Sweden: Sámi Reindeer Herding Investigation

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ASI Integrity Services Unit

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Executive summary

Sweden is one of the four countries containing Sápmi, the homeland of the indigenous Sámi people, and is the only one amongst them in which there is a large overlap between Sámi reindeer husbandry and industrial forest management. The large majority of managed forests within Sápmi are certified under the FSC Sweden FM standard, which in line with the FSC International Generic Indicators (IGIs) FSC-STD-60-004 V2-1 EN recognizes that "delegation by Indigenous Peoples of control over management activities to third parties requires Free, Prior and Informed Consent (FPIC)." The national FSC Forest Stewardship Standard introduces the term "participatory planning" as equivalent to FPIC. However, the "participatory planning" process between FSC certificate holders (CHs) and Sámi villages to facilitate dialogue about landscape sharing in the Swedish FM standard diverges significantly from the IGIs and the FM standards for the other Scandinavian countries with Sámi reindeer husbandry, Norway and Finland. The following discrepancies are found in the Swedish standard:

1) A mechanism is included by which CHs can conduct forest management activities without FPIC in one of two cases: if the CH demonstrates that "claims for consideration made by the Sámi village will substantially affect the long-term forest management" or if the Sámi village cannot demonstrate that the activities would "disable reindeer husbandry" on the village's territory.

2) The unit of consideration for determining whether reindeer husbandry is "disabled" is the entire Sámi village. The area of Sámi villages can be from hundreds of thousands to two million hectares, whereas the areas affected by forestry activities in a given participatory planning process are in the few thousands of hectares. This places a very large burden of evidence on Sámi reindeer herders to demonstrate negative impacts of forest management on their traditional livelihoods.

3) In both Principle 3 (Indigenous Peoples' Rights) and Principle 9 (High Conservation Values) the Swedish FM standard directs CHs to pay special consideration to Sámi cultural areas and does not include the key reindeer husbandry areas like lichen-rich pastures, calving areas, resting areas, etc. The Swedish standard does make mention elsewhere in Principle 3 of special consideration for forests rich in hanging lichens, but provides guidance on how to adapt clearcutting in these areas, while Sámi villages often call for protection of these areas or the use of non-clearcutting methods there.

As such, there is a serious question whether "participatory planning" fully affords Sámi the ability to withhold FPIC, per the IGIs, and whether the Swedish FM standard correctly identifies the areas of particular importance to those indigenous peoples.

In the early stage of participatory planning Sámi villages *can* withhold FPIC easily, and many are doing so. CHs report that this is reducing their planned logging volumes by as much as 60-70%, and claim that they will not be able to sustain such reductions. A major breakthrough in the participatory planning process, through which Sámi villages will provide FPIC to significantly larger areas of timber harvesting, appears unlikely due to CH reluctance to significantly adapt

their clearcut-focused silvicultural approach. Some CHs are already moving to activate the mechanism to commence forestry activities without FPIC. If CHs eventually begin practicing forestry without FPIC there is a significant risk of the intensification of public disputes between CHs and Sámi villages, which in the period 2019-2023 frequently appeared in Swedish and international media and undermined the credibility of FSC certification in Sweden.

In order to avoid this major risk to FSC credibility and to align Sweden's FM standard more closely with the IGIS, the following is recommended:

FSC GD is recommended to:

1) Ensure that the Swedish national standard's indicators 3.5.1 and 9.1.1 are in compliance with IGIs and the HCV Resource Network guidance, that is - the indicators contain the full list of sites of special significance for Sámi.
2) Restore the IGIs' Indicator 1.6.4 in the Swedish national standard that sets the requirement to CH and stipulate cessation of forest management operations when the "Dispute of substantial magnitude" affecting the legal or customary rights of Sámi exists.
3) Review whether the local terms "Disabling reindeer herding" and "substantially affect[s] the long-term forest management" truly afford Sámi villages the ability to withhold FPIC.

FSC Sweden standard setting committee is recommended to:

4) Adapt the wording of "Disabling of reindeer herding" to the temporal and spatial scope of the participatory planning process.
5) Add guidance to the definition of "Disabling of reindeer herding", specifying what factors can be considered in assessing whether "disabling" has taken place and at which scale.
6) Consider adding the "participatory cumulative impact assessment" instrument to Principle 3 separate from and ideally preceding the participatory planning process.

FSC GD and FSC Sweden are recommended to:

7) Investigate the possibility of making financial resources available to Swedish Sámi villages to at least partially compensate them for the extensive time and travel costs associated with multiple participatory planning processes.
8) Organize consultation with Sámi villages, ideally in partnership with The National Confederation of Swedish Sámi (SSR), to discuss conditions under which they would feel comfortable sharing spatial information about their reindeer husbandry to inform the participatory planning process.

1. Introduction and methodology

This investigation explores how the stakeholders involved in developing the Swedish Forest Management standard have interpreted FSC's International Generic Indicators regarding Free, Prior and Informed Consent (FPIC) for indigenous peoples on whose territory certificate holders (CHs) operate, and whether this approach facilitates landscape sharing between indigenous peoples and CHs. The recognized indigenous people in Sweden is the Sámi nation. Some Sámi practice their people's traditional economic lifeway of herding semi-domestic reindeer (*Rangifer tarandus domesticus*) for the production of meat and hides.

This investigation was initiated as a result of the growth of complaints and incidents recorded by ASI Assurance Services International (hereinafter called ASI) from 2016 on, regarding public disputes in the Swedish and international press between Sámi villages (the management organizations of reindeer herders) and FSC CHs about timber harvesting, road building and other forest management activities. These disputes included tit-for-tat press releases and public letters in major Swedish newspapers, multiple articles critical of CH forestry practices, the engagement of prominent environmental campaigners and the blocking of CH logging roads by activist organizations. Such a negative information background can have a detrimental impact on the perception of FSC's system and requires adaptation of the FSC normative framework to ensure that the conflictual situations can be identified, evaluated, and facilitated by the requirements of the local FSC National Forest Stewardship Standard (NFSS or National Standard). Indeed, the latest edition of the Swedish FSC National Forest Stewardship Standard in 2020 included a detailed brand-new instrument for dialogue and the pursuit of FPIC called "participatory planning" (*samplanering* in Swedish). After the adoption of the National Standard, ASI registered a decline in the number of Sami-related incidents in both the internal ASI database and the FSC public audit reports. However, the number of publicly available pieces of information, such as Swedish and international media, press releases, reports and blogs of CHs, NGOs and other organizations, social media of Sámi reindeer herders, did not seemingly go down. Thus, the investigation attempted to determine whether the normative changes in the National Standard have improved the dialogue about simultaneous forest and reindeer management and led to a sustained reduction in disputes between CHs and Sámi villages.

ASI drew on the following sources of information for this investigation: the ASI database of complaints and incidents, public audit reports of CHs available on the FSC website, protocols of a body established by FSC Sweden to review disputes between Sámi village representatives and CHs, reports by conformity assessment bodies (CABs) into complaints against CHs (provided by the complaining stakeholders), publicly available reports, articles, blog posts, peer-reviewed research and press releases, and interviews conducted in Sweden and remotely. In-person interviews were conducted with representatives of eight different Sámi villages in Norrbotten, Vasterbotten and Jämtland counties. These included Sámi villages of different administrative and legal types, the details of which are shown in Table 1 below. In summary, six mountain Sámi villages were represented and two forest Sámi villages. Representatives of five FM CHs were interviewed, whose landbases overlap with the majority of territory of Sámi

villages. Two CABs were interviewed as well, in addition to FSC Sweden and five independent experts on reindeer husbandry, Sámi legal rights, and biodiversity conservation.

Type of Sámi village	Level of participatory planning rights in FM standard
Mountain Sámi villages have access both to forest pastures in the foothills and lowlands and also to unforested pastures in the Scandinavian mountains. They move their herds between these zones seasonally.	Full participatory planning
Mountain Sámi villages in the **Härjedalen conciliation zone** in Jamtland.	Participatory planning not offered on the basis of conciliation agreement (out of court settlement); CHs offer consultation.
Forest samebyar have access only to forest pastures and do not move their herds seasonally into the Scandinavian Mountains.	Full participatory planning
Concession samebyar are in the forest zone of northeastern Sweden and have the right to herd reindeer based on concessions from private landowners.	Participatory planning is not offered on the basis of Swedish law; CHs offer Sami villages consultation.

Table 1. Types of Sámi villages and the level of participatory planning afforded to them in the FM standard

2. Disputes between Sámi villages and forest managers

The right of the Sámi to practice herding is recognized in the Swedish constitution. Swedish case law has identified it as a private property right on par with forest management, though the Sámi almost never own the land on which the herding takes place. Interviewed Sámi village representatives and other stakeholders expressed the belief that the Swedish government regards reindeer herding as a subservient land use to forest management, potentially due to the much larger role the latter plays in overall employment and economic activity in northern Sweden. They do not think that the Swedish state respects their traditional economic lifeway, reindeer herding, as an equal to forest management when making decisions about land use. For a more thorough description of the legal basis of Sámi reindeer herding, see Appendix I.

The land on which Sámi conduct their herding is typically owned either by the Swedish state or private owners. State lands are managed by the Swedish Property Management Agency, *Statens Fastighetsverk,* or the state-owned enterprise Sveaskog. These two public managers and the largest private forest owners in Sápmi, including SCA Skog, Holmen Skog and Stora Enso, are all certified under the FSC FM standard and the region is of great importance to Sweden's forest products industry. This is in great contrast to the portions of Sápmi found in

Norway, Finland and the Russian Federation[1], where FSC-certified industrial forest management is quite limited in scale by terrain, growing conditions or state policies.[2]

Landscape sharing between Sámi reindeer herders and forest managers has been a challenge at least since industrial, clearcut-oriented forest management began in northern Sweden after World War II. The primary food sources of the domesticated reindeer are ground lichens (mostly *Cladonia* species) that grow in low-productivity pine (*Pinus sylvestris*) stands and hanging or arboreal lichens (primarily *Usnea* and *Bryoria* species) that grow in tree crowns in old pine and spruce (*Picea abies*) forests. *Cladonia* lichens are found in pine forests of all ages but are often particularly abundant in mature forests with widely spaced trees and relatively open understories. Hanging lichens are associated with old pine and spruce forests with open structure and large, well formed trees (interviewed Sámi village representatives cited 120-160 as the age when hanging lichen forests become optimal for reindeer grazing). Thus, lichen-rich forests often have timber characteristics that make them desirable for harvest by CHs. The competition for the use of these sites valued equally by both forest managers and Sami reindeer herders is the primary root of disputes between them. Many Sámi village representatives and other stakeholders interviewed for this investigation cited peer-reviewed research from 2016 that found “a 71% decline in the area of lichen-abundant forests over the last 60 years,” which they associated with the rise of industrial forestry in the Sápmi region.[3] The concerns of Sámi villages about landscape transformation were echoed by the authors of a thorough, multi-year review of modern reindeer husbandry across Fennoscandia.[4]

Interviewed Sámi village representatives said that they particularly object to the absolute dominance of clearcutting in the silvicultural approach of CHs, as this practice eliminates hanging lichens and is often followed by scarification for planting that destroys much of the ground lichen layer. CHs offer some adaptations to soften both of these negative impacts, including retention of patches of older trees rich in hanging lichens on clearcuts or adoption of “light scarification” techniques. These adaptations mitigate but do not resolve the consistent objection of reindeer herders to clearcut-and-plant silviculture. Sámi representatives point out, for instance, that retention patches for hanging lichens help to maintain these lichen species in the landscape and speed their recruitment in the next generation of pines or spruces growing up around them, but do not provide the abundance of low-hanging and fallen lichens over large areas that are needed for winter grazing.

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[1] There have never been any FSC CHs whose FMUs overlapped with Sámi areas in Russia. However, the certified FMUs have overlapped with the interests of other reindeer herding indigenous peoples in this country.

[2] According to an interview with a Finnish specialist in certification, there are no FSC-certified forests in Finnish Sápmi but some companies certified under the Finnish CW standard purchase wood from that region. According to him, “currently, de facto FPIC is in place in what comes to the biggest loggers in the area as well as all bigger buyers of wood. That is, if the Sámi reindeer herding communities don't give their consent to logging, big buyers don't buy.”

[3] Sandström, Per, et al. "On the decline of ground lichen forests in the Swedish boreal landscape: Implications for reindeer husbandry and sustainable forest management." *Ambio* 45 (2016): 415-429.

[4] Birgitta Åhman, Ulrika Hannu and Øeinstein Holand. 2023. Conditions and challenges for reindeer herding in Norway, Sweden and Finland. *Rangifer* (23). (In Swedish)

One of the more systemic, and potentially impactful ways that CHs adapt their silviculture to accommodate the interests of reindeer herders is through increasing the use of pre-commercial thinning (PCT) in young regenerating pine stands. PCT lowers stand density and allows more light into the understory, stimulating ground lichen growth and improving visibility and maneuverability for reindeer. Several Sámi villages said that improvements in PCT practice by CHs have had a tangible impact on grazing quality in young forests, helping increase the total area of pasture in the Sámi village territory. Virtually all Sámi villages recognize the value of PCT but some believe that CHs practice it too conservatively to compensate for the *reduction* in high quality pasture that they bring about with clearcutting of older forests. In the Semisjaur-Njarg mountain Sámi village the representative tries to achieve parity in clearcut and PCT area as his condition for providing FPIC during the participatory planning process, but in the neighboring Luokta-Mávas mountain Sámi village representatives believe that the ratio should be 10 ha of PCT to one of clearcutting, to reflect the differing quality of pasture.

For their part, CHs point to significant increases in PCT implementation, sometimes well beyond their own silvicultural needs. Sometimes they also adapt the parameters of the thinning by bringing down the final stem density, creating more open conditions for ground lichen development.[5] According to [Certificate Holder] representatives, the company has tripled PCT over the past decade and in Norrbotten the area of PCT is 15,000 ha annually while early commercial thinning (also useful for ground lichen development) is 10,000 ha and clearcutting of mature forests is 4-4.5 thousand ha annually.

It does not appear that CHs and Sámi villages have a common approach to determining the efficacy of management adaptations, especially PCT. This results in differing perceptions of the condition of the landscape for reindeer husbandry.

But even when they praised these PCT-related adaptations, interviewed Sámi villages were almost universally disappointed with the speed and scale of final felling adaptation away from clearcutting by CHs. Non-clearcutting methods are proposed almost exclusively as a concession during participatory planning and are rarely offered initially, as part of the forest management paradigm. Thus, Sámi villages representatives believe that logging adaptation can have positive local effects but is unlikely to change the overall issue of pasture reduction at its current scale.

Nor are all logging adaptations equally meaningful. A member of a Sámi village complains that the most common adaptation is to practice seed tree harvesting instead of clearcutting. Reindeer herders without her educational background may not realize that this means only retention of a small number of mature trees for a short period of time, until natural regeneration is established. She said that gap selection harvesting or continuous cover forestry (CCF) would better satisfy Sámi desires for long-term retention of some forest cover on harvested sites, but these are offered very rarely.

[5] This adaptation is done on a significant scale by one of the FSC FM/COC CH, while others are more conservative about adapting their traditional PCT parameters

[Certificate Holder 1] representatives confirmed this, saying that difficulties with natural regeneration on low-productivity sites (which often have excellent ground lichen cover) makes the kind of silviculture that Sámi villages would like to see challenging. In their opinion CCF is more appropriate in productive forests of southern Sweden, despite the Swedish Forest Agency's (*Skogsstyrelsen*) frequent promotion of the practice as "reindeer-friendly." They said that Sámi villages representatives really like the first entry of a shelterwood, which brings canopy down from 600-700 trees/ha to 200-300 but that the silvicultural prescription and company's wood needs would dictate then removing most of those residual trees. According to the [Certificate Holder 1], even moving a significant number of logging sites to the shelterwood method would disrupt the company's wood supply model. It is clear that the intense pressure to provide wood to mills limits the options that CHs have to change their silviculture.

[Certificate Holder 2] said that they are adapting logging on a trial basis in certain especially sensitive areas, and that they do so when FPIC is denied and not on a systematic basis. The representatives of [Certificate Holder 3] reiterated that they are much more likely to delay logging (around ⅓ of all proposed logging sites) than to adapt it (1-2% of proposed logging sites) and when they do adapt it is most often to the shelterwood method (around 100 ha a year).

Representatives of [Certificate Holder 4], widely perceived as the most "ecological" of the large CHs, told the author that the company most often adapts clearcutting by breaking up large clearcut areas into smaller patches that are "checkerboarded" with uncut patches: "We do checkerboard cutting. 100 squares instead of a big clearcut. In that we have both old and young forest in one area and the reindeer like it for feeding and resting. That was a good outcome." It is notable that even this [Certificate Holder 4] does not generally see non-clearcutting methods as an option.

CHs interviewed in this investigation expressed skepticism with the Sámi critique of their forest management. They pointed out that supplementary feeding and motorized transport of reindeer herds between winter and summer pastures (both of which are practices with increasing frequency but not universally) has reduced the dependence of reindeer on lichen-rich forests, while also claiming that intensively managed forests contain better ground lichen resources than critics acknowledge. They criticized the idea of setting aside particularly lichen-rich forests from timber harvesting, claiming that some logging actually helps maintain the light levels that are beneficial to lichen development, and claim that in the past Sámi villages sometimes asked them to conduct selection harvests in ecological reserves for this purpose. The representative of a Sámi village who is educated as a forester, agreed that feed lichens do grow best in relatively open stands. Some older forests are excessively dense and the lichen resource would benefit either from natural gap dynamics or from moderate density management through timber harvesting. But she points out that this kind of timber harvesting is exactly what Sámi villages often ask for and which CHs are so reluctant to implement, preferring clearcuts in such forests.

Another serious issue with forest management by CHs that Sámi villages raise is the continued planting of the fast-growing exotic species lodgepole pine (*Pinus contorta*), which the villages

consider to be highly detrimental for reindeer herding because of its negative impact on ground lichen growth and the dense, low-visibility condition it creates, which reindeer do not like to move through. *P. contorta* was extensively planted after clearcutting on public and private forests since the 1970s. The two FSC-certified public forest managers have both committed to no more planting of *P. contorta* in response to public appeals by Sámi villages[6] and many certified CHs agree with Sámi villages to harvest previously planted forests of this species before their intended rotation age. But at least one FM-certified CH still plants *P. contorta* on a portion of its landbase, to the consternation of Sámi villages.

These consistent disagreements between CHs and Sami villages about appropriate silvicultural systems for their shared landscape have shaped their dialogue for decades. Since 1971 Swedish law has mandated that forest managers conduct consultation (*samrod* in Swedish) with Sámi villages about their management activities in the year-around grazing areas, typically located in the East, where the reindeer are kept in the summer. Until the development of the 2020 FM standard under the influence of the 2018 FSC IGIs, Sweden's FM standard mandated consultation in a similar manner to Swedish law, but it extended the consultation frame to the winter grazing areas, typically located in the West. Interviewed Sámi village representatives told the author that this consultation was often more about CHs "informing us what they planned to cut"[7] than about true consultation but the reindeer herders could sometimes use this conversation to deflect planned logging from a location quite important to them to one that was less important (usually without a resulting reduction in logged area for the CH). CHs and Sámi villages both recognize that such "deflection" was the primary means to avoid conflicts between their competing land uses during the era before the 2020 FM standard and the introduction of "participatory planning." However, both sides also acknowledge that the deflection strategy was becoming untenable by the late 2010s because the buffer of lower-priority forests which Sámi villages could offer to CHs in exchange for key reindeer pastures was running out.[8] More and more the annual consultations requested by CHs were focused on older spruce and pine forests with abundant lichens that Sámi villages considered high priority for reindeer husbandry.

It was in this late "consultation" period that some of the most contentious disputes between Sámi villages and CHs came to the surface and became visible both in the FSC audit process, complaints and in media and social media. This includes multiple articles and open letters in leading Swedish newspapers and magazines that depicted Sámi villages as suffering from mistreatment by CHs. The "Swedish model" of industrial silviculture is depicted in these articles as being inherently non-compatible with Sámi reindeer herding. This is a belief held by some Sámi villages, but interviewed CHs stated that these articles underestimate the quality of managed forests (including planted forests) for reindeer husbandry and tend to vilify forest industry. In the case of complaints registered by Sámi villages against FSC CHs, these occurred

[6] Cite the position paper by SSR calling for total ban on lodgepole

[7] Consultation (*samrod*) did not explicitly incorporate FPIC, and so Sámi village representatives felt it offered limited opportunities to stand their ground in the case of fundamental disagreements about forest management activities

[8] Some variation on this statement was made by 7 of 8 interviewed Sámi villages and three CHs.

mostly *after* the adoption of the 2020 FM standard and so will be discussed later in this report, after the FPIC approach of that standard has been described.

When the FSC Sweden standard setting committee went to work on what would become the 2020 FM standard, there was an expectation that this new standard would build off of the 2018 FSC IGIs[9], particularly the indicators pertaining to FPIC, and that the more explicit incorporation of FPIC into the standard would improve communication and reduce the number of disputes. The result is discussed in the next section.

3. Review of the Swedish national standard requirements

3.1 Swedish standard in comparison to the national standards of Norway and Finland

In order to assess the composition of the requirements of the Swedish National Standard for the observance of the rights of Sámi, the standards of two other countries - Norway and Finland - were taken into account. Like in Sweden, the northern territories of these countries are part of the Sámi traditional homeland, while the land use rights and self-government rights of Sámi are recognized by the Governments. At the same time, the way how reindeer herding interacts with the timber industry varies due to differences in national laws, land ownership, and historical policies. In Sweden, much of the forested land overlapping with Sámi interests, is privately owned by large forestry companies, while much of the land used for reindeer herding in Norway and Finland is state-owned. Due to this, the countries have differently arranged legal protections for herding and differently set cooperation mechanisms and compensation measures for the landowners. Without going into much detail, it is perceived that the forestry-related conflict level is higher in Sweden than in the other two countries.

Despite the differences between the countries, all three national FSC forest stewardship standards are based on the same set of FSC international generic indicators that served as a common starting point. However, the standard development teams from Norway, Sweden, and Finland interpreted the IGIs differently, which eventually led to differences in the FPIC requirements between the three national standards.

The Norwegian standard is the least detailed of the three Scandinavian FM standards as to the FPIC consultation process. In indicator 3.2.1 it directs CHs that “Culturally appropriate and active dialogue that obtains a Free, Prior and Informed Consent (FPIC) is carried out prior to the following activities…”. The standard does not explicitly name who is a party to the negotiations on the part of the Sami: all the standard requirements refer generically “Sámi reindeer herders”. The steps of the FPIC process are also described in general terms without reference to existing legal terms or workflow rules used in forest management; these steps are: preparatory work, initial communication to establish further meetings, active dialogue to determine the decision-making process, active dialogue around forestry activities and the consent process, written agreement, and adjustment and renewal of consent agreements. No guidance is

[9] A new IGI document was accepted for use in 2023, but there were minimal changes from the 2018 version pertaining to FPIC

provided for how to conduct forest management activities without receiving FPIC, which is to say that such an outcome is not envisioned in the standard.

The Finnish National Standard sets detailed requirements for the participation of individual Sami co-operatives and their structures, such the Sámi Parliament and its working groups, in public consultation, preparation, design, appraisal, and revision of the state natural management plans or the forest management plans of commercial entities. This set-up reinforced by the standard ensures that individual Sami co-operatives take an active role in the development of the management plans and are not simply confronted with the fact of their existence at a later stage. Significantly, the state forest agency in their natural resource plan is directed to ensure that "*the effects of previous measures executed in the area are taken into account cumulatively when assessing the effects of the ongoing initiatives on the Sámi people's opportunities to practice their culture*." This overarching set-up is culminated with the requirement that FPIC must be obtained from Sámi reindeer herding cooperatives at the stage of planning specific forest management operations before those operations can take place. Just as in the case of the Norwegian standard, the Finnish FM standard does not include language about conducting forest management activities without receiving FPIC from Sámi reindeer herders.

The Swedish National Standard differs strongly from the both mentioned above. Although the content of individual national requirements is quite close to the wording of original IGIs, there are the following characteristic adaptations that define the subject, the scope, and the rules of the dialogue between CHs and Sámi:

- The *participatory planning process* is introduced on the basis of FPIC principles.
- There is a limitation of the type of Sami sites of particular significance which CHs are directed to consider during the process
- The participatory planning process governs the discussion about the upcoming operations in the next 5-7 years out of the context of cumulative impact of the previous forest management history
- There is a defined mechanism that allows CHs to commence forest management practices without receiving explicit FPIC from Sámi villages and at the same time be in compliance with the standard requirements. This mechanism is reinforced by the concept of "*disabling of reindeer husbandry*"

3.2 Participatory planning process

The Swedish National Standard (Indicator 3.2.2) directs CHs to offer a "participatory planning process" to Sámi villages. The latter may choose to decline this offer and continue the "consultation" process[10] that was included in the previous FM standard dated 2010.

The steps of participatory planning are laid out in the Swedish national standard in significant detail. Below is a summary:

[10] One CH told the author that a small Sámi village in its region chose to do so because it could not handle the administrative workload associated with participatory planning.

1) CHs initiate the process by sending an invitation to affected Sámi villages that includes a list of proposed management activities for the next 5-7 years. Management activities to be discussed can include regeneration felling, continuous cover forestry in areas above the nature conservation boundary (a zone delineated by Swedish law that includes montane forests and some adjacent lowland areas), soil scarification, choice of tree species for planting including use of the exotic species *Pinus contorta*, prescribed burning, fertilization and road construction. This list should include information about timing, planned considerations for reindeer herding, and other factors that affect the areas in which the activities are proposed. The CH checks with each Sámi village to determine when in the year the participatory planning process can be conducted. The first participatory planning meeting is conducted within six weeks after the CH sends the invitation and documents to the Sámi village, unless otherwise agreed. During this stage CHs and Sámi villages should determine how to conduct participatory planning in "good faith."[11] During the meeting, the proposed management activities, the village's opinions, and the need for considerations for each activity are methodically reviewed and considered through a "landscape perspective."[12] If a proposed management activity has a negative impact on the grazing conditions in the area, the parties shall jointly develop measures that can reduce the negative impact and allow for the management activity to be carried out.
2) If the parties cannot agree on a solution, a second participatory planning meeting is conducted. An alternative is to conduct a field visit to the area affected by the management activity, instead of or in addition to the second meeting. Such a field visit is intended to increase the understanding of the area's importance to each party, and is an opportunity to discuss adaptations based on the actual conditions in the area. Minutes are taken for the participatory planning meetings and potential field visits that include the opinions of the Sámi village. The minutes are approved by both parties.
3) If consent is not provided by the Sámi village to part or all of the proposed activities after this stage, then the FM standard identifies three further options:
    a) The CH and Sámi village agree to "implement positive measures that will lead to improved grazing conditions in the area over time"[13] and which will allow the village to consent to the management activity to take place during the following planning period (that is, 5-7 years from now).

[11] *Good faith:* "Active participation in good faith is required from both parties for the process to be carried out… It is recommended that the parties discuss and agree on what good faith means in the specific participatory planning process already during the first planning meeting. An example can be to establish a written code of conduct for the continued process of engagement."

[12] *Landscape perspect*ive: "The participatory planning process is conducted through a landscape perspective, so that both parties get a better overview of the cumulative effect of the proposed activities. As such, both parties are expected to consider all aspects that affect their ability to utilize the land."

[13] A very common example is that the CH agrees to conduct pre-commercial thinning on a certain area of dense young pine stands in order to stimulate more rapid development of *Cladonia* lichen cover on the forest floor thanks to increased light availability. This is perceived to compensate for reduced lichen availability due to final felling in mature stands after logging of trees with pendulant lichens (*Usnea, Bryoria*) or mechanical destruction of *Cladonia* lichen cover during logging and scarification.

b) The CH acknowledges that the Sámi village considers that the proposed management activity would affect reindeer herding to such an extent that the management activity cannot be carried out within the participatory planning period in question. The CH abstains from carrying out the activity at the site, and the activity is brought up for participatory planning again, at the earliest in five years.
c) The two sides recognize they cannot reach agreement regarding whether the management activity disables reindeer herding, and/or that all possibilities for adaptation from both parties have been considered. The CH or Sámi village representatives can then appeal to FSC Sweden for mediation to agree on a solution. If the parties are still not in agreement after mediation, a review from a dispute resolution committee can be called for (also via request to FSC Sweden). For the dispute resolution committee to step in, all positive measures that could allow for the proposed management activity to be carried out must have been considered, and the representatives of the Sámi village must provide a description of how the management activity disables reindeer herding within the territory of the Sámi village.[14]

4) Finally, the CH can either accept that FPIC has been denied and not go forward with the proposed management practices, or it can carry out the activity without the consent of the Sámi village if it can demonstrate that:
    a) The claims for consideration made by the Sámi village will substantially affect the long-term forest management. This applies when consent for management activities is withheld for a time period that exceeds The Organization's long-term plans, or
    b) The Sámi village has withheld consent for a type of activity in general, without giving an account of how the activity disables reindeer herding in the area in question.

The inclusion of this final step in participatory planning, which provides options for CHs to commence forestry activities without FPIC, is an innovation not reflected in the FSC IGIs or present in either of the other Scandinavian FM standards that overlap with Sápmi. It raises the question whether Sámi villages can truly practice their right to withhold FPIC while this mechanism is available. This is especially the case due to the difficult burden of demonstrating "disabling of reindeer husbandry," which is described in the Swedish FM standard thus: "When the availability of reindeer pasture is substantially negatively impacted in the long-term, considering the whole area of the Sámi village (the landscape), and with consideration for the migration over the year as well as the functional connectivity within the area".

Interviews conducted by the author with Sámi village representatives, other Sámi activists and experts on reindeer husbandry revealed that the *scale of consideration* used in the definition of disabling ("the whole area of the Sámi village") does not correlate with the *intensity and scale* of

[14] *Disablement of reindeer husbandry:* "When the availability of reindeer pasture is substantially negatively impacted in the long-term, considering the whole area of the Sámi village (the landscape), and with consideration for the migration over the year as well as the functional connectivity within the area."

forest management activities discussed in the participatory planning process, which in the 5 year period under consideration only affect a limited area of the Sámi village. While there is variation in the area of the 51 Sámi villages in Sweden, they are at least hundreds of thousands of hectares in size, often more than a million and the largest is more than two million hectares. Thus, it imposes a quite heavy burden of evidence on Sámi villages to demonstrate that the forestry activities proposed in a given participatory planning cycle (especially final felling) on a few hundred or at most a few thousand hectares would make reindeer husbandry impossible over such a large area. It would seem that this would only be possible once the conditions for reindeer husbandry were so degraded that the 5-7 year logging plan comprised "the final straw" on that huge territory. This clearly would not comply with the FSC precautionary approach, which should allow rights holders like the indigenous Sámi to counter such negative tendencies much earlier.[15]

At least one interviewed CH representative seemed to understand that the use of "the whole area of the Sámi village" as the scale of consideration is more advantageous to CHs than to reindeer herders, telling the the author that "Sámi villages don't want to discuss 'disabling of reindeer husbandry' because they know that individual clearcuts won't do that."

One Swedish expert on reindeer husbandry suggested to the author that a smaller planning unit used by reindeer herders could be a more appropriate unit of consideration of the impact of forest management. This is the "grazing tract" (*betestrakt*) which can be tens of thousands of hectares in size and are often associated with a specific Sámi family within the Sámi village.[16] Interviewed Sámi village representatives confirmed that forest management activities can and have led to the disabling of reindeer husbandry at the grazing tract level, even when the husbandry remains possible somewhere else in the entire Sámi village.[17]

The Finnish FM standard offers an example of how different scales of impact can be used to assess the impacts of forest management on reindeer husbandry. Indicator 3.2.1.2 states that

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[15] *Precautionary approach:* An approach requiring that when the available information indicates that management activities pose a threat of severe or irreversible damage to the environment or a threat to human welfare, The Organization will take explicit and effective measures to prevent the damage and avoid the risks to welfare, even when the scientific information is incomplete or inconclusive, and when the vulnerability and sensitivity of environmental values are uncertain (Source: Based on Principle 15 of Rio Declaration on Environment and Development, 1992, and Wingspread Statement on the Precautionary Principle of the Wingspread Conference, 23–25 January 1998). *From FSC-STD-01-001 V5-3*

[16] Grazing tracts form parts of the Sámi village's entire grazing area where the reindeer are kept for a certain season. The grazing areas may vary in size depending on the season and may overlap. Usually there is some form of surveillance around the area. Grazing tracts form ringlands around core areas. Demarcation of grazing tracts takes place, among other things, a. based on the following criteria:
• Border with Sámi village or winter grazing group.
• Natural boundaries such as roads, railways, waterways, etc.
• Areas where reindeer are normally found.

[17] The representative of a Sámi village mentioned her father-in-law's former grazing tracts, where he worked 30 years ago, but which then became unusable because logging and planting of *Pinus contorta* by a forest management company made the structure of the regenerating forest incompatible for reindeer husbandry.

“The rights of each reindeer herding community (herding co-operatives and their sub-units) to sufficient available grazing resources are secured insofar as The Organization's forestry has impact on them.” Sub-units in the Finnish context probably correlate well with “grazing tracts” in the Swedish context.

Another issue with the concept of “disabling of reindeer husbandry” in the Swedish FM standard is that it does not provide guidance on how “substantial negative impact” should be ascertained, and when that threshold is crossed.

One indicator of whether reindeer pasture is substantially negatively impacted might be the population of domestic reindeer. Despite the large-scale reduction in lichen-rich forests cited by Sámi villages and confirmed by peer-reviewed research, the size of the reindeer herd has held fairly steady over the past 50 years.[18] Interviewed CHs point to this fact as evidence that the industrial forest landscape provides enough feed lichens and cover for reindeer and furthermore that modern feeding and transport technology (moving the herd between winter and summer pasture by truck or train) reduces the total dependency of the herd on the condition of pasture and migration routes. Sámi village representatives, for their part, attribute the steady population to improvements in veterinary science, protection of the herd from predators, reductions in loss of animals due to greater mobility of herders (snowmobiles, ATVs) and artificial supplementary feeding in some cases. They view supplementary feeding as a *negative but necessary reaction* to degradation of natural pastures that brings increased costs, increased physical labor for herders, health risks for the reindeer and the risk of the loss of traditional knowledge about natural-pasturage reindeer husbandry.[19]

They also express their disagreement with using herd size as the only indicator of whether reindeer husbandry is viable or disabled. One representative pointed out that maintaining herd sizes in a landscape with limited feed resources imposes grueling work conditions on herders, who must push the reindeer much harder and longer to find food. He suggested that “disabling” might come when he becomes exhausted and unable to continue handling this work burden.[20] Another representative from the Jamtland region (where fragmentation of older forests is particularly severe) warned that many Sámi villages are approaching thresholds that, once crossed, will lead to dramatic stepwise reductions in herd size.[21]

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[18] 2023 report by Skogsstyrelsen “The state as a forerunner in sustainable forestry within the reindeer husbandry area”

[19] Birgitta Åhman, Ulrika Hannu and Øeinstein Holand. 2023. Conditions and challenges for reindeer herding in Norway, Sweden and Finland. *Rangifer* (23). (In Swedish)

[20] Village representative: *I’m wondering, when do you disable something? When we have to work 16 hours a day? When I ask my father he says that they worked 8-10 hours a day. Will it be when we work 24 hours a day? You are not disabled but you can’t sleep. At some point, it’s over… We don’t have a common understanding with companies about where the disablement line is. For them it’s as long as you and the reindeer are alive.*

[21] Village representative: *It’s not so hard to demonstrate when the landscape is already that fragmented! If they clearcut those [remaining] forests the median forest age drops down to 40, and we know that brings reindeer husbandry down to none.*

3.3 Sámi sites of particular significance in Sweden

There are strong differences between the Swedish FM standard and the other two Nordic FM standards in how it interprets IGI 3.5.1, which identifies the kinds of sites that “shall be recognized by The Organization and their management, and/or protection shall be agreed through engagement with these Indigenous Peoples” and the related IGI 9.1.1 which directs CHs to conduct an assessment using Best Available Information that records the location and status of High Conservation Value Categories 1-6.

The differing language of the three standards is shown in Table 2, but the primary difference is in a much greater emphasis on sites important to reindeer husbandry in the Norwegian and Finnish standards, while the Swedish one focuses on cultural and religious sites. The Swedish list includes old settlements and other Sámi cultural remains, culturally important paths, sacrificial places, or other spiritual values and only one economic site (work corrals), which happens to be one that is very limited in its area. In contrast, the Norwegian and Finnish lists include the cultural sites but also many economic sites that can be quite extensive in size, including Migration and moving routes for the reindeer, Gathering areas for reindeer, Difficult passages for migrating reindeer, Areas important for pendulous tree lichens, Grazing paddocks and Calving area (Norway) and arboreal and ground lichen sites of special significance (Finland).

Table 2. Indicator 3.5.1 in the national standards of Sweden, Norway and Finland

International Generic Indicators (FSC-STD-60-004 V2-1 EN) 3.5.1 Sites of special cultural, ecological, economic, religious or spiritual significance for which Indigenous Peoples* hold legal* or customary rights* are identified through culturally appropriate* engagement*.		
Swedish standard	**Norwegian standard**	**Finnish standard**
3.5.1 The following sites of special cultural, ecological, economic, religious or spiritual significance for the Sámi are identified through engagement with representatives for the Sámi reindeer herding:	3.5.1 Sámi sites of special cultural, ecological, economic, religious or spiritual significance, for which the reindeer herders hold rights, are identified through a culturally appropriate and active dialogue. Note: For example, these sites may be:	3.5.1 M-L The Organization, through culturally appropriate engagement with the Sámi homeland* reindeer herding co-operatives* (in accordance with indicator 3.1.1), defines the most important sites for the Sámi culture:
a) old settlements and other Sámi cultural remains, b) work corrals, c) culturally important paths, d) sacrificial places, or other spiritual values.	1) Automatically protected* Sámi cultural heritage sites from 1917 or older (cf. the Cultural Heritage Act); 2) Migration and moving routes for the reindeer; 3) Gathering areas for reindeer; 4) Difficult passages for migrating reindeer; 5) Areas important for pendulous tree lichens; 6) Grazing paddocks; 7) Calving areas; 8) Sámi sacred sites, sacrificial sites, burial sites, culturally important trails and other places of special cultural-historical significance.	a) Locations of reindeer fences including directions of moving the reindeer around b) Arboreal and ground lichen sites of special significance c) Calving areas 3.5.1.1 M-L The Organization, through culturally appropriate engagement with the Sámi Parliament, the Sámi Museum Siida's cultural environment unit and in the Skolt area with the Skolt Sámi Siida Council* (in accordance with indicator 3.1.1), defines the most important sites for Sámi culture: a) Old settlements and other cultural monuments b) Sacred sites in accordance with official registers

This discrepancy is echoed in Principle 9 , where the Swedish FM standard contains the same very limited list of sites that could be considered HCV 5, while the Norwegian and Finnish standards elaborate on the significance of forest pastures rich in ground and hanging lichens (see Table 3).

Table 3. Indicator 9.1.1 and the associated HCV descriptions in the national standards of Sweden, Norway and Finland

International Generic Indicators (FSC-STD-60-004 V2-1 EN) 9.1.1 An assessment is completed using Best Available Information* that records the location and status of High Conservation Value* Categories 1-6, as defined in Criterion* 9.1; the High Conservation Value Areas* they rely upon, and their condition. HCV 5 – Community needs. Sites and resources fundamental for satisfying the basic necessities of local communities or Indigenous Peoples (for livelihoods, health, nutrition, water, etc.), identified through engagement* with these communities or Indigenous Peoples.		
Swedish standard	**Norwegian standard**	**Finnish standard**
9.1.1 The occurrence and status of the following High Conservation Values within the landholding are identified and documented:	9.1.1 The occurrence and status of areas with the following High Conservation Values (HCV) is identified and assessed, using Best Available Information according to Annex E, documented and mapped:	9.1.1 The Organization is, based on Best Available Information, aware of High Conservation Value areas and their definition in accordance with Annex 8.
g) sites of special significance for the Sámi, such as old settlements and other Sámi cultural remains, work corrals, and culturally important paths (HCV 5, HCV 6).	9) Mountain forest with rich occurrences of pendulous tree lichens available for reindeer grazing in the Sámi reindeer grazing districts (HCV 5); Annex C: Guidelines for the Free, Prior and informed Consent (FPIC) process – a tool for good dialogue (FPIC-methodology) The following sites are examples of areas that may be protected from negative impacts by the Sámi reindeer herders via a FPIC process (cf. Indicator 3.5.1 and 3.5.2): - Automatically protected* Sámi cultural heritage sites from 1917 or older (cf. The Cultural Heritage Act); - Migration and moving routes for the reindeer; - Gathering areas for reindeer; - Difficult passages for migrating reindeer; - Areas important for pendulous tree lichens; - Grazing paddocks; - Calving areas; - Sámi sacred sites, sacrificial sites, burial sites, culturally important trails and other places of special cultural-historical significance.	HCV Annex 8, National Description of HCV5: - Statutory wilderness reserves* - Forests in the Sámi homeland* area defined as important grazing areas in Principle 3 - Forests defined as important grazing areas in the agreements in force between the reindeer herding co-operatives* and their sub-units and Metsähallitus (agreements according to indicators* 4.1.5 and 4.1.6) 3. Examples of HCV5 sites and resources fundamental for local communities in the country: - Statutory wilderness reserves* - Forests defined as important grazing areas for reindeer herding

Looking at the wording of the indicator 9.1.1, It is difficult to argue that the Swedish FM standard maintains the spirit of the IGIs, which define HCV 5 (Community Needs) in this way: *Sites and resources fundamental for satisfying the basic necessities of local communities or Indigenous*

*Peoples (for **livelihoods**, health, nutrition, water, etc.), identified through engagement with these communities or Indigenous Peoples* (Emphasis by the author). The absence of key grazing areas from HCV 5 in the Swedish FM standard is particularly noteworthy given that they are considered the proxy for HCV 5 in the Swedish Centralized National Risk Assessment (CNRA) used in the Controlled Wood system.[22] In the HCV Occurrence and Threat Assessment section of the CNRA the following is written:

…the Sámi continue to rely on different land areas for reindeer grazing throughout the year, with well-trodden routes through certain areas for grazing, breeding and resting in eight recognized seasons. Furthermore, there are certain areas that become critically important for herding during years with atypical weather. Such areas may become more important following climate change… Thus, we conclude the full reindeer herding area to be HCV based on the precautionary approach.

As a result, all reindeer grazing areas in northern Sweden are designated as Specified Risk. Given the recognition of the sensitivity and importance of these areas in the CNRA and their explicit connection to HCV 5, it is difficult to understand why the Swedish FM standard leaves them out of that HCV category.

It should be noted that elsewhere in Principle 3 the Swedish standard *does* make mention of forests with abundant arboreal lichens, specifically indicator 3.2.7. This indicator says they should receive special consideration, namely that "buffer zones along watercourses and wetlands, as well as tree groups within or adjacent to the felling area, are retained on lands within the reindeer herding area as sources of dispersal for arboreal lichens." In interviews with CHs and CABs the author determined that these are indeed practiced on the territory of CHs. However, it is worth noting that these are both *retention practices* within a clearcutting system. On numerous occasions Sámi village representatives told the author that they believe that non-clearcutting methods such as continuous cover forestry should be used in forests with abundant hanging lichens.

As such, the Swedish FM standard provides much less direction to CHs to consider the values of lichen-rich forests and other key reindeer husbandry areas to Sámi villages. When it does address these areas, it does so in a way that suggests CHs should adapt their clearcutting practices in such sites, as opposed to setting them aside or changing their silvicultural system (the stated demands of many Sámi villages).

Interviewed Sámi representatives expressed frustration that key reindeer husbandry areas are not considered HCV.[23] They feel that the inclusion of cultural sites is more to conceal the absence of ones associated with their livelihoods. For example, one representative told the author "The standard says you should protect trees that have traditional Sámi markings on them. So should I go through my best pastures and mark all the trees with my knife?"

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[22] Centralized National Risk Assessment for Sweden. FSC-CNRA-SE V1-0 EN

[23] Village representative: *Unfortunately, 'leave it alone, period' is not in the spectrum of possible decisions. There should be something that allows us to say "this is important forever."*

Some Sámi villages collaborate with environmental stakeholders such as Skydda Skogen or the Swedish Society for Nature conservation to search for rare species of lichen, fungi, birds, etc. on key reindeer pastures that would justify delineation of the area as Woodland Key Habitats (HCV 1, 3). This has been locally successful, but Sámi representatives still note with frustration that they must protect areas important to their indigenous livelihoods indirectly. For instance, one said "Why is it that a Red-listed fungus can get an automatic reserve but I, an indigenous human being, cannot? I'm thinking about cultivating this fungus in my best pastures." A representative of a different Sámi village told the author that the Woodland Key Habitats delineated on his herding territories are mostly old spruce forests on small steep mountains, where he would rarely drive his reindeer. The most important old forests from his point of view are in the surrounding lowlands. As such, other HCV were not a perfect replacement for absent "reindeer husbandry HCV."

4. Challenges of the national standard's application

After interviewing representatives of eight Sámi villages across the breadth of Sápmi and the five largest CHs that overlap that region, the author came to the conclusion that the participatory planning process as laid out in the Swedish FM standard afforded a pause from the period of public disputes that preceded and accompanied adoption of that new standard, but has not resolved the fundamental dispute that fueled those disputes.

4.1 The standard does not lead to significant management changes

In practice, many Sámi villages are using the increased influence that FPIC gives them in the early stages of participatory planning to say "no" to a significant proportion of the forestry activities proposed by CHs, especially final felling. This reflects their long-term frustration with the transformation of their reindeer herding landscape by clearcut-and-plant silviculture and their belief that the CHs have come for the last old, lichen-rich forests in the region. In some cases FPIC is being withheld systematically, such that almost no consent for logging is given by a particular Sámi village.[24] Even Sámi villages in which the representative takes great pains to avoid conflict with CHs told the author that they have begun to say "no" more often and more assertively.

For the time being CHs have mostly been accepting this outcome and signing protocols with Sámi villages, which creates a formal appearance of functioning participatory planning. This is reflected in the quite limited amount of non-conformities[25] that CHs have received from CABs in regards to participatory planning. For example, minor non-conformities against Statens Fastighetsverk and SCA Skog related to ineffective organization of the dialogue with Sámi villages were both closed in 2023, while Sveaskog has faced no NCs at all related to this issue

[24] One Sámi village described its strategy as one of "stalemate," holding off the CHs from logging more old natural forests until that moment when large areas of secondary forests established after clearcutting in the 1950s and 1960s become legal to harvest. "I started negotiating for us about 15 years ago. Before my time they were taking forests at the edge of the territory. When I started, there was already nothing left to give. We've been in that locked position for a very long time."
[25] As viewed in the public versions of FSC FM/COC audit reports available at https://search.fsc.org/en/.

since adoption of the new standard. Interviewed CHs told the author they consider the logging reductions caused by withheld FPIC to be unsustainable for their operations.[Certificate holder 4], said that its planned logging levels have been reduced by 40% due to withheld FPIC. The more commercially oriented [Certificate holder 1], [Certificate holder 2] and [Certificate holder 3] gave estimates of logging volume reductions of 60-70%. In the case of [Certificate holder 1], company representatives said that their starting volume was already reduced several times before participatory planning began in an attempt to reduce conflict with reindeer husbandry.[26]

These significant logging reductions led to one of the most contentious public disputes between CHs and Sámi villages, when in January, 2023 Sveaskog put out a press release claiming that "deadlock in the discussions with some Sámi villages" was forcing it to reduce final felling area by 45% and thus not meet some of its wood supply agreements to Swedish mills.[27]

Interviewed CHs hope to improve the situation in upcoming rounds of participatory planning and convince Sámi villages to consent to timber harvesting across larger areas. The most effective way to achieve this would be to offer Sámi villages significant adaptations to management practices. The author learned that some progress has been made between the sides by increasing the area of pre-commercial thinning in dense young pine stands, which improves visibility and reindeer maneuverability and brings more light to the understory, stimulating growth of ground lichens. Sámi village representatives acknowledged the positive impact of this practice and the increase in its implementation by CHs, but others still said the increase was too small to compensate for the constant reduction in area of old, lichen-rich forests.

However, the author sees little indication that CHs are ready to offer at significant scale two of the management adaptations that many Sámi villages posit are necessary to maintain reindeer husbandry: set-aside of some particularly valuable reindeer pastures and transition from clearcutting to continuous cover silvicultural systems in other lichen-rich forests. Interviewed CHs expressed great reluctance to establish a practice of setting aside key reindeer husbandry areas, claiming that the spirit of participatory planning is to share the entire landscape, not divide it up between forestry and reindeer husbandry. This sentiment was echoed by a senior member of FSC Sweden in an interview. CH representatives said they sometimes delineate other HCV (such as Woodland Key Habitats, ecological reserves) in a way that takes reindeer husbandry into account, or "in some individual cases" will include key reindeer pastures in the 5% of their landbase that the FM standard directs them to adapt management within to protect and enhance conservation and/or social values (indicator 6.5.2).[28] But in all interviews CH

[26] "We are cutting 30% of what we would have planned. We have lowered our volumes before we went into participatory planning, and we have lowered again, maybe by two times after very tough discussions. And it's still not low enough [for the Sámi villages].

[27] https://www.sveaskog.se/press/2023/minskade-avverkningsnivaer-i-norrbotten-2023/

[28] 6.5.2 At least 5 % of the productive forest land area is managed with long-term protection and enhancement of conservation values and/or social values as the primary objective. The following can be included, exclusively or in a combination:
a) further areas set aside to maintain and promote natural biodiversity or biodiversity conditioned by traditional land use practices, in addition to the 5 % that is set aside according to 6.5.1,
b) areas with enhanced nature consideration and specific nature conservation measures,

representatives resisted the idea of setting aside the most critical areas for reindeer husbandry from logging, even while acknowledging that this is what many Sámi villages seem to be trying to do by withholding FPIC for timber harvesting.

Similarly, both Sámi village representatives and the CHs themselves told the author that non-clearcutting timber harvest methods are offered by CHs as an occasional concession, on a very limited area, and are not viewed as a potential paradigm shift in remaining natural forests. This limited use of continuous cover forestry, shelterwood and selection systems is far less than Sámi villages are calling for.

Considering the limited chances of a major compromise that facilitates more FPIC for final felling, CHs may choose to use the mechanism at the very end of the participatory planning process that allows them to commence forestry activities if they can demonstrate that not doing so would "substantially affect the [CH's] long-term forest management" or if the Sámi representatives did not demonstrate that reindeer husbandry on the territory of the Sámi village would be disabled by the activities. One of the CH has thus far tried to do so most persistently, at least with three different Sámi villages.

In 2020-2022 the CH had difficulty organizing participatory planning with a Sámi village, and the company felt the village representatives were not acting in good faith by failing to respond to invitations and inquiries in a timely manner. The Sámi village representatives, in their turn, felt that the CH was rushing them and not respecting the seasonal constraints of reindeer herders. In 2022 the CH commenced logging in areas that had been under discussion and where FPIC had not been provided, and the Sámi village filed a complaint with the CAB. The CAB ruled that this move by the CH was a violation of indicator 3.2.4 of the FM standard and imposed a major non-conformity, as well as two minor NCs related to communication issues with the Sámi village. At the time of this investigation the CH had closed the NCs by committing not to proceed with logging until all stages of the participatory planning process were completed. CH representatives told the author that the company "introduce[d] into the routine that we use mediation and review before we can demonstrate that it involves significant restrictions on our use and only then proceed without the consent of the Sámi village. At that stage, our auditors will have to assess whether we have done the right or wrong thing."

[Certificate Holder] has also attempted to get to the very end of the participatory planning process with two other Sámi villages. In December, 2022 the CH entered into two separate "dispute resolution" processes with Sámi villages after failing to achieve a mutually acceptable result of participatory planning. The FSC Sweden dispute resolution committee found in both cases that "good faith" and "landscape perspective" had not been properly defined between the parties at the start of the process, and in one case criticized the village for not providing enough information to inform the dialogue. But in both cases the CH was criticized for being too demanding of rapid responses and not offering enough management adaptations to address the

c) areas with long-term management in the form of continuous cover forestry or group felling with natural regeneration,
d) areas with enhanced considerations for recreational values and/or the local economy,
e) areas with enhanced considerations for reindeer husbandry.

villages' concerns. As such, the CH was not able to go forward with logging but was instead instructed to return to participatory planning and try again.

The FSC Sweden dispute resolution committee also reviewed a different case of prolonged disagreement between another CH and a Sámi village. In 2023 the CH presented the village with a list of proposed forest management activities, including a large number of final felling sites. The Sámi village chose to withhold FPIC and the CH returned with a new offer in which it proposed that 10% of the final felling sites be left alone and 90% harvested, albeit with possible adaptations. The Sámi village again refused because its representatives "believe that so much has [already] been felled that all the forests that remain are important, because lichens form an important part of the reindeer's pasture,"and asked that the case be reviewed by the dispute resolution committee. The committee again criticized both sides for not coming to a mutual understanding of "landscape perspective" and "good faith" at the beginning of the process, or for defining whose initiative it should be to propose solutions around management adaptations. The Sámi village was criticized for not studying the materials shared by the CH to the necessary extent, but the CH was criticized for excessively restricting the range of possible solutions by insisting that 90% of the proposed logging sites must be harvested. This was "not perceived as a solution-oriented way of working."

These examples show that the Swedish FM standard does not make it easy to proceed with forestry activities without FPIC, as CABs and the FSC Sweden dispute resolution committee can direct CHs to return to the participatory planning process if they deem that it was not carried out comprehensively, in good faith and/or with landscape consideration. Nonetheless, CHs indicated to the author their intention to use this approach if the current situation persists.

4.2 Difficulty of gaining the information about the Sámi sites of particular significance

These examples also demonstrate that insufficient information sharing and the capacity of and willingness of Sámi village representatives to engage in participatory planning can be barriers to productive dialogue. The observations by the dispute resolution committee that Sámi villages did not always contribute enough information about their reindeer husbandry needs were echoed by interviewed CHs. These companies complained that while they themselves upload many GIS layers about forest conditions and planned management activities to the *samplanering.se* website,[29] Sámi villages mostly provide information only in verbal form during office and field meetings. While Sámi villages do sometimes provide cartographic or GIS materials, all the CHs interviewed said they would like more information from the other side to inform the dialogue.

One Sámi village representative said that reindeer herders fear if they divide their pastures into priority categories, CHs will assume that lower-priority pastures can be cut indiscriminately. This was echoed by a person, who is experienced in developing reindeer husbandry plans for Sámi villages. According to the specialist, such fears sometimes hold Sámi villages back from clearly

[29] There is some criticism of the web-map quality from Sámi villages and other stakeholders at the portal *samplanering.se*.

expressing their most urgent priorities. However, it is important that Sámi villages be more open with the information in their husbandry plans and also share with CHs a GIS layer of ground lichen abundance that was produced by the Swedish University of Agricultural Sciences (SLU) for the villages.

Interviews with Sámi village representatives show that many do in fact have an understanding of which forests are most important for maintaining reindeer husbandry, but rarely have this presented in cartographic form. One representative told the author that he has a 10-point system for rating reindeer pasture, and that he bases his response to CH requests for timber harvesting on the "pasture rating" of the proposed logging sites. Another said that he understands which forest ecosystems form the "veins" of his Sámi village, which allow the herders to nudge the reindeer across the landscape to appropriate pasture. Sámi village representatives offered descriptions of priority forests that would be quite easy to identify in the field or using forest inventory data, such as "open-structured spruce and pine forests from 150-180 years old."[30]

In addressing how to convince Sámi village representatives to share more spatial information about their priority areas, it is worth investigating whether the format of the discussion is sufficient and appropriate to their needs.The Sámi critique of intensive Swedish forestry involves its decades-long impact of converting a landscape of older, structurally complex natural forests into one of intensively managed plantations. But as multiple village representatives told the author, the participatory planning process focuses the discussion on a snapshot of 5 years of near-term logging, scarifying, planting, thinning and fertilization. Indicator 3.2.3 of the FM standard directs the parties to use a "landscape perspective" to "get a better overview of the cumulative effect of the proposed activities," but there is a serious question whether participatory planning truly affords this possibility.

One Sámi village representative told the author that "participatory planning in this form doesn't give us the chance to take a breath and really plan. What I'd like to do is really walk through the whole landscape with the companies, looking at all the different forests, maybe you can burn over here, thin over here. We don't get to do that." Participants in a dialogue on participatory planning organized by FSC Sweden in 2023 noted that "forestry companies would like to just talk forward. It is important to also dare to talk about what has already been and learn from history. What can we learn from our mistakes to do better in the future?"

An expert on the rights of Indigenous Peoples points out that the FSC FPIC Guidelines[31] and FPIC protocols for other extractive industries in Sápmi[32] both recommend conducting

[30] The village representative continued that such forests are "as natural as it gets and difficult to replicate by planting. Young dense forests don't have enough lichen. Even some maturing secondary forests coming of age are starting to produce lichen, but still old forests are by far better."
[31] FSC Guidelines for the Implementation of the Right to Free, Prior, and Informed Consent (FPIC). FSC-GUI-30-003 V2.0 – EN
[32] Indigenous-led participatory and cumulative impact assessment on indigenous cultural landscapes and traditional ecosystem services (IPCIA). Guidelines for the Aluminium Stewardship Initiative. 2023. Protect Sápmi Foundation.

"participatory, cumulative impact assessment" of the entire industrial project as a separate step *before* moving to co-planning of operational activities. In his assessment the model of participatory planning in the Swedish FM standard "compacts these steps together," and as a result the focus becomes short-term and operational. A multi-year review of Sami reindeer husbandry across Fennoscandia seemingly confirmed the expert's criticism, pointing out that "consultations between reindeer herders and forest representatives have been criticized for coming too late in forestry planning, leaving little room for negotiation for reindeer herders and reducing the likelihood of reaching consensus."[33]

It is worth noting that the Finnish FM standard directs CHs to bring representatives of Sámi reindeer cooperatives (the Finnish equivalent of Sámi villages) into the discussion at the stage of forest management planning, and not just to invite them to later discuss the operational outputs of that plan. If this was practiced in Sweden as well it might allow Sámi villages to bring their concerns about cumulative landscape impact to CHs as the forest management model is being developed, potentially reducing the protracted disagreements at the participatory planning stage. At the same time, experts point out that the development of forest management plans is a long and labor–intensive process that can prove to be a heavy burden for the Sámi .

4.3 Imbalance in the capacities of the parties

Limitations in information sharing by Sámi villages might also reflect the problem of these organizations' capacity. All interviewed CHs said that some Sámi villages do not seem capable of devoting the necessary time to the participatory planning process, especially smaller villages.This can lead to a very drawn-out process, which CHs find very frustrating as it disrupts their forest management planning process.

From their side, Sámi village representatives complain that there is a disbalance of time and resources between the two sides of participatory planning - a conclusion which was also verified by other interviewees. CHs have salaried staff devoted to this task who are supported by other departments of these large forest management companies. In contrast, Sámi villages select 1-3 individuals from their membership to represent them, and these reindeer herders must balance the large influx of materials and meetings with their own intense workload in the field. Most villages must conduct participatory planning with multiple companies (4-5 is typical), and even claim that large CHs ask them to conduct separate processes with different geographic units of their company. Sámi village representatives told the author that the burden of participatory planning reduces their personal and family time and costs them significantly in foregone herding income, as their time is not compensated and the village can usually at best provide some gas money.

The issue of Sámi village capacity came up persistently and urgently in interviews. It appears to be a major constraint on the proper functioning of participatory planning in Sweden, which

[33] Birgitta Åhman, Ulrika Hannu and Øeinstein Holand. 2023. Conditions and challenges for reindeer herding in Norway, Sweden and Finland. *Rangifer* (23). (In Swedish)

should be addressed alongside the issue of serious discrepancies in the standard from the FSC IGIs.

4. Conclusions

The sections above demonstrated the following conditions that make up the current *status quo* in FM certification in Sweden:

1) Sámi villages and certificate holders have strong and persistent differences in opinion about the impact of forest management on the quality of reindeer pasture

2) This has led to a number of public disputes in Swedish and international press that have undermined public perception of FSC

3) The 2020 FM standard introduced a complex and time-consuming "participatory planning" process to inform Sámi village decisions about FPIC. This process has improved the dialogue in some ways but its efficacy is negatively affected by the following:

    a) Neither in the description of this process in Principle 3 nor in the list of HCV in Principle 9 does the standard clearly direct CHs to consider key reindeer pastures as sites of particular importance, despite the overwhelming significance that the Sámi give to these areas.

    b) The focus of the process is short-term and operational, i.e. it reviews the forest management activities in the next 5-7 years with only vague direction to consider the cumulative changes to the landscape brought about by 70 years of industrial forest management.

    c) Sámi villages were not brought into development of the CHs' forest management plans (as opposed to Finnish practice). This limits the potential for systemic adaptations of the forest management approach to the needs of Sámi, who instead encounter the outputs of that approach during participatory planning.

    d) The process sets equal expectations to the capacities of the participating parties, however, Sámi villages have substantially less administrative resources.

4) In the early stages of participatory planning it is relatively easy for Sámi villages to withhold FPIC, and they are doing so on a large scale as a means of reducing logging pressure on forests they consider key for reindeer husbandry. CHs claim this is leading to logging reductions of up to 70% from planned levels.

5) CHs offer individual adaptations to management in an attempt to convince Sámi villages to provide FPIC. A significant increase in pre-commercial thinning has taken place, and CHs offer to adapt logging practices on a limited scale in particularly contentious areas. But Sámi villages indicate that they wish to see a more systemic transition to

non-clearcutting in lichen-rich forests and the recognition that some key reindeer husbandry areas should be set aside from logging. CHs are thus far reluctant to do either of these things.

6) The FM standard includes a final step in which CHs can commence logging without FPIC unless Sámi villages demonstrate that the activity would disable reindeer husbandry at the scale of the Sámi village (up to 2 million hectares). Demonstrating this will be difficult to impossible, which CHs understand.

7) It is difficult to reach this stage as CABs and the FSC Sweden Dispute Resolution Committee can direct CHs to go back to participatory planning if they determine that the process was not completed in good faith.

8) Interviewed Sámi village representatives told ASI that if CHs commence timber harvesting without FPIC, the villages will initiate public campaigns against the CHs. This was even stated by some Sámi villages that have explicitly avoided public conflict in the past.[34]

The author rates highly the risk of an embittered public dispute between Sámi villages and CHs, with the participation of many other stakeholders that took part in the first wave of publicity in 2018-2022, including international ecological and human rights NGOs and globally prominent climate activists. The risk to the reputation of FSC Sweden and FSC in general is grave.

Great effort should be taken at this stage to head off large-scale public dispute by addressing discrepancies in the Swedish FM standard with the IGIs.

[34] I.e. SNMS, RSMS

5. Recommendations

During the standard setting process that will begin in Sweden in August, 2024 the next national standard should be brought closer to the FSC IGIs, potentially using the FM standards of Norway and Finland as a guide.

FSC GD is recommended to:

1. Ensure that the Swedish national standard's indicators 3.5.1 and 9.1.1 are in compliance with IGIs and the 'Common Guidance for the identification of High Conservation Values' (HCV Resource Network). These indicators should include sites of particular importance to Sámi *livelihoods* and not just Sámi culture. The correct language should be determined together with Sámi villages and SSR, but likely will include categories related to winter grazing areas with abundant hanging lichens, forest grazing areas with particularly abundant ground lichens, calving areas, migration routes.
2. Restore the IGI's Indicator 1.6.4 in the Swedish national standard that sets the requirement to CH and stipulate cessation of forest management operations when the "Dispute of substantial magnitude" affecting the legal or customary rights of Sámi exists.
3. Remove from Indicator 3.2 the concepts "disable reindeer husbandry" and "substantially affect[s] the long-term forest management" as they cumulatively deprive Sami reindeer herders of the right to effectively withhold their FPIC and open a channel by which the certificate holder may circumvent the withholding of FPIC without consequences for its certification status.

In the case that FSC GD review of indicator 3.2 leaves it largely intact, then the FSC Sweden standard setting committee is recommended to:

4. Adapt the definition of "Disabling of reindeer herding" provided in the standard's Glossary of Terms by including the new language in italics:

   Disabling of reindeer herding (Sw: omöjliggörande av renskötsel): When the availability of reindeer pasture is substantially negatively impacted in the long-term, considering the whole area of the Sámi village (the landscape) *or the area of grazing tracts or other appropriate units of reindeer husbandry*, and with consideration for the migration over the year as well as the functional connectivity within the area. (Source: FSC Sweden)

   The purpose of this amendment is to bring the unit of consideration for whether "disabling" has taken place closer to the scale and intensity of the forest management practices that are discussed in participatory planning.

5. In the Glossary of Terms of the Swedish national standard, add guidance to the definition of "Disabling of reindeer herding" to specify what possible factors can be considered in assessing whether "disabling" has taken place and at which scale (grazing tract, entire Sámi village, etc.) they should be assessed. These could include herd size, composition and age structure of forests across the unit of consideration, operational difficulty for

reindeer herders (i.e. time spent finding natural pasture, expense of supplementary feeding) and other factors.

6. Consider adding the "participatory cumulative impact assessment" instrument to Principle 3 *separate from* and ideally *preceding* the participatory planning process, ideally at a stage when the results can inform CH management plan development or revision. Considering the heavy workload that already lies on Sámi village representatives, this instrument could be voluntary and initiated by village representatives. This would be most logically placed before the current 3.2.2.

   The purpose of the impact assessment would be to allow Sámi villages and CH to consider cumulative impacts of many decades of forest management activities on reindeer husbandry across the landscape they share, without focus on and restriction to those specific locations where the CH plans activities in the near future. The impact assessment should serve the following purposes:

   - Allow Sámi villages to inform CH forest management decisions at an earlier stage that participatory planning allows
   - Allow both sides to explain and justify in more detail the impact (positive or negative) that they attribute to forest management activities such as final felling, PCT, early commercial thinning, etc. and come to a common understanding of the scale of these impacts.
   - Provide context on the condition of the wider landscape to inform participatory planning discussions about specific locations.

   Participatory and cumulative impact assessments should be moderated by an outside actor, who is also responsible for compiling the assessment document for review by the CH and Sámi village.

FSC GD and FSC Sweden are recommended to:

7. Investigate the possibility of making financial resources available to Swedish Sámi villages to at least partially compensate them for the extensive time and travel costs associated with multiple participatory planning processes. This could lower the financial burden of the process and allow them to hire consultants when necessary to share the analytical burden. The precedent exists in other extractive industries in Sweden and neighboring countries that consultation time that Sámi expend in the context of FPIC should be compensated, but the frequency of participatory planning may make this impractical for CHs. On the other hand, without more resources Sámi villages representatives may not be able to sustain the demands of this detailed process, sometimes with 4-5 different CHs.

8. Organize consultation with Sámi villages, ideally in partnership with SSR, to discuss conditions under which they would feel comfortable sharing spatial information from reindeer husbandry plans, the SLU-produced lichen availability analysis and other

information sources that could inform the participatory planning process. In some cases this information is shared, but multiple interviews revealed that it often is not. This may be motivated by issues of trust and uncertainty about how else the information might be used, but also by the short-term nature of the participatory planning process. Dialogue is needed to unpack the reasons and find solutions.

Appendices

Appendix I. Sámi reindeer herding rights in Swedish law (Informative)

The Sámi legal expert Malin Brännström describes the commitments of the Swedish government to protect traditional reindeer herding by the Sámi people in this way:

In 1977, the Swedish Parliament recognised the Sámi as an Indigenous people, and since 2011, a specific section in the Swedish Constitution states that the Sámi people's opportunities to maintain and develop their own cultural and community life shall be promoted. The provision aims to express that the Sámi people are regarded as an Indigenous people, and that reindeer herding is a central part of the Sámi culture. In addition, the reindeer-herding Sámi have land rights on their traditional territories, and these rights are recognised as private property rights. At the same time, the forest areas in which most of the traditional land of the Sámi is situated are owned by private landowners. Hence, parallel property rights exist on the same land, namely, the right of the Sámi to use the land and those of landowners, which include their rights to exploit the forest as regulated through the Forestry Act (1979:429).

Brännström points to Swedish court decisions that have confirmed that Sámi rights to practice reindeer herding are *private property rights* and not just a public good, such as the 2011 Normalding case before the Supreme Court.[35]

However, in her assessment the Swedish Forestry Act (SFA) regards them only as a public good which must be considered when planning and conducting forest management, but which is not regarded in the law as a private property right on par with that of the right of landowners to practice forestry.

That being said the SFA does contain the following points that address reindeer husbandry:

Section 20: Before felling takes place in an area where reindeer husbandry is permitted throughout the entire year (year-round grazing areas) in accordance with the Reindeer Husbandry Act, the Sámi village concerned shall be given the opportunity to participate in joint consultations, as stipulated in regulations issued by the Government, or public authority designated by the Government.

Section 21: In applications for permission to fell pursuant to section 16 above, the forest owner shall describe how it is intended to satisfy reindeer husbandry interests. In year-round grazing areas, felling is not permitted, if it: (i) causes such a significant loss of reindeer grazing land that the possibility to maintain the permitted number of reindeer is limited; or (ii) precludes the customary grouping and migration of reindeer herds.
When felling permission is granted, the County Forestry Board shall decide what consideration

[35] Malin Brännström. 2024. "The implementation of Sámi land rights in the Swedish Forestry Act." In *The Significance of Sámi Rights: Law, Justice, and Sustainability for the Indigenous Sámi in the Nordic Countries*. Edited by Dorothée Cambou and Øyvind Ravna. Routledge: London.

shall be taken to reindeer husbandry interests as regards, inter alia, the size and location of the felling site, and permissible felling method.

These conditions may only apply to what is clearly required with regard to the rights applicable to reindeer husbandry.

Section 31

Forest management measures which concern the form and size of felling areas, the establishment of new stands, the retention of tree groups, and the routing of forest roads, are to take account of essential reindeer husbandry requirements. When planning and implementing forest management measures, it is desirable that the Sámi village concerned be given annual access to both a sufficiently large and cohesive grazing area, and an ample amount of vegetation in those areas used for reindeer corralling, migration and resting.

An important distinction is that the SFA extends the right of consultation and imposes certain restrictions on forestry use only in *year-round grazing areas*. These are the forests and open ecosystems found on the slopes of the Scandinavian Mountains in the west of Sweden, along the Norwegian border (see Fig. 1).

However, reindeer husbandry is practiced on a much larger area than these year-round grazing areas, including the lowland forests between the mountains and the Gulf of Bothnia. These lowland forests are known as *winter grazing areas* and have less consideration within Swedish law. However, they are subject to participatory planning under the FSC Forest Management standard in Sweden.

Fig. 1. Year-round grazing areas (mountain forests and unforested ecosystems) in the Sápmi area of Sweden. © Skogsstyrelsen 2023