable or marginalised'.

Around the world, smallholder farmers play a substantial role in supplying global agricultural supply chains. Between 70 to 90% of global cocoa, coffee, rubber, tea, and cotton is produced by smallholders. While smallholders can be active drivers of sustainable development, the conditions for them to produce their goods in an economically, socially, and environmentally sustainable way are often lacking. As a result, smallholders rarely earn a living income, and when they hire workers, they often are unable to pay them a living wage. The ability to earn a living income is at the heard of the fulfillment of other human rights and environmental standards. As such, it should also be explicitly recognised as within the scope of the due diligence framework set up by the CSDDD.

This paper dives deeper into the concept of living income to look at what it is composed of, how it can be measured and who are the people that are relying on it. It then moves to an overview of how it could and should be integrated throughout the due diligence process.

1. What is the Corporate Sustainability Due Diligence Directive (CSDDD)?

The CSDDD is based on the concept of Human Rights and Environmental Due Diligence (HREDD) which was introduced by the United Nations Guiding Principles on Business and Human Rights (UNGPs). The legislative proposal is based on Article 50 and Article 114 of the Treaty on the Functioning of the European Union (TFEU) and is so written within the context of company law.

The lists contained in the Annex specify the adverse environmental and human rights impacts which companies will have to identify, assess, mitigate, and remedy in their own operations and in their value chains, depending on their leverage or the ability to increase their leverage towards their business relationships. It includes the violation of rights and prohibitions including the international human rights agreements (Part I Section 1), human rights and fundamental freedoms conventions (Part I Section 2), and the violation of internationally recognised objectives and prohibitions included in environmental conventions (Part II).

2. What is a Living Income?

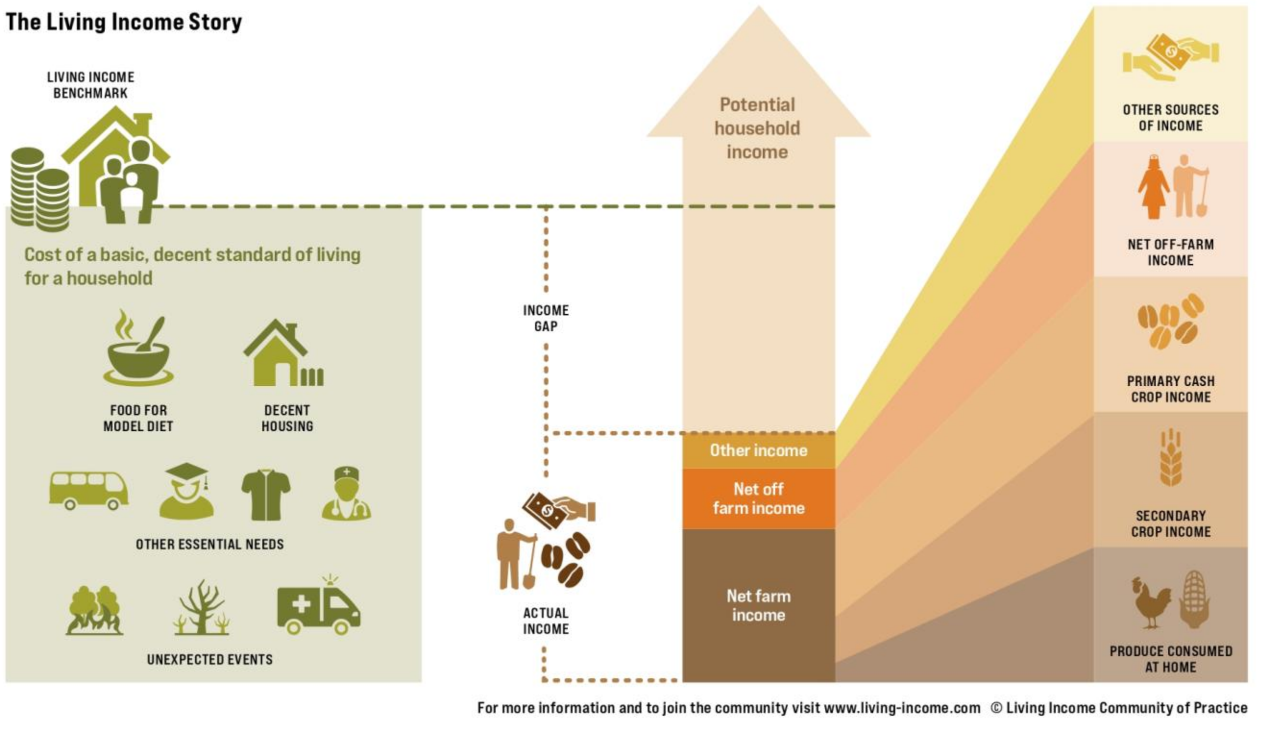
Living Income Community of Practice

A widely accepted definition of Living Incomes is: "the net annual income required for a household in a particular place to afford a decent standard of living for all members of that household."[1]

It is based on the identification of costs of living for a family in a particular place. If the income of all family members put together covers the assessed costs of living in that area, then they are earning a living income. Costs of living are based on the needs recognised by the right to an adequate standard of living in the Universal Declaration of Human Rights (Article 25) and the International Covenant on Economic, Social and Cultural Rights (Article 11) and include:

Human Right	Details	Method of Calculation
Decent food	• Cost of a basket of goods	• Local market surveys • Model diets • Secondary data
Decent housing	• Rental costs • Building costs	• International housing standards • Secondary data
Other essential needs	• Education • Clothing • Health care • Transportation	• Focus groups • Secondary data
Unexpected events	• Flood or fire • More examples	• Additional percentage dependent on the context

The definition of Living Incomes is based on the Anker methodology to calculate Living Wage which is: 'Remuneration received for a standard work week by a worker in a particular [time and] place sufficient to afford a decent standard of living include food, water, housing, education, healthcare, transport, clothing and other essential needs including provision for unexpected events.'[2] However, there is an important different between Living Incomes and Living Wages. In comparison to a Living Wage which is payment a worker receives from their employer for a particular amount of time worked, Living Incomes are earned by independent actors through the sales of their goods or services and can often be composed of different sources. In the agricultural sector that might include the net income earned form the sales of their crops and any food that is produced and consumed at home, as well as additional income earned separately form the family farm to supplement the farm income.



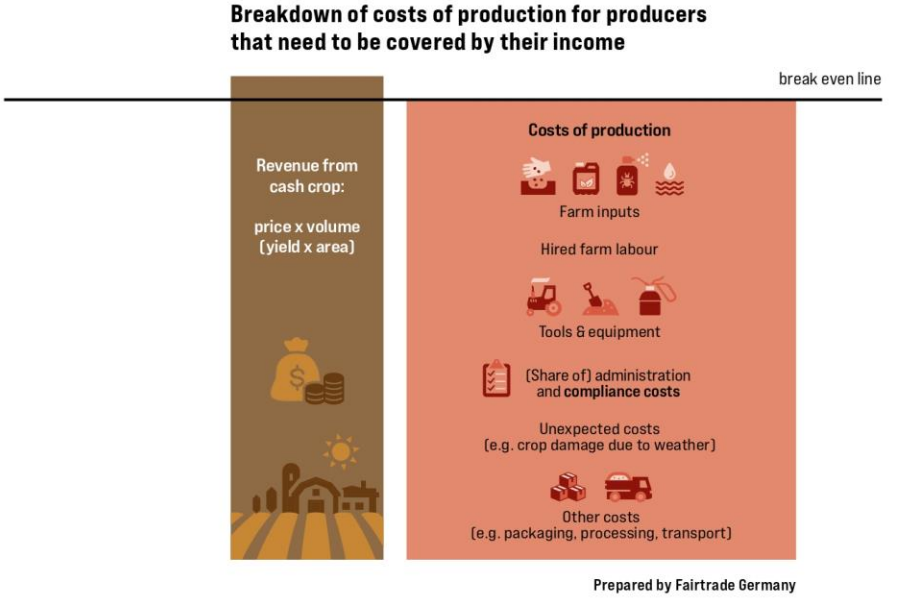
NOTES:

Cost headers and cost compositions/shares **vary widely** depending on crop cultivated and production method used.

Besides the costs incurred at individual farm level this breakdown also includes a **share of the costs from the cooperative level**. In many instances small producers are part of agricultural cooperatives that execute central services for their members (e.g. administration, certification, processing, exporting).

With every new legislation or standard update the **cost of compliance** (e.g. new monitoring requirements, new production requirements) for the producers are rising.

Climate change has a plethora of implications for farmers and the costs they incur. Starting from increased costs for inputs and hired labour to cope with adaption methods to increased crop insurance fees to crop damage mitigation.



Prepared by Fairtrade Germany

Going further with e.g. the Living Income Reference Price model

In the agri-food context, Living Income also needs to cover the costs of sustainable production to ensure long-term security for a family in the light of climate change impacts and the overall need to transition toward more resilient and sustainable agricultural practices. Living income should thus already be considered as a gross sum that includes at least the costs of production including costs of climate change mitigation and adaptation, as well as investments needed for the introduction and maintenance of sustainable production practices.[3]

One such example is the Fairtrade Living Income Reference Price model which in addition to costs of living also includes at least farm costs which include living wages for workers. At the centre of this model is the living income reference price which should allow the farmer and their family with a viable farm size and a sustainable productivity level to earn a living income.[4]

Who are the people that would be impacted by a Living Income?

People depending on incomes are those who work in a self-employed capacity and do not have an employment contract. This means that they are also less protected by labour laws and are generally less likely to be represented by a union. In comparison, workers with an employment contract can in theory rely on well-developed Labour laws and the right to collective bargaining.

The World bank assesses that there are about 500 million smallholder households globally, covering up to 2 billion people, many of which live under the 2$ poverty line.[5] A different metric assessed that there are about 270 million smallholder farmers globally of which 50-95% earn less than a living income.[6] According to the UN Global Compact 'Improving wages to advance decent work in Supply Chains' (2021), the lack of access to living incomes for farmers may be the most salient sustainability risk in agribusiness value chains engaging smallholder agriculture.[7] The World Bank also refers to addressing this income gap as a priority in efforts to end global poverty.[8] Ensuring Living Incomes for farmers simultaneously provides an opportunity to address some of the underlying patterns that contribute to the precarious position of workers hired to work on their plots of land by giving farmers the financial capacity to pay them a living wage.

It is also essential to keep in mind that in the agri-food sector, women make up almost fifty percent of the labour force, however, they are still a minority group in terms of land ownership, participation in decision making entities and access to credit and financial services.[9]

Lack of access to capital increases their dependency with fewer possibilities of investments which can in turn reinforce the competitive advantage of large-scale producer. Multiple discriminating factors must be taken into account, including specific impacts that are experienced by women and girls as they will often have unequal access to decision making and resources and may benefit differently from living incomes than men.

Living Income policies must be shaped in a gender sensitive way, including other intersecting vulnerabilities to ensure that all groups can benefit equally. This would prevent a situation such as the one observed in the context of the West-African cocoa sector where it is assessed that even when living income policies would be implemented, 50% of all income earned would go to 12% of all producers that are most well-off and have the largest farm, with women and children most severely impacted by lack of resources.[10] Without specifically shaping strategies to achieve Living Incomes in a gender sensitive way, households headed by women are significantly less likely to achieve a Living Income, and within male headed households, women are often not involved in financial decision making and will not benefit equally from the income earned by the man.[11] Past research has shown that women are more likely to consider the needs of the entire family when deciding on the uses of their income than men,[12] so a gender sensitive approach to LI has potential for far reaching positive consequences for children as well.[13]

In this paper we focus on smallholder farmers in the agricultural sector, however there are numerous other groups in a vulnerable situation that are affected.

One such group consists of artisanal and small-scale miners (ASM). It is assessed that there are about 42 million individuals around the world depending on this profession, women making up 30% of them.[14] Recent research on artisanal gold mining has found that ASM earn relatively well, however, their income depends on their position in the operation, as well as seasonal conditions, technical or financial constraints, and some luck.[15] With exponentially increasing demand for minerals needed for the 'green' transition, understanding the situation of ASM, including levels of their income will be essential for companies working in this field.

Self-employed workers in the garment sector are also considered to be at an increased risk for human right abuses, fuelled by lack of living incomes. Self-employed workers are most of the time part of the informal workers group, which also includes unpaid workers and those working out of any regulatory contractual framework. Women are over-represented among the informal workers of the garment sector (which is already a highly feminized sector). They often work from home which decreases transparency on incomes, working conditions, forced labour and child labour for example. During the start of Covid 19 there were reports of brands not paying for orders, leading to manufacturers not paying the home-based workers for already made orders.[16] While it is difficult to estimate the workers operating in the informal economy, conservative estimates suggest that there are 260 million home based workers of which about 80% work in a self-employed capacity. 29% are concentrated in the category Craft and trade including the textiles sector.[17] In the garment industry women self-employed in the garment industry only it is estimated that about four times as many women work in the informal sector as those working formally.[18]

The inclusion of Living Incomes in the material scope of the directive is also key to address the needs of the growing number of self employed within the EU, including many platform workers.

3. Why living incomes need to be included in the Corporate Sustainability Due Diligence Directive (CSDDD)?

Achieving Living Incomes in global value chains is at the core of numerous public policies at both production and consumption level, especially when it comes to just transition policies, development cooperation and the transition towards sustainable food systems. Living Income is connected to several Sustainable Development Goals such as No poverty, Zero Hunger, Gender Equality, Decent Work and Economic Growth, Reduced Inequalities, Sustainable Production and Consumption, Climate Action and Partnerships for the Goals.[19] If these goals are to be achieved by 2030 and if measures introduced are to have long term positive effects, Living Income must be actively tackled as part of upcoming policies in these areas.

The same is true for the proposed Corporate Sustainability Due Diligence Directive. The legislative proposal has been presented by the Commission as at the core of its transition to a more climate neutral economy in line with the SDGs. Addressing living incomes is thus an essential element of the proposed due diligence mechanism.

Living incomes and wages are intrinsically connected to the right of persons to work (Art 23 UDHR and Art 7 ICESR) and to the right to a decent standard of living (UDHR Art 25; ICESCR Art 11; CEDAW Art 14; CRC Art 27.1.). Living income and wages are instrumental for the realisation of the right to an adequate standard of living, and they are also a pre-condition for the realisation of other human rights.[20]

The UN Committee on Economic, Social and Cultural Rights stresses in the General Comment on the right to just and favorable conditions of work, that 'Small-scale farmers who rely on unpaid family labour to compensate for difficult working conditions deserve particular attention.', highlighting particular needs of self-employed women workers.[21] The Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) also refers to the essential role of rural women when it comes to fulfilling the right to an adequate standard of living.[22]

4. How can Living Income be included in CSDD?

Living Income can be directly included in the scope of the CSDD by adding it to the list of rights and prohibitions in Part I of the Annex, together with the current proposal's prohibition to withhold a living wage based on Art 7 ICESCR. Living Income can be added in a similar fashion in reference to both, Art 7 and the right to an adequate standard of living – Article 11 of the International Covenant on Economic, Social and Cultural Rights (ICESCR) and Article 25 of the Universal Declaration of Human Rights.

As smallholders have multiple income sources a company alone can't be expected to have direct control over the achievement of living incomes by each particular smallholder, in other words, in the spirit of a process-based mechanism like HREDD a company's compliance should not be assessed solely on the basis of the obtained result. However, by including living income in the scope of the legislation, companies would be responsible for analysing their own conduct and ensuring that their strategies are fit to address the risk of impeding a farmer's ability to earn a living income, which includes the obligation to assess their own purchasing practices at every step of the due diligence process. Pricing decisions are especially important when it comes to ensuring living incomes as incomes depend on the prices received for products.[23]

Achieving Living Incomes remains a goal that can rarely be reached from one day to the next which is why the due diligence process under the CSDDD is a very fitting mechanism. Following the steps of due diligence, companies should continuously assess their direct and indirect contribution to the ability of actors in their value chains to earn a Living Income. In some cases, companies might find that there is little they can do since they do not have the ability to influence change and should therefore not be held liable. However, they should only be able to state so after fully assessing their own leverage and exploring possibilities to increase their leverage through collaboration with other actors. Below you can see a concrete overview of how Living Incomes could be included in a due diligence process.

Embed responsible business conduct into policies and management systems
A commitment to contribute to living incomes in own value chains should be a part of the company's commitments and mandates to different sectors. The company's business model should be adapted to create a connection between the company's sustainability commitments and other areas of work such as the purchasing department.

Identify and assess adverse impacts in operations, supply chains and business relationships
When mapping actual or potential risks in their value chains, companies can also include an assessment of where in their value chain – geographically and vertically – people rely on incomes (as opposed to wages) and could be impacted by their activities. In line with UNGPs, companies are allowed to prioritise addressing those adverse impacts that are most salient. This process should include active stakeholder engagement.

A significant difference between living wages and living incomes is that living wages are and agreed lump sum based on hours worked, while living income is composed of multiple sources which will vary from sector to sector, region to region, family to family. This means that a company should assess for which products and in which regions there is an actual or potential risk that people working in their value chains are not able to earn a Living Income. The assessment of that risk should then assess if the company, throughout it's value chain, contributes to a large or a small part of farmers' income depending on how much it is buying from them and what percentage of income the sale of these goods represents for that person. As with many human rights and environmental impacts, these assessment need to take place on a case by case basis with active, gender sensitive stakeholder inclusion to identify most salient risks.

Cease, prevent or mitigate adverse impacts and provide for remediation when appropriate

Once the living income gap is identified, actions should be taken to address them. As living incomes depend on several external factors including local social policy and other income sources of the family, a wide array of actions should be considered and consulted with relevant stakeholders.

A company can contribute to the ability of their suppliers to earn a living income in several ways such as increasing their resilience through capacity building and other support measures. However, one of the key factors on which a company has significant impact is price. A large portion of producers globally (not just smallholder farmers but across sectors) receive prices below the costs of production, accept short lead times and other unfavourable terms. Across sectors producers report that on average about 50% of them receive prices that are below the costs of production.[24] Due to asymmetrical power relations, they often do not have the bargaining power to negotiate otherwise. Research has also shown that on average farmers only retain 5-10 per cent of total value of products sold to consumers.[25]

A concrete prevention and mitigation measure would be for the company to **adjust their purchasing, including pricing practices** to cover the costs of sustainable production of the products they procure. To aid with this process, there are existing established approaches to measuring living incomes across sectors. The Living Income Community of Practice in collaboration with the ALIGN consortium has prepared a database to provide updated and standardized **living income and living wage benchmarks**, applying the Anker Methodology.[26] Identifying relevant benchmarks should be followed by an assessment of the living income gap which is the difference between actual incomes in a certain context and the assessed LI benchmark. Once the gap is recognised a strategy can be developed on how purchasing practices must be adapted to bridge it.

The revised purchasing practices should also be **mirrored in the company's code of conduct and it's business relationships**. If the company is using contractual clauses to assure that their suppliers are respecting relevant human rights and environmental standards, the clauses should also reflect the company's own responsibility to enable compliance by adjusting their purchasing practices or offering other forms of support to address the power imbalance and strengthen the farmers' bargaining power. Support measures can also include long term investment into transition plans of smallholder farmers towards more sustainable production, which would otherwise remain unattainable.

The CSDDD proposal includes the possibility for companies to disengage from their suppliers as part of their cessation, prevention and mitigation measures. However, disengagement from suppliers should only be used as a last resort measure, only where mitigation is not possible, unacceptable or attempts of mitigation have failed. Before taking a decision to disengage, the company should engage with stakeholders impacted by the decision to disengage any adverse impacts that occurred before the disengagement as well as those related to the decision to disengage should be remedied.
In the context of smallholder agriculture, many salient issues are systemic - these issues can only be addressed through a step-by-step process and ceased over time. This should not be an excuse for terminating business relationships.

Finally, companies should also consider the contribution towards a Living Income as one of the prevention or mitigation measures to address a different adverse impact that they have found: for example, if a company has a high risk of child labour in its value chain, it should evaluate to what extent an increase to income of smallholders could contribute to mitigating child labour cases. With Living Incomes, the household would able to afford school fees or to hire workers in periods with higher demand for work, instead of relying on the help of their children.

Access to remedy and implications for civil liability

As seen in the graphic on page 5, people relying on Living Incomes often compose their incomes from different sources. The crop that is bought by a specific company can contribute to different degrees. The company would so only be responsible to pay prices enabling living incomes for the amount of the produce that it is purchasing. The responsibility would need to be assessed based on the percentage of the crop in question within the income of a smallholder. This means that a company could also not be held liable for a farmer not earning a Living Income, but it should be liable to ensure that their prevention, mitigation and remediation measures address the part of the income over which they have leverage.

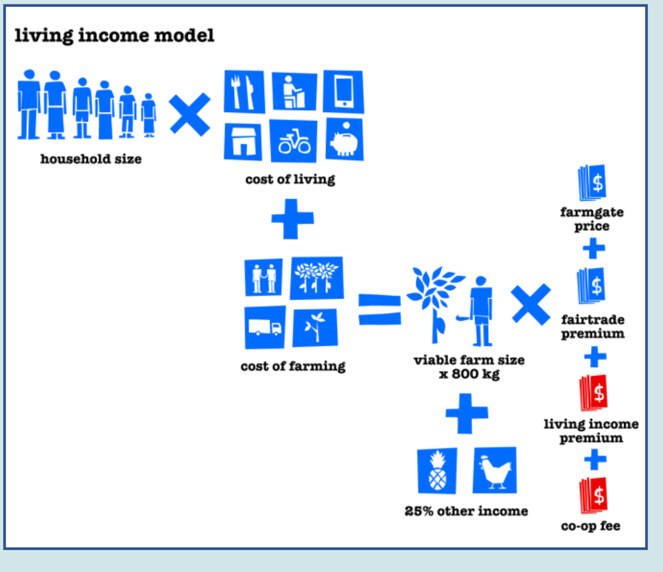
Track implementation and results
Keep track of how the measures taken influence the Living Income Gap calculated in step 2.

Communicate how impacts are addressed
Companies communicating on addressing Living Income as part of their due diligence process should communicate on Living Income gaps and time bound plans to close them, as well as information on whether and how farmer and worker livelihoods are reflected in the pricing mechanisms of companies

5. What this looks like in practice: a case study

The Living Income Model for cocoa –example Tony's Open Chain
To pay a living income, you first have to figure out what a living income is. And that's exactly what Fairtrade did with Tony's Open Chain their shared living income model! The living income model is the formula for what we call the 'living income reference price' - the set price for cocoa that enables farmers to earn a living income.

To develop the living income model, Fairtrade and Tony's have improved existing models, integrated widely accepted benchmarks, done a lot of research and ultimately shared their insights with the chocolate industry. The model is updated regularly based on the latest insights. Fairtrade, Tony's Open Chain, the Living Income Community of Practice (Sustainable Food Lab) and IDH are working together to strengthen this process of continuous improvement and solidify the Living Income Reference Price as industry benchmark.



The living income model is a holistic view where productivity increase, income diversification, and paying a higher price are needed to get farmers to a living income. You can see how these factors are used to create the formula above.

And keep in mind, making sure farmers reach a living income is a shared responsibility between the chocolate companies, cooperatives, and farmers.

Now that you know the elements that make up the living income model formula, let's calculate the actual living income reference prices for Ivory Coast and Ghana together.

- The costs of living are taken from the Living income benchmarks for Ghana and Côte d'Ivoire as updated in June 2022 by the Living income community of practice (LICOP) which is supported by the GIZ/ ISEAL alliance and Sustainable Food Lab.
- The costs of farming are calculated from local costs for inputs, hired labour (beyond household labour) and fixed costs for materials and logistics. In Côte d'Ivoire this amounts to $2,176 for inputs, $564 for hired labour and $246 for fixed costs. In Ghana this sums up to $1,330 for inputs, $338 for hired labour and $181 for fixed costs.[27]
- The productive farm size is based on a viable farm size that can absorb the available family labour, taking into account a 17% reduction for cocoa rejuvenation.[28] The calculation of required labour per hectare is based on a study from New Foresight.[29]

- The realistically achievable yield is set at 800 kg/ha, based on use of inputs and good agronomical practices, as calculated under cost of farming.
- Other income as generated by the farming household through food production, sales of other crops and services is 25% of cost of living.[30]

Each year, the additional premium is calculated to bridge the gap to a living income. And to strengthen farmer organizations, additional investments into the capacity of cooperatives and an additional $50 per ton is paid to run the cooperatives' programs.

For the cocoa season of 22/23 the premiums are calculated like this:

	Ivory Coast	Ghana
Farmgate price	$1,344	$1,225
Fairtrade minimum price differential	$311	N/A
Fairtrade premium	$240	$240
Additional premium	$494	$655

Keep in mind that to solve the problems in the cocoa industry, we need to do more than just pay a higher price for cocoa. All of the 5 Sourcing Principles play a critical role in creating a more equally divided supply chain: traceable cocoa beans, investing in strong farmers' organisations, long term buying commitments, increased productivity & quality *and* paying the Living Income Reference Price.

This Living Income Model is part of the Five Sourcing Principles of [Tony's Open Chain.]() Other brands that are already using Tony's Open Chain are Aldi, Ben & Jerry's, Delicata, Jokolade and The Flower Farm. All these companies now pay 77% above the official farmgate price in Ghana and 82% in Côte d'Ivoire to ensure the farmers earn a living income.

Conclusions and recommendations

In order to ensure that the upcoming CSDDD framework contributes to the achievement of Living Incomes in global value chains, it is essential that it includes the following elements:

1. Including living income in the material scope of the directive – Annex Part I A
2. Addressing unsustainable purchasing practices and business models as part of the due diligence process – Articles 5 to 10
3. Including meaningful stakeholder engagement at each stage of the due diligence process – Articles 4 and 6 to 8[31]
4. Support long term sourcing relationships and investment into global value chains
5. While the above elements are key to address living incomes in particular, this will only be possible if the CSDDD is shaped effectively as a whole and is in line with the elements supported widely by civil society.[32]

As incomes are often composed from different sources, there are numerous strategies that need to be followed simultaneously to address the living income gap in global value chains. One of the essential elements are recognised by the United Nations Declaration on the Rights of Peasants (UNDROP) referring to the need for states to take

> 'appropriate measures to strengthen and support local, national and regional markets in ways that facilitate and ensure that peasants and other people working in rural areas have **full and equitable access and participation in these markets to sell their products at prices that allow them and their families to attain an adequate standard of living.**'[33]

While the UNDROP is addressing states, it's recognition of the key role of prices that allow peasants and people working in rural areas and their families an adequate standard of living, should be considered in relation to due diligence obligation of companies as well. This can be strengthened through international cooperation measures that will be developed by the commission to support the implementation of the CSDDD.

Footnotes

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