

The Fair Trade Movement's feedback on the revised European Sustainability Reporting Standards Delegated Act amending Delegated Regulation (EU) 2023/2772

29 May 2026

This contribution is jointly submitted by the following organisations representing the Fair Trade Movement at European and international level:



The **Fair Trade Advocacy Office (FTAO)** leads political advocacy for the Fair Trade Movement at the EU level. It has the purpose of promoting justice, equity and sustainable development at the heart of trade structures and practices so that everyone, through their work, can maintain a decent and dignified livelihood and develop their full human potential.



Fairtrade International is a non-profit, multi-stakeholder association of 22 member organisations: 19 national Fairtrade organisations and three producer networks composed of approximately two million farmers and workers in 67 countries.



The **World Fair Trade Organization-Europe (WFTO-Europe)** is the European branch of WFTO (global), the worldwide network of Fair Trade organisations present in more than 70 countries. WFTO-Europe is formed by more than 100 members, among them Fair Trade enterprises, Fair Trade networks and Fair Trade support organisations.

Introduction

The FTAO, Fairtrade, and the WFTO-Europe welcome the publication of the revised ESRS Delegated Act and appreciate the considerable technical work undertaken by the European Commission and EFRAG experts to simplify and streamline the standards while preserving their core objectives.

The Fair Trade Movement particularly welcomes the improvements made in relation to adding the reference to the ILO conclusions on estimating a living wage in ESRS S1, which align the ESRS with regulatory developments in this topic. Further, we appreciate the clarification in ESRS 1 Chapter 7.4 that information availability and coverage are expected to improve over time, which was a shortcoming of a previous exposure draft of the ESRS. This addition as proposed by EFRAG should be maintained.

At the same time, we believe several targeted clarifications and amendments remain necessary to ensure legal coherence, comparability and decision-usefulness of the standards, including coherence with Directive (EU) 2024/1760 on corporate sustainability due diligence ("CSDDD").

Summary of recommendations

- 1. ESRS S1-9 (Adequate wages):** Maintain the recommendation by EFRAG to align the definition with living wages as agreed by the ILO, to ensure coherence with the CSDDD.
- 2. ESRS S1-9 (Adequate wages):** Add a clarifying footnote in Appendix A of ESRS 1 or in the Annex II ESRS glossary (Table 2) to clarify that "adequate wages" under ESRS S2 encompasses adequate living income for self-employed workers and smallholders, consistent with the CSDDD Annex and Articles 7 and 11 ICESCR.
- 3. ESRS S2 (Application of adequate wage to value chain workers):** Add a clarification in an appendix or application requirement under ESRS S2 that references to adequate wages include remuneration or income sufficient to secure a decent standard of living for self-employed and own-account workers.
- 4. ESRS G1 (Payment practices):** Add a datapoint to paragraph 18 requiring disclosure of the average number of days taken to pay invoices, including separately for SME suppliers.
- 5. ESRS 1 (Reliefs from reporting):** Convert the expectation of increasing coverage in paragraph 91 into an active obligation. Clarify in paragraph 93 that the undue cost or effort provisions do not limit due diligence responsibilities under the CSDDD. Delete the two-year deferral for ESRS S2, S3 and S4 under paragraph 127(a) for "Other undertakings".
- 6. ESRS S2, AR 6 for paragraph 19 (Human rights incidents):** Delete the "substantiation" caveat that allows undertakings to exclude from disclosure human rights incidents they do not themselves consider evidenced by objective information, as this creates a conflict of interest, undermines comparability, and is structurally blind to the power imbalances that prevent value chain workers from initiating legal proceedings.
- 7. ESRS S1, S2, S3, S4 (linkage):** We strongly recommend reinstating "direct linkage" where "other connection" is used in several places in ESRS S1-4, in line with EFRAG's technical advice and consistent with the CSDDD and UNGPs.

1. ESRS S1-9 – Adequate wages

The Fair Trade Movement welcomes the revised wording under the “Adequate wage benchmarks” provision in ESRS S1-9, which now refers to “the ILO principles on estimating a living wage” as recommended by EFRAG. This substantially improves alignment with internationally recognised methodologies for assessing wage adequacy, including the 2024 ILO Governing Body agreement on principles for estimating living wages.

However, legal and interpretive uncertainty remains, because the CSDDD Annex, Part I, Section 1 expressly refers both to “adequate living wage” and “adequate living income” as distinct rights. This distinction is particularly important because the CSDDD Annex (Part I, Section 1, Point 6) explicitly distinguishes between two rights grounded in Articles 7 and 11 of the International Covenant on Economic, Social and Cultural Rights (ICESCR):

- an adequate living wage for employed workers; and
- an adequate living income for self-employed workers and smallholders.

These are rooted in the same human right, but are operationally distinct. A living wage applies per paid employee and concerns fixed remuneration for work performed during normal working hours. A living income is assessed at the household level, accounts for fluctuations in seasonal and informal work, and may derive from multiple income sources. For instance for smallholder farmers producing cocoa, coffee or cotton, or for homeworkers and platform workers classified as self-employed, the living wage framework does not apply, while the right to an adequate living income does. This is not immediately relevant for S1, “own workforce”, but rather for S2, “value chain workers”. However, it is in S1-9 that this datapoint is explained.

One possible avenue could be a clarifying footnote in the Appendix of ESRS 1 or in the Table 2 containing a glossary. We would not presume to suggest reopening the metrics architecture of S2. We understand that under S2 (value chain workers), companies have more flexibility to report on what is material to their context than under S1 (own operations). We also very much support the approach taken by EFRAG (grounded in the ILO's conclusions on living wages) as the basis for the treatment of adequate wages.

In practice, companies and their auditors tend to focus on what is explicitly named. Topics not mentioned risk being overlooked as immaterial. Appendix A of ESRS 1 lists “adequate wages” as a working conditions sub-topic relevant to S2. If useful, one relatively light-touch option might be to add a clarifying footnote there, in the spirit of those that already exist in Appendix A. Alternatively, this could be explained in the Table 2 of page 156, which includes a glossary of terms defined in the ESRS:

“For the purposes of ESRS S2, ‘adequate wages’ should be read broadly to encompass adequate remuneration in all its forms, consistent with the language of Article 7 of the International Covenant on Economic, Social and Cultural Rights (ICESCR), which refers to ‘just and favourable remuneration’ rather than wages in a narrow technical sense. This is particularly relevant where companies have

smallholders or self-employed workers in their value chains, for whom remuneration takes the form of income rather than a wage. In such cases, companies should consider both the right to an adequate living wage for employed workers and the right to an adequate living income for self-employed workers and smallholders, as explicitly recognised in Annex Part I, Section 1(6) of Directive (EU) 2024/1760 (CSDDD) and interpreted in accordance with Articles 7 and 11 of the ICESCR. A living income, unlike a living wage, is assessed at the household level and accounts for income from multiple sources, seasonal variation, and costs of production."

2. ESRS S2 – Living income and self-employed workers

The Fair Trade Movement welcomes the clarification in the introductory provisions of ESRS S2 stating that "ESRS S2 Workers in the Value Chain covers the same sub-topics as ESRS S1 Own Workforce".

However, value chains further upstream are operationally different from "own workforce", and suppliers may not have traditional employment relations with workers. ESRS S2 does not clarify how the concepts of adequate wages and decent living standards apply to non-salaried people performing work in value chains, such as self-employed workers, smallholder farmers, home-based workers and other non-salaried workers.

The ESRS already state that information used in due diligence and risk management is generally considered available. As companies should already assess living income issues affecting self-employed persons in their due diligence processes, this information should generally be available for reporting.

We recommend adding the following clarification in an appendix or application requirement under ESRS S2:

"For workers in the value chain who are self-employed, including smallholder farmers and other own-account workers, references to adequate wages should be understood as including remuneration or income sufficient to secure a decent standard of living, consistent with internationally recognised concepts of living income."

This clarification would improve coherence with the CSDDD, better reflect agricultural and informal supply chain realities, and align with Articles 7 and 11 ICESCR, and avoid unintentionally excluding significant categories of affected workers from consideration under ESRS S2.

Additional recommendation regarding disclosure of progress

The revised ESRS S1 and S2 provisions continue to focus primarily on whether workers receive adequate wages, without requiring disclosure of progress where adequate wage levels have not yet been achieved. We encourage the Commission to consider

requiring disclosure of wage gaps, progress trajectories or transition plans towards adequate wages. This would provide more decision-useful information and better reflect transition-oriented reporting and due diligence processes under the CSDDD.

3. ESRS G1 – Payment practices

The Fair Trade Movement welcomes the retention of disclosure requirements on payment practices and late payment to SMEs in ESRS G1 paragraph 18. However, the revised draft still omits disclosure of actual payment duration or payment delay metrics. Disclosure of standard payment terms under paragraph 18(a) and the percentage of payments aligned with those terms under paragraph 18(b) does not necessarily provide meaningful information on payment performance from the supplier perspective, particularly where contractual payment terms themselves are excessively long.

As currently drafted, an undertaking could report high alignment with contractual payment terms while systematically applying payment terms that create financial stress for SME suppliers.

Suggested amendment to ESRS G1 paragraph 18

We recommend adding the following datapoint:

“the average number of days taken to pay invoices, including separately for SME suppliers.”

Alternatively:

“the average delay between the contractual due date and actual payment date.”

This information is likely already available to undertakings through existing invoice and payment systems and would therefore not create disproportionate additional burden.

We also note that the disclosure required under paragraph 18(c):

“the number of legal proceedings currently outstanding for late payments”

is not, on its own, a reliable indicator of payment practices, as SMEs may avoid litigation due to commercial dependence on buyers and fear of retaliation.

The proposed additional datapoint would therefore substantially improve the decision-usefulness of the disclosure and better support the stated objective of ESRS G1 paragraphs 17–18, i.e. “to enable an understanding of standard payment terms and of the undertaking’s performance with regard to payment, especially late payment to SMEs.”

4. Reliefs from reporting obligations

The Fair Trade Movement welcomes several improvements made in ESRS 1 to the framework governing reliefs from reporting obligations, including:

- the requirement in paragraph 95 to reassess information availability for each reporting period;
- the clarification in paragraph 91 that coverage of reported information is expected to increase over time, particularly for metrics in own operations; and
- the clarification in AR 45 for paragraph 94 that information used for the undertaking's sustainability due diligence and risk management processes should generally be considered available without undue cost or effort.

These changes significantly strengthen the accountability framework and improve coherence with sustainability due diligence expectations. However, we recommend several targeted clarifications and amendments, both to the ongoing "undue cost or effort" provisions and to the phased-in reporting provisions for certain undertakings.

"Undue cost or effort" provisions: Suggested amendment to paragraph 91

Current text:

"The coverage of reported information is expected to increase over time, particularly for metrics in own operations"

Suggested wording:

"The undertaking shall progressively increase the coverage and quality of reported information over time, particularly for metrics in own operations."

This would strengthen accountability by converting a passive expectation into an active obligation, while preserving proportionality.

"Undue cost or effort" provisions: Suggested clarification to paragraph 93

Paragraph 93 currently applies the "without undue cost or effort" standard to:

"identify material impacts, risks or opportunities".

We recommend clarifying that limitations in quantitative reporting do not reduce the undertaking's responsibility to identify and assess impacts through sustainability due diligence processes.

Suggested wording:

"The application of the undue cost or effort provisions shall not limit the undertaking's responsibility to identify and assess material impacts, risks and

opportunities as part of its sustainability due diligence obligations under the CSDDD."

This clarification would improve coherence with the risk-based due diligence approach reflected in the CSDDD, the OECD Guidelines for Multinational Enterprises on Responsible Business Conduct, and the UN Guiding Principles on Business and Human Rights.

Finally, we encourage the Commission to require, in paragraph 95, additional explanation where undertakings rely on the same exemption over multiple reporting periods without substantial improvement in coverage or data quality.

Phased-in reporting for ESRS S2, S3 and S4

The Fair Trade Movement is concerned about the transitional provision in paragraph 127(a), which permits "Other undertakings" to omit all Disclosure Requirements under ESRS S2 *Workers in the Value Chain*, ESRS S3 *Affected Communities* and ESRS S4 *Consumers and End-users* for their first two financial years of reporting. "Other undertakings" are defined in paragraph 122 as those required to report on sustainability for financial years starting on or after 1 January 2027 (principally large non-listed companies and other undertakings entering the CSRD scope in the second reporting wave). Since these undertakings first report from FY2027, paragraph 127(a) permits them to defer any substantive reporting on value chain workers, affected communities and consumers until FY2029 at the earliest.

We acknowledge that this deferral applies only to "Other undertakings" and not to Wave-one undertakings, which have been subject to reporting obligations on these topics from FY2027 under paragraph 125(a). We also note that undertakings relying on the phase-in must disclose under ESRS 2 BP-2 whether the relevant topics have been assessed as material, which provides a minimum level of transparency. Nevertheless, we consider this deferral significant and disproportionate for two reasons:

1. First, "Other undertakings" represent a numerically large population of companies, many of which operate extensive upstream value chains in sectors where the most severe and widespread human rights impacts are concentrated. A two-year deferral for this population creates a substantial and prolonged gap in available information precisely where it is most needed.
2. Second, the deferral undermines comparability and creates an uneven playing field between Wave-one and "Other" undertakings operating in the same sectors and markets. Investors and other users of sustainability statements will face inconsistent information landscapes across otherwise comparable companies for a further two reporting cycles, impairing their ability to make informed assessments of sector-level risk.

The minimum disclosure required under BP-2 (confirming whether S2, S3 and S4 topics were assessed as material) provides some transparency but is insufficient on its own.

Knowing that value chain impacts are material without any accompanying disclosure of policies, actions or metrics provides limited decision-useful information.

We recommend removing the deferral for ESRS S2, S3 and S4 under paragraph 127(a).

5. Human rights incidents subject to judicial proceedings

The Fair Trade Movement welcomes the retention of disclosure requirements on human rights incidents in ESRS S2. However, we have serious concerns about the revised wording in AR 6 for paragraph 19 of ESRS S2, under Disclosure Requirement S2-3 (*Actions and resources related to workers in the value chain*).

Paragraph 19 requires the undertaking to disclose human rights incidents connected to workers in the value chain identified in the reporting period, subject to relevant privacy regulation. AR 6 for paragraph 19 then introduces a "substantiation" threshold that would allow undertakings to exclude from disclosure incidents, including ongoing judicial proceedings, that they do not themselves consider to be evidenced by "objective, factual and verifiable information." The current wording reads in relevant part:

"For the purpose of this disclosure, only substantiated instances are to be reported. An instance is substantiated when it is evidenced by objective, factual and verifiable information. Not all ongoing judicial or non-judicial proceedings, and not all other instances registered by the undertaking, are necessarily substantiated instances."

The Fair Trade Movement recommends deleting this final paragraph, retaining only the definition of the scope of incidents covered. We support the definition of "human rights incident" in the glossary, which refers to ongoing judicial and non-judicial cases, and other incidents including those the company identified through its internal processes.

AR 6 for paragraph 19 defines the incidents in scope for disclosure by reference to Article 29(b)(2)(b)(iii) CSRD, which lists the relevant international human rights conventions. That definition is appropriate and we do not propose to amend it. Our concern is solely with the additional caveat restricting disclosure to instances the undertaking itself considers substantiated. This caveat is problematic on several grounds:

1. First, it conflates two distinct questions: whether an incident has occurred (a factual question), and whether the underlying allegation has legal merit (a judicial question). The existence of ongoing judicial or non-judicial proceedings is itself objective evidence that a potential human rights impact has been identified and is under formal scrutiny. Whether it is ultimately substantiated is precisely what the judicial or non-judicial process is there to determine. Conditioning disclosure on the defendant undertaking's own assessment of evidentiary sufficiency undermines the purpose of the disclosure and creates an obvious conflict of interest.

2. Second, it creates a new discretionary grey area that will produce diverging practices across undertakings. At best, undertakings will apply different thresholds for what they consider "substantiated", making the disclosures non-comparable. At worst, the provision will be systematically used to suppress disclosure of precisely those incidents that are most material to users of sustainability statements.
3. Third, the provision is poorly calibrated to the value chain workers that paragraph 19 of S2-3 is specifically designed to cover. The human rights conventions referenced in Article 29(b)(2)(b)(iii) CSRD include the right to an adequate standard of living under Articles 7 and 11 ICESCR, which underpin the concept of living income recognised as a protected right in the CSDDD Annex. Yet living income violations in agricultural and informal value chains are almost never the subject of formal judicial proceedings, because the structural power imbalances that cause them also prevent affected smallholders, own-account workers and homeworkers from initiating proceedings. Fear of commercial retaliation, lack of access to legal remedies, and acute economic dependence on buyers all function as systematic barriers to litigation. To our knowledge, there is no recorded court case anywhere concerning inadequate living income for agricultural value chain workers. The substantiation requirement, as currently drafted, would therefore render S2-3 effectively non-operative for one of the most significant and widespread categories of human rights harm in global value chains
4. Fourth, the provision is incoherent with the CSDDD due diligence framework. Undertakings subject to the CSDDD are required to identify and address adverse human rights impacts through ongoing due diligence processes, regardless of whether those impacts have resulted in judicial proceedings.

6. ESRS S1, S2, S3, S4 – Connection to impacts: replacement of "direct linkage"

The Fair Trade Movement has serious concerns about the replacement of the term "direct linkage" with the novel term "other connection", in AR 4 for paragraph 16 of ESRS S1-3, Ar 4 for para 18 of S2-3, AR 5 for para 16 of S3-3, and AR 4 for para 15 of S4-3.

The EFRAG proposal originally read:

"The actions taken by the undertaking differ depending on its connection to the impact (causation, contribution, direct linkage) and how it has identified the actions as appropriate for addressing material impacts."

The revised ESRS text now reads "*causation, contribution, **other connection***", a sweeping change without explanation.

The term "direct linkage" is a precisely defined concept drawn from the UN Guiding Principles on Business and Human Rights and the OECD Guidelines for Multinational Enterprises on Responsible Business Conduct, where it describes a specific and

bounded category of business relationship to an adverse impact: one where the undertaking is neither the cause nor a contributor to the harm, but is connected to it through its products, services or business relationships. The substitution of "direct linkage" with "other connection" is problematic on several grounds:

1. First, "other connection" is undefined anywhere in the ESRS framework. Unlike "direct linkage", it has no established meaning in international human rights or due diligence law. Its introduction creates an open-ended and potentially boundless category of connection that could significantly and unpredictably expand the scope of companies' responsibilities, without any principled basis for determining what falls within it or how companies should respond.
2. Second, the change is inconsistent with the CSDDD, which structures companies' due diligence obligations around three analogous categories: impacts "caused only" by the company, impacts "jointly caused" with a business partner, and impacts "caused only by a business partner" in the value chain. While the CSDDD uses different terminology from the UNGPs, the underlying conceptual architecture is aligned. The introduction of "other connection" in the ESRS sits outside both frameworks and creates a new category that corresponds to nothing in either the CSDDD or the UNGPs.
3. Third, the change creates internal incoherence within the ESRS itself. Paragraph 39 of ESRS 1 uses "connection" as a broad overarching concept encompassing causation, contribution and direct linkage as its constituent parts.

We strongly recommend reinstating "direct linkage" in all four locations, in line with EFRAG's technical advice and consistent with the internationally recognised tripartite framework on which the ESRS human rights architecture depends.

Contact

For more information, please reach out to:

Fair Trade Advocacy Office, Senior Policy and Project Coordinator, Alena Kahle: kahle@fairtrade-advocacy.org

Fairtrade International HREDD Centre of Excellence, Senior Human Rights Advisor, Meri Hyske-Fischer: meri.hyske-fischer@fairtrade.fi

World Fair Trade Organization-Europe, Regional Coordinator, Mikkel Kofod Nørgård: coordination@wfto-europe.org

Fair Trade Advocacy Office

Village Partenaire – Bureau 2
Rue Fernand Bernier 15 - 1060 Brussels, Belgium
EU Transparency Register Nr: 860901940087-20

info@fairtrade-advocacy.org
www.fairtrade-advocacy.org