SE submission to the call for input from the Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment

The Swedish Government appreciates the opportunity to contribute to the next report by the Special Rapporteur Mr. David Boyd on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment and thanks the Special Rapporteur for the important work he performs under his mandate. The following answer is unfortunately not an exhaustive one because of limited resources relating to the current pandemic but serves as an example of how Sweden is handling these issues at a national level.

Question 1

*Please provide examples of ways in which declining biodiversity and degraded ecosystems are already having adverse impacts on human rights. Adversely affected rights could include, among others, the rights to life, health, water, food, culture, non-discrimination, a safe, clean, healthy and sustainable environment, and Indigenous rights.*

Several ecosystem-types are degraded in Sweden and causes negative impacts on human health etc. One example is the drainage of wetlands which has been carried out over the last 200 years (with the exception of the last 30 years when it more or less has stopped). The reason for carrying out drainage was to increase agriculture and forest production, and in this aspect a positive result was achieved. The drainage however unfortunately caused severe problems in other aspects, one of the obvious is in biodiversity-decline. In some areas of Sweden, periods of low precipitation cause a lack of freshwater and thereby also a lack of clean ground water for drinking. Restoring of wetlands in these areas could raise water levels. The problem with eutrophi­ca­tion (one of the main environmental problems in the Baltic) was partly caused by wetland drainage. The loss of wetlands caused the loss of natural nutrient traps, which however could be restored when restoring wetlands. The eutro­phi­cation in our seas negatively affects the fish production. Another example is climate change that already gives a negative effect on biodiversity, for example in our alpine areas where climate related overgrowth by trees and changes in snow-conditions causes negative impacts on the reindeer husbandry, that is the traditional livelihood of the Sami people.

Question2

*To protect a wide range of human rights, what are the specific obligations of States and responsibilities of businesses in terms of addressing the main direct drivers of harm to biodiversity and ecosystems (e.g. land conversion, loss and degradation of habitat, climate change, overexploitation, pollution, invasive species) and the indirect drivers (unsustainable production and consumption, rapid human population growth, trade, conflict and inequality)?*

As party to several multilateral environmental agreements as well as other international conventions and as member of the European Union, Sweden has obligations to address both direct and indirect drivers of harm to biodiversity and eco­systems with respect to binding international law as well as EU legislation, in various areas. Due to length restrictions, the following answer is limited to Swedish conditions.

Chapter 1, Section 2, of the Instrument of Government, one of four funda­mental laws of the Swedish Constitution, states that the public institutions shall promote sustainable development leading to a good environment for present and future generations.

The basic legal framework that address issues concerning direct impacts on biodiversity and ecosystems, is the Environmental Code. The purpose of the Environmental Code is to promote sustainable development which will assure a healthy and sound environment for present and future generations. The Environmental Code shall be applied in such a way as to ensure that, amongst other, human health and the environment are protec­ted against damage and detriment, valuable natural and cultural environ­ments are protected and preserved, and biological diversity is preserved. The Environmental Code is applicable to all persons and operators who under­take activities or measures which could have an impact on the fulfilment of the objectives of the Environmental Code. The Code consequently applies to all activities which could cause negative impacts on human health and the environment. Its provisions, which in part contain transpositions of binding international environ­mental law as well as EU legislation, concern amongst other things management of land and water, nature conservation, protection of flora and fauna, environmentally hazar­dous activities, water operations, genetic engineering, chemical products and waste management. Apart from material provisions, the Environmental Code also sets out the basic framework for implementing environmental protection through its provisions on procedure, supervision, sanctions as well as provisions on compensation and environmental damages. This includes provisions which set out a permit regime for environmentally hazardous activities as well as for water operations.

Essentially, specific obligations which address *direct* drivers of harm to biodiversity can either be in the form of provisions in the Environmental Code and legislative acts issued under the Code (e.g. provisions on protection of flora and fauna or supervision), or in the form of conditions concerning the use of a permit set out for each individual activity with regard to the specific circumstances under which it operates.

*Indirect* drivers of harm to biodiversity and ecosystems, are in most instances addressed through policy and not through obligations or responsi­bilities set out in legislation.

Question 3

*Please provide specific examples of constitutional provisions, legislation, regulations, policies, programs or other measures that employ a rights-based approach to prevent, reduce, or eliminate harm to biodiversity and ecosystems or to restore and rehabilitate biodiversity and ecosystems.*

Regarding the Environmental Code, please see the answer under question 2. The permit procedure set out in the Environmental Code, is one example of legislation, which to large extent employs a human rights-based approach. Some elements of the permit procedure are highlighted here.

In the Swedish system the environmental impact assessment forms an integrated part of the permit procedure for environmentally hazardous activities (i.e. activities that based on their environmental impact require a permit), and the application for a permit must amongst other include an environmental impact report (EIA report). As part of the environmental impact assessment, the applicant is obliged to consult relevant authorities, the private individuals likely to be particularly affected by the activity, and – depending on the nature of the activity – the general public in the area affected by the activity.

As and when the permit authority deems the application to be complete, it will publicly announce the application, including the EIA report, and make it available to the public. During a briefing round, authorities and other stakeholders are invited to comment on the application with regard to its permissibility and, where applicable, under what conditions it may be permissible. In addition, the general public can submit opinions regarding permissibility and the conditions for the permit.

When the applicant and the other parties have had the opportunity to present their respective claims and facts and arguments in support thereof, the permit authority will schedule a public hearing. During this hearing, the applicant and the other parties will present their respective positions, as well as the facts and arguments in support of their case. The public hearing is open to anyone who wishes to participate, including the media. The public hearing normally concludes the proceedings and the permit authority will then decide on the matter through a written decision.

Appealable judgments and decisions may be appealed by anyone who is the subject of a decision against them. According to case law every person who may suffer harm or be subjected to some other detriment as a result of the activity for which a permit is being sought has the right to be a party and to appeal if the risk of harm or detriment concerns an interest that is protected by the legal system and is not solely theoretical or wholly insignificant. Also non-profit associations or other legal persons whose primary purpose is to promote nature conservation or environmental protection interests and that are not run for profit, hav~~e~~ been operating in Sweden for at least three years and have at least 100 members or in some other way can demonstrate that their activities have public support have the right to appeal.

Question 5

*Please provide specific examples of good practices in preventing, reducing, or eliminating harm to biodiversity and ecosystems, or restoring and rehabilitating biodiversity and ecosystems. These examples may occur at the international, national, sub-national, or local level. Where possible, please provide evidence related to the implementation, enforcement, and effectiveness of the good practices (e.g. measurable outcomes such as increases in terrestrial and marine protected areas, increases in Indigenous and Community Conserved Areas, declining rates of deforestation and poaching, or progress in the recovery of species that were previously threatened or endangered).*

Regarding the Swedish Constitution and the Environmental Code, please see the answer under question 2.

Sweden has a hundred-year long tradition to preserve and protect biological diversity, by establishing national parks, nature reserves and other forms of nature protection areas. In total, nearly 15 percent of the Swedish land and water constitutes formally protected areas. For 2020 alone, the Government has set aside 1,9 billion SEK (≈190 million €) for protection and management of biological diversity and nature.

Furthermore, over the period 2014–2020 Sweden and the European Agricultural Fund for Rural Development (EAFRD) have jointly invested 37 billion SEK (≈3,7 billion €) in a rural development programme, of which 62 percent of the funds invested are designated for environ­ment and climate. A substantial part of these investments will be allocated to preservation and protection of natural and cultural environments in the agricultural landscape.

In addition, there are in Sweden ongoing investments and campaigns through specific programmes focusing on protection of threatened species as well as the restauration and rehabilitation of wetlands.

The largest protected site of Sweden, Laponia world heritage, which contains 4 of 30 national parks in Sweden as well as several nature reserves, is managed in close cooperation with representatives of the indigenous population of the northern part of the Scandinavia Peninsula, the Sami people.

Question 6

*Please identify specific gaps, challenges and barriers that your government, business, or organization has faced in attempting to employ a rights-based approach to preventing, reducing, or eliminating harm to biodiversity and ecosystems.*

Sweden finds that it is important to put additional efforts to secure the social values of nature by continuing a high ambition in nature protection (e.g. nature reserves) and further develop environmental considerations in education as well as in production and consumption.

Question 7

*Please specify ways in which additional protection is provided (or should be provided) for populations who may be particularly vulnerable to declining biodiversity and degraded ecosystems (e.g. women, children, persons living in poverty, members of Indigenous peoples and local communities, older persons, persons with disabilities, ethnic, racial or other minorities and displaced persons). How can these populations be empowered to protect and restore declining biodiversity and degraded ecosystems?*

Sweden finds that it is important to encourage people that recently has become Swedish citizens to undertake visits in natural ecosystems thereby experiencing the health-bringing effects this results in. It is important to continue to work with providing further information on this also in different languages, including information on the right of public access.

Another example where additional efforts are needed, are to prevent damage to ecosystems the Sami people need for the reindeer herding. Lastly the important need for children and youth to be more physically active should be mentioned, e.g. by visits and activities in the nature.

Question 9

*There is substantial evidence that consumption in high-income States is adversely affecting biodiversity and ecosystems in low and middle-income States. What are ways in which high-income States should assist low-income States in responding to biodiversity loss and ecosystems degradation, while simultaneously contributing to sustainable development in those low-income States?*

Sweden has increased the degree of integration of biodiversity into the work of SIDA and in SIDA programs, which is one way of responding to the situation.

The awareness amongst Swedish people on their ecological footprint is increasing. It is important to continue the work on providing information about the impacts of production and consumption, as this effects consumer patterns.