New Study: Global Paper Company Makes Progress, but Continues to Face Challenges in Ensuring Legality of Land Holdings in China

Despite headway in addressing land rights violations made in recent years, Stora Enso has yet to fully ensure legality of all lands acquired in the past

A new report reveals that Stora Enso Oyj (Stora Enso), one of the world’s largest pulp and paper companies, has made substantial progress in reviewing the legality of its land acquisitions in China, but has not yet fully ensured respect for local land rights in their operations. These challenges continue despite important steps by the company since 2009 to improve its land acquisition practices against the backdrop of China’s ongoing nationwide forest tenure reform.

The company has long held a global reputation for its Corporate Social Responsibility (CSR) record in sharp contrast to many other international land investors. It has also been included in the Dow Jones’ Sustainability and the FTSE4Good indices.

In 2010, researchers from Landesa, in collaboration with Rights and Resources Initiative (RRI), discovered violations of forest farmers’ property rights and livelihoods in its forest land acquisitions in China. The new report results from a follow-up study in 2013 to assess Stora Enso’s efforts to address the irregularities identified in 2010.

The findings, drawn from 12 randomly chosen villages in Guangxi, confirm many positive steps to redress the situation taken by Stora Enso since 2009, such as a moratorium on leasing any more collectively owned forest land, and a process of contract screening and correction for previous leases to evaluate their legality. The researchers also received full cooperation of the management of Stora Enso for the study, who provided information regarding its land acquisition policies and how they had changed over time. Stora Enso reviewed the report and prepared a response to its findings, some of which it agrees with and some not. Its response has been included as an annex to the report.

The new research report reveals that the screening and corrective measures taken by Stora Enso are not sufficient to ensure complete respect for farmers’ property rights or redress past complaints of forced acquisitions. In all, researchers found reports of unresolved compulsory acquisition in 10 of the 12 Guangxi villages visited in 2013. This finding indicates that the problem remains, although the research methodology did not permit a precise estimation of the scale of the problem.

“These findings present a cautionary tale for companies planning to invest in forest land in developing countries,” said Andy White, Coordinator of the Rights and Resources Initiative. “Given the extent of local government corruption and the complexity of the law, it is difficult to get it right even if you are well intentioned. And getting it right requires strong dedication by all levels of the company, and a willingness to give up wrongly acquired land.”

The research also has implications for the International Finance Corporation (IFC), which is one investor in Stora Enso’s Guangxi operation, and whose standards are a benchmark for international investors.
Several of Stora Enso’s corrective measures need significant work in order to meet the new standards IFC has set for its clients.

**Correcting past mistakes proves challenging**

Stora Enso entered Southern China in 2002 as part of a stream of multinational investors aiming to capitalize upon China’s rapid economic growth. It acquired 90,200 ha of leased forest land rights in Guangxi Autonomous Region – about 37 percent of which are collectively owned forestland - for fast-growing eucalyptus plantations that will supply the raw material for its pulp and paper production facilities.

In their 2010 report, *A Case Study on Large-Scale Forest land Acquisition in China: The Stora Enso Plantation Project in Hepu County, Guangxi Province*, one of the major problems found by researchers was nearly half of collective forest land rights secured – or more than 10 percent of all lands - were acquired coercively by an intermediary called Beihai Forest Investment Company (BHC). BHC was set up by the Beihai Municipal Government for the sole purpose of acquiring collective forest land on Stora Enso’s behalf. As part of the county government’s campaign to acquire this land, BHC used local police to force farmers to surrender land and even arrest those who contested the transactions, leading to significant violence.

Following the 2010 report, Stora Enso took several steps to rectify the problems associated with their land acquisitions, even beyond the problems associated with BHC. These steps included suspending further acquisition of collective forest land, terminating BHC as the company’s land acquisition agent, launching an internal screening and correction process for existing contracts and making corrections to 35 percent of its existing contracts. The new study revealed a number of continuing problems, including legal and operational flaws in the screening and corrective actions:

- Although the company is aware that its acquisition includes collectively owned lands that had already been allocated to and held by individual households as individual property rights, its screening incorrectly assumes that these lands were collectively managed, and does not adequately take into account the laws heightening protection of individual household land rights. The only test in the screening process to check if the acquisition was legal was if the “two-thirds” rule was applied when the land was transferred to Stora Enso. This rule does not apply to situations where lands have already been allocated to individual households.

- The report found unlawful acquisition of so called “private mountain rights”. While most of the collectively owned forest land Stora Enso acquired was under collective management, there is ample evidence that its acquisitions also include rights to private mountains. These rights were allocated to farmer households long before China decollectivized its agriculture, and are legally defined as individual land rights. The nationwide forest reform prohibits any attempt to take them back from farmers, yet the report revealed that Stora Enso has been treating private mountain rights like collective-managed forest land rights in its acquisitions. In at least two villages, farmers reported forced transfers of their private mountains rights by the company’s intermediaries despite resistance.

- This research suggests that the company’s corrective screening process would fail to bring their portfolio up to IFC’s current guidelines. For instance, it does not warn against the issue of coercion in transactions, and does not embody the principle of Free, Prior, and Informed Consent (FPIC) which has been defined in IFC’s social responsibility standard since 2011.
The screening did not ensure special protection for women’s land rights, found to be particularly at risk in land transactions. The current IFC guidelines require its client to consult both men and women in separate forums if necessary when the project is expected to generate impacts on local communities. However, researchers did not find any institution-wide company measures to ensure women’s rights, and instead found women to be often excluded from distribution of rent paid by Stora Enso or its local government intermediaries to village collectives when they married or moved to another village.

Finally, to clear itself from liability for illegal activities conducted by BHC, Stora Enso must establish that it was a good faith purchaser of what BHC acquired on its behalf. If Stora Enso had knowledge of any facts suggesting the illegality of BHC transactions, those contracts are subject to the claims of the original landholders. The corrective process is made more complicated by claims from villagers that several of the acquisitions were made by force and had no legal standing. Stora Enso’s measures to resolve disputed contracts or deal with complaints of fraudulent practices—such as a complaint hotline and newsletters to notify the public of the complaint process—have not yet been effective.

“We commend Stora Enso for cooperating with our researchers, and adopting many of the recommendations made in our previous report, and there is more to be done,” said Li Ping, a Senior Attorney at Landesa who led the study. “For companies investing in land in China, adapting their forest land acquisition to the sweeping national forest land reform is undoubtedly a daunting task, but tailoring its practices within China’s regulatory framework for land acquisition would not just help Stora Enso respect and strengthen the rights of local farmers, it would also mean creating a business model that facilitates its own long-term growth.”

**Recommendations for improvement**

The report puts forth several recommendations for Stora Enso to bring its activities in China fully in line with Chinese laws and policies, as well as emerging international standards regarding land rights. For starters, researchers recommended that Stora Enso should acquire any further land through direct contracting with individual households instead of with rural collectives. Other recommendations include designing and implementing a more farmer rights-based screening and corrective process for existing and future contracts; more strictly implementing the central government policies in any future land acquisitions; exploring the out-grower approach as an alternative to future land acquisitions; making rental payments directly to individual households; and further improving institutional grievance mechanisms to effectively address farmers’ concerns.

The report also highlighted a need for Stora Enso to pay greater attention to the rights and roles of women across all of these five recommendations.

“Stora Enso’s experience provides important lessons for all investors in rural land going forward,” concluded Andy White. “If companies like Stora Enso can run into significant problems despite their good intentions and considerable investment from the IFC to help them identify and deal with these issues, we have a lot to worry about. Much more needs to be done to create awareness of the growing risks of ignoring forest tenure rights, and to strengthen the IFC’s commitment to identify and prevent these risks for their clients, as well as improving their capacity to enforce their own standards.”

###
The Rights and Resources Initiative (RRI) is a global coalition of 13 Partners and over 140 international, regional and community organizations advancing forest tenure, policy and market reforms. RRI leverages the strategic collaboration and investment of its Partners and Collaborators around the world by working together on research, advocacy, and convening strategic actors to catalyze change on the ground. RRI is coordinated by the Rights and Resources Group, a non-profit organization based in Washington, DC. For more information, please visit www.rightsandresources.org.