

Swedish efforts concerning UNCLOS

SUSTAINABLE DEVELOPMENT GOAL, TARGET 14.C:

Enhance the conservation and sustainable use of oceans and their resources by implementing international law as reflected in UNCLOS, which provides the legal framework for the conservation and sustainable use of oceans and their resources, as recalled in paragraph 158 of The Future We Want.



EXECUTIVE SUMMARY

- The Swedish Agency for Marine and Water Management (SwAM) was created to increase the integration of relevant policies to achieve a unified and coherent management of the aquatic resources in rivers, lakes, and the sea.
- Sweden has a long tradition of an adaptive legislation for the protection of the environment including the marine environment.
- Sweden works actively nationally as well as in several global, international, and regional organisations in order to strengthen the protection and conservation of the marine environment.
- Among the actions taken on the national level is the program of measures for the Marine Strategy Framework Directive (MSFD) including actions to lessen the environmental impact from shipping and other sources with regard to sewage, invasive alien species, and pollution by hazardous substances and marine litter.
- Sweden follows a tradition of regional cooperation with the regional sea conventions OSPAR and HELCOM, as well as regional fisheries organisations, and has taken part in or initiated several actions to improve the status of the Baltic Sea and the North Sea.
- Effective implementation of the international framework supporting UNCLOS is of key importance to fulfilling sustainable development goal (SDG) target 14.

Publisher: Swedish Agency for Marine and Water Management (SwAM)
Date: 2017-05-16
Authors: Karin Wall (main author) and Fredrik Arrhenius.
Information has been provided by the Swedish International Development Cooperation Agency, The Swedish Transport Agency, and the Swedish Environmental Protection Agency
Images: Jerker Lokrantz/Azote, Poelzer Wolfig/Zoonar
Design and Illustrations: Karin Enberg, Vid Form AB

Swedish Agency for Marine and Water Management
Box 11 930
404 39 Gothenburg
Sweden

www.havochvatten.se/en/initiativesforSGD14

Swedish efforts concerning UNCLOS

Introduction

Since the adoption of the United Nations Convention on the Law of the Sea (UNCLOS or LOSC) 1982, 168 states including Sweden (1996) have ratified the convention. Two supplementary implementing agreements to UNCLOS have been elaborated: the Agreement relating to the implementation of Part XI of UNCLOS as an answer to the needs addressing certain difficulties with the seabed mining provisions contained in Part XI of the Convention; and the so-called Fish Stocks Agreement or UNFSA from 1995. The ratification rates of these are, however, lower, 150 and 85 states respectively. Sweden has ratified both.

Article 192 of UNCLOS establishes a general obligation for states to protect and preserve the marine environment, and according to article 194 they shall take all measures necessary to comply with that obligation. This can be done individually, but there is also an obligation in article 197 to cooperate both regionally and globally. States shall provide scientific and technical assistance to developing states, as is laid down in articles 202–203, in order to ensure that they can comply with UNCLOS as well. Monitoring and environmental assessments shall be conducted (article 204–206), and states shall nationally, regionally, and globally adopt the necessary laws, regulations, guidelines, and other measures necessary and ensure enforcement of those in order to reduce any kind of pollution (articles 207–222). Article 237 refers to other conventions with respect to the protection and preservation of the marine environment, and the article states that specific obligations under such conventions should be carried out in a manner consistent with UNCLOS.

In measuring the overall fulfilment of SDG target 14.c on a global level, different indicators have been decided and suggested, such as “Number of countries making progress in

ratifying, accepting and implementing through legal, policy and institutional frameworks, ocean-related instruments that implement international law, as reflected in UNCLOS, for the conservation and sustainable use of the oceans and their resources” by the United Nations Statistical Commission, UNSD, and “Participation rate in international marine agreements” as suggested in an article in the scientific journal *Earth’s Future*.

This paper highlights Sweden’s progress by addressing a selection of actions taken by Sweden on the national, regional, and global levels, as part of its commitments in global or regional treaties, in an effort to take all measures necessary to protect and preserve the marine environment as required in UNCLOS.

National efforts

For more than 60 years, Sweden has developed national policies and regulations for a more sustainable use and protection of the environment. The result is that Sweden today has a robust legal system in the environmental area, with its broad-reaching Environmental Code that comprises most environmental areas and issues including those affecting the marine environment except from, most prominently, fisheries. New obligations arising from global and EU legislation are usually implemented through provisions in the Code and complemented by governmental ordinances and regulations issued by the specialised authorities. Governance is a key issue for Sweden to reach the sustainable development goals, from national to local administration and through management, regulation, enforcement, and control.



MARINE LITTER is a global environmental problem as well as a problem along the northern parts of the Swedish west coast. To tackle the problem SwAM has included several measures against marine litter in the Swedish programme of measures for the implementation of the Marine Strategy Framework Directive.

Examples

- The Swedish Agency for Marine and Water Management (SwAM) was created in 2011 to increase the integration of relevant policies to achieve a unified and coherent management of the aquatic resources in rivers, lakes and the sea.
- SwAM has decided on a programme of measure (PoM) for the implementation of the MSFD with 32 measures aiming at reaching good environmental status in the Baltic Sea and the North Sea, directed to other central environmental agencies, the county administrative boards and municipalities.
- In coastal waters Sweden has introduced regulation to protect and restore degraded marine habitats and populations. Bottom-trawling has been generally banned within 3-4 nm of the coastline, and almost 400 important fish spawning and migration areas have been defined, in which only hand-held fishing gear is allowed. For several species closed seasons and catch limitations have been introduced.
- The SwAM and the Swedish Board of Agriculture have jointly developed a strategy for Swedish commercial fishing aiming at use of the fish resource in an ecologically, socially and economically sustainable way, according to the CFP, the WFD, the MSFD and national legislation.
- To lessen the supply of hazardous substances and invasive alien species to the marine environment the Swedish Transport Agency is currently developing national guidance on hull cleaning and management of ship's biofouling.
- Compliance monitoring of sulphur regulations has been a focus area for the Swedish Transport Agency and positive results of higher compliance has been shown.
- Measures, by means of legislation, have been taken to reduce discharge of sewage from ships, including from 2015 pleasure crafts, including facilitating reception facilities in ports.
- Sweden has introduced routing measures in the Baltic Sea as a measure for PSSA and, together with Denmark, a review process of existing routing measures is ongoing in Kattegat with the aim of avoiding environmental harm caused by grounding and accidents.
- Sweden has increasingly strengthened its legislation concerning mercury and since 1 June 2009 there is a general ban on using mercury in as well products as processes in Sweden.
- The EU Regulation on persistent organic pollutants (POPs) is the EU implementation of the Convention on Long-Range Transboundary Air Pollution, CLRTAP. In Sweden additional provisions have been introduced in the Swedish Environmental Code.
- The EU regulation on invasive alien species entered into force January 1 2015 as a response to the threats posed by such species on biodiversity and related ecosystem services. During 2017 the national specific regulations will be adopted.
- Swedish legislation on ballast water, implementing the Ballast Water Convention, which Sweden has ratified, will enter into force the same date as the convention, i.e. September 8 2017.

- Sweden has developed a framework for national programmes of measures for marine threatened species and habitats to improve the status of those, addressing species and habitats listed as threatened in the EU's Birds and Habitats Directives, Regional Seas Conventions and national red lists.
- Sweden has already exceeded the Aichi target of 10% marine protected areas (MPA) by 2020 when it comes to protected area, as the total marine area under protection has increased from 6.6% at the beginning of 2016 to 15.5% by the end of 2016.
- During 2016 Sweden ratified the Nagoya Protocol on Access to Genetic Resources and the Fair and Equitable Sharing of Benefits of the Convention on Biological Diversity. The protocol is implemented in Sweden by an EU-regulation and provisions in the Swedish Environmental Code.

Regional efforts

The sea and coastal areas are a continuum and do not stop at national borders, neither in terms of the ecosystems and biological diversity, nor when it comes to fishing and pollution. Sweden and neighbouring countries, with which we share our surrounding seas, have for decades developed joint planning for pollution reduction, marine protection and marine spatial planning. OSPAR, HELCOM, the Nordic Council of Ministers and the regional fisheries organisations are important tools for Sweden to build and respond to the global marine environmental processes and to coordinate the regional work. On the European level, the EU, has introduced several legal initiatives fostering marine protection, e.g. the EU Habitats directive, the WFD and the MSFD.

Examples

- Sweden has been active in influencing other Member States and the EU to impose the Common Fisheries Policy (CFP) in order to develop the collaborative work, i.e. between NEAFC or ICCAT with OSPAR, to secure the protection and sustainable management of living marine resources.
- After a joint recommendation from Sweden, Denmark and Germany, the EU Commission introduced fisheries regulations in the marine protected area, MPA, of Bratten in Skagerrak in 2016. The regulation process was initialized by Sweden as an effort to protect vulnerable habitats on the sea-bottom in order to fulfill obligations under the Habitats directive, the MSFD and in relation to OSPAR.
- The status of the Baltic Sea is a priority issue for Sweden. The EU Strategy for the Baltic Sea Region it is an important tool to deepen cooperation between the countries around the Baltic Sea in order to meet the common challenges that countries in the region are facing today. The Baltic Sea Action Plan (BSAP) is one of the major programmes to improve the marine environment.
- Sweden has taken an active role in the development of the current legal framework and the designation of the Baltic Sea and the North Sea as Sulphur Emission Control Areas (SECAs). Sweden has also worked actively with North Sea and Baltic Sea countries to designate the area as a Nitrogen Emission Control Area (NECA). The requirements to remove the major part of ship's nitrogen oxides emissions is expected to take effect from 2021.
- Sweden has been active in Ospar's work of the last years. Of importance for Sweden is the adoption of several recommendations for threatened species and habitats of which 14 species and 9 habitats covered by the recommendations are relevant in Swedish waters.
- Sweden has also taken an active role in developing the Ospar Regional Action Plan (RAP) for Prevention and Management of Marine Litter in the North-East Atlantic which was decided in 2014 and is responsible for two of the measures in this.



LOPHELIA PERTUSA is a reef-forming, deep-water coral that has a highly diverse associated fauna. Some of the main potential threats to *L. pertusa* in the North-East Atlantic are considered to be deep-sea fishing and oil exploration.

International efforts

The state of coastal waters and the seas is very serious. Ecosystems and thus the ocean's ecosystem services are adversely affected by, among other things, climate change, ocean acidification, mining and bottom trawling, marine litter and pollutants. The ocean's resilience and ability to absorb and break down nutrients and toxins, regulating the climate, etc. is deteriorating. Many fish stocks are decreasing drastically, and there is a risk that some species will become extinct. Pollution is an increasingly transboundary issue today something not least shown by the issue of marine litter and air-born hazardous substances. Contributing to the process of sustainable seas requires cooperation across national borders and coherent action between several policy areas. Actions need to be taken by each country within their national jurisdiction.

Examples

- Sweden works in several global, international and regional organisations in order to, inter alia, strengthen the protection of marine environments, including in areas beyond national jurisdiction.
- Sweden undertakes bilateral cooperation to develop effective environmental administration for mutual strategic benefit such as implementation of commitments under international environmental conventions.
- The new CFP, including the external dimension, ensure in particular that Union fishing activities outside Union waters are based on the same principles and standards as those applicable under EU law in the area of the CFP. This is an important tool to strengthen the consistency of actions taken in the context of development cooperation.
- One example of development aid directly targeting SDG target 14.c is the aid to the UN Environment Africa marine and coastal programme. At the national level UN Environment has catalysed national policy processes through sustained awareness on topical issues including e.g. adoption and subsequent ratification of the additional protocol to the Abidjan Convention on land based sources and activities and preparation of the ICZM protocol to the Nairobi Convention. To keep the conventions operational and relevant have impacts nationally, regionally and internationally and supports the implementation of internationally agreed instruments.
- By means of Swedish financial support to the Global environmental fund, GEF, Sweden contributes to the funds contribution to the developing countries fulfillment of the SDG goal 14. As a substantial contributor to GEF, Sweden has good possibilities to influence the fund's priorities.
- EU and Sweden played an active role in negotiations for the global Minamata Convention on Mercury. EU is about to ratify the Minamata Convention by means of a revision of the existing EU regulation on the topic. The Swedish ambition has been to influence the regulation to ensure that it remains possible for member states like Sweden to have or to keep existing higher levels of protection.
- Sweden is fully committed to the effective implementation and further development of the Stockholm Convention on Persistent Organic Pollutants.
- Sweden is a party to the majority of the IMO Conventions, including the important MARPOL and SOLAS Conventions. In addition to protecting the environment from emission related to shipping activities, safe construction and operation of ships will also have a positive impact on the marine environment.
- Sweden has a good record of reporting on its obligations under conventions, one example is the annual reporting on dumping activities conducted for the global London convention and protocol, where Sweden is among the few countries complying with the reporting requirements.
- The Commission for the Conservation of Antarctic Marine Living Resources (CCAMLR) is seen as an example of best practice in managing marine resources in international waters. In 2016 the Ross Sea MPA (the world's largest with its 1,6 million km²) was created. Sweden, member of CCAMLR, has actively supported this MPA proposal.

CHALLENGES AND GAPS

- The legal framework for the ocean is complex and its effective implementation will have a critical impact on progress in all target areas of SDG14.
- The way international cooperation will manage handling transboundary pollution will be of great importance to the health of the oceans. The Convention on Long-Range Transboundary Air Pollution, CLRTAP, this far has only 51 parties.
- The implementation of environmental policy and legislation and other environmental measures is often quite weak in many developing and transitional countries, often related to environmental institutions with weak capacity, lacking political support and financial resources.
- At the regional level, a number of instruments (such as regional fisheries management organisations and arrangements and regional seas conventions) complement the global ones. The coordination and coherence among those is a key issue for ocean governance and the experiences vary considerably. Of importance in this process is a well-functioning national public administration that coordinates its various positions across the respective areas of expertise.
- The fact that most countries could agree to begin negotiations on an implementing agreement to the UNCLOS for the protection of marine biodiversity in areas beyond the jurisdiction of any state is evidence of the realisation of the importance of long-term sustainable ocean management. The challenge will be to reach an agreement that will sufficiently protect biodiversity from negative impacts from in some cases yet unknown activities.
- There is a challenge to create a system that incorporates non-legally binding documents such as for example the OSPAR recommendations for threatened species and habitats in the existing legal and/or implementing framework to assure their national impact.
- There are areas where legal gaps in the international framework constitute the main challenge for sustainable management of the oceans. Most evidently, areas beyond national jurisdiction remain with limited rules, although not entirely unregulated. The ongoing negotiations for a new implementation agreement for the conservation and sustainable use of marine biodiversity in areas beyond national jurisdiction under UNCLOS will be able to close some important regulatory gaps. It is of high importance to find modalities for collective arrangements between the regional and global levels such as between OSPAR and IMO or the International Seabed Authority (ISA). Failure to address the issue in one sector might make actions taken in other sectors superfluous.
- The lack of efficiency in international ocean governance is often due to poor implementation of existing frameworks and obligations in international law and also of absence of domestic regulations. Improving domestic regulations and implementation ought to be the top priority in any endeavour to improve international ocean governance.
- There is a need to further develop the national monitoring to better answer to the Swedish obligations in regard of the Water Framework Directive (WFD) and the Marine Strategy Framework Directive (MSFD).
- We also see the need to work for better, easier and comparable [open] access to data for implementation and monitoring of sustainable development and research. Since open data improves the availability, comparability and transparency of data, which in turn leads to commitment, innovation, better knowledge and decision-making, it is important that these various partnerships fully support the implementation of Agenda 2030 in an effective manner.

Compilations made by SwAM for SDG 14, Life below water

- This document represents one out of nine compilations made by the Swedish Agency for Marine and Water Management (SwAM) to highlight Sweden's key efforts and initiatives for Sustainable Development Goal 14 of the 2030 Agenda for Sustainable Development. It has been developed as a part of Sweden's work in support of The Ocean Conference in New York, June 5–9, 2017.
- Several other Swedish agencies and institutions have contributed to the content in these compilations: the Swedish Environmental Protection Agency, the Swedish International Development Cooperation Agency (Sida), the Swedish Meteorological and Hydrological Institute (SMHI), the Swedish Board of Agriculture, the Swedish Chemicals Agency, the Swedish Transport Agency, and the Swedish Institute for the Marine Environment (SIME).
- The documentation focuses on a situation assessment and does not constitute a complete picture of Sweden's initiatives being carried out in order to achieve the goal and targets. A starting point for the content is operational areas within national authorities, but the content has also been expanded to include other significant aspects based upon existing contacts and knowledge.
- Furthermore, the Swedish Environmental Research Institute (IVL) has been commissioned by SwAM to compile initiatives and examples from Sweden's industry and blue growth sector. The Sustainable Development Solutions Network (SDSN) Northern Europe has also composed a complementary compilation of efforts from innovative blue growth initiatives. The result of this work is presented in separate reports.
- The Swedish Institute for the Marine Environment has been commissioned by SwAM to produce two syntheses in support of the conference. One concerns mitigating marine eutrophication in the presence of strong societal driving forces, with a focus on impacts and measures, and the other concerns impacts and measures regarding marine litter in small island developing states.

