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UN Committee on the Elimination of Racial
Discrimination Human Rights Treaties Division
(HRTD)
UNOG-OHCHR
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**Request for consideration under the Early Warning / Urgent Action
Procedure of the grant of a palm oil concession to CamVert and
imminent deforestation and dispossession associated with it
(Cameroon)**

INTRODUCTION

1. BACUDA, an indigenous Bagyeli peoples' organisation based in Cameroon, Green Development Advocates (**GDA**), a civil society organization based in Yaoundé, Cameroon, and Forest Peoples Programme (**FPP**), an international NGO (together, the **authors**), acting on behalf of (and with the mandate of) the Bagyeli indigenous peoples living in the communities of Nyamalande (Nazareth), Biyengue, Bibera, Mimbonzo, Nyamabande V12, Nkongo et Akak, (together **the named Bagyeli communities**), respectfully submit this request to the United Nations Committee on the Elimination of Racial Discrimination.
2. The authors request that the Committee consider, under its Early Warning / Urgent Action Procedure, the current rapid deforestation and encroachment on the customary lands of the named Bagyeli communities by Cameroonian company, Cameroun Vert S.A. (**CamVert**), for the establishment of an oil palm plantation. CamVert is operating under a provisional concession granted to it by the government by decree dated 7 March 2022, under which it has been granted a space of 39,923.0107 hectares for the development of an oil palm plantation.¹ Under the attributing decree, CamVert has priority to obtain two further parcels (of a further total of 19,014.1638 hectares, and 715.4115 ha respectively) for the expansion of its activities.² If exercised, this expansion right would bring the total area of CamVert's concession to approximately 60,000 hectares.
3. A substantial portion of the concession area overlaps with the customary forest lands of the Bagyeli indigenous peoples. The named Bagyeli communities continue to live on and use these lands, and the deforestation and conversion of these lands amounts in effect to their dispossession, and potentially forced displacement, from areas they have traditionally owned and used, and on which their livelihoods and culture depend. The traditional or customary ownership of these lands by the Bagyeli is not adequately recognized, respected or protected

¹ Decret No. 2022/112 du 7 mars 2022 portant attribution en concession provisoire à la société Cameroun Vert S.A. d'une dépendance du domaine national, sise au lieu-dit « Malaba-Akak-Lobé village », dans l'arrondissement de Campo, Département de l'Océan, Région du Sud.

² Decret No. 2022/112 du 7 mars 2022, article 7.

under Cameroonian law. As a result, the concession has been granted without acknowledging these rights, without their free, prior and informed consent, and without just or equitable compensation. As the authors set out further below, the concession has also been granted without complying with applicable national laws.

4. Since 2020 – that is, commencing even before the concession decree had been granted – CamVert and/or others have proceeded to rapidly deforest areas of the concession and commence planting of oil palms (see map 3 at annex 2). As at 14 March 2023, over 6000 hectares of forest lands, representing over 15% of the existing concession area has been cleared.³ A significant portion of this (approximately half) has been deforested since 22 November 2022 (see photos in annex 3).⁴ The deforestation rate in the last several months has been sufficiently high for palm oil deforestation monitors to describe this earlier this year as “one of the most serious current cases of palm-related deforestation” in the world.⁵
5. The concession, which is being rapidly developed, creates risks of serious and irreparable harm to the named Bagyeli communities, who risk permanent loss of their lands, culture and livelihoods if the concession proceeds as planned, in violation of their right to non-discrimination in the ownership of property protected by article 5(d)(v) of the International Convention on the Elimination of All Forms of Racial Discrimination (**ICERD**)), as well as their right to participate in the conduct of public affairs at any level under article 5(c) ICERD. It also puts at risk the enjoyment by the named Bagyeli communities of a range of economic, social and cultural rights (article 5(e) ICERD). Moreover, the harm from this concession needs to be considered cumulatively, given that the named Bagyeli communities and the Bagyeli people as a whole – who live only in this department of Cameroon – have already suffered significant loss of ownership, access and/or use of lands within the department, such that their survival as a people is increasingly at risk.
6. This request follows a previous request made to the Committee by these communities in October 2020.⁶ At that time, the lands in question had been irregularly degazetted by the

³ Calculations made by T Rowley, mapper with Forest Peoples Programme, using data from Hansen, M. C., P. V. Potapov, R. Moore, M. Hancher, S. A. Turubanova, A. Tyukavina, D. Thau, S. V. Stehman, S. J. Goetz, T. R. Loveland, A. Kommareddy, A. Egorov, L. Chini, C. O. Justice, and J. R. G. Townshend. 2013. “High-Resolution Global Maps of 21st-Century Forest Cover Change.” *Science* 342 (15 November): 850–53. Data available on-line from: <https://glad.earthengine.app/view/global-forest-change> and Hansen, Matthew C., Alexander Krylov, Alexandra Tyukavina, Peter V. Potapov, Svetlana Turubanova, Bryan Zutta, Suspense Ifo, Belinda Margono, Fred Stolle, and Rebecca Moore. “Humid Tropical Forest Disturbance Alerts Using Landsat Data.” *Environmental Research Letters* 11, no. 3 (2016): 034008. <https://doi.org/10.1088/1748-9326/11/3/034008>. This figure represents the total land area affected by deforestation measured using a polygon (i.e. tracing around the entire affected area and measuring the area. The actual deforestation measured using a pixel (which does not capture smaller areas that remain forested within the concession area, e.g. around rivers), is around 2800 hectares. However, as the whole area becomes inaccessible to communities, the authors consider the polygon method is the appropriate measure in this instance.

⁴ Ibid.

⁵ Leo Bottrill, “Is Palm Oil ‘actually not so bad anymore’? Well, it’s complicated”, 9 February 2023, available at <https://blog.palmoil.io/what-is-driving-declines-in-palm-related-deforestation-in-indonesia/> (accessed 14 March 2023).

⁶ BACUDA and Forest Peoples Programme, *Request for consideration under the Early Warning / Urgent Action*

government “for allocation to agricultural production”. No oil palm concession had yet been granted but, despite this, deforestation had started and CamVert had begun operating a plant nursery on the site of the present concession. Almost three years later, a concession has now been granted in violation of the rights of the Bagyeli indigenous peoples, and deforestation of the area is ramping up. The co-authors therefore request, on behalf of the named Bagyeli communities, that the Committee adopt a decision expressing specific concerns about the grant of the concession to CamVert without respecting the customary land and resource rights of indigenous Bagyeli communities, and, more generally, the continued failure to respect and protect the customary land rights of indigenous peoples in Cameroon.

BACKGROUND

The indigenous Bagyeli peoples of Cameroon

7. This request is made on behalf of (and with the specific mandate of) the Bagyeli people living within the affected communities.
8. The people, an indigenous hunter-gatherer group, are one of several forest indigenous peoples in Cameroon. Forest indigenous peoples are also commonly referred to as “pygmies” in Cameroon, although that term is considered pejorative by many. The customary territories of the Bagyeli are exclusively in the department of Ocean, in the South region of Cameroon, and form part of the Congo Basin tropical forest.⁷ The Bagyeli are considered the first occupants of this area of Cameroon, estimated to have been present for some 4,000 years.⁸
9. Unlike indigenous peoples in some other parts of the world who have significant geographic separation from non-indigenous peoples, forest indigenous peoples’ communities in Cameroon live alongside non-indigenous (Bantu) communities, who generally also exercise collective customary rights over land and resources. Bantu and indigenous groups usually share, at least partially, the same forest lands and territories, although they have distinct ways of life.
10. Forest indigenous peoples live primarily from forest activities – hunting, fishing and gathering – sometimes supplemented by agriculture, or agricultural labour, on a very small scale. In

Procedure of the declassification of Forest Management Unit (FMU) 09-025 and reallocation to CamVert (Cameroon), 20 October 2020. This request, submitted at the height of the pandemic, did not receive a direct response from the Committee. However, a similar request, also concerning Bagyeli communities affected by a palm oil concession in the same department of Cameroon, submitted in 2019, elicited a letter of concern from the Committee: see CERD Committee, Letter addressed to the Permanent Representative of Cameroon to the Geneva Office of the United Nations, 10 May 2019, https://tbinternet.ohchr.org/_layouts/15/TreatyBodyExternal/DownloadDraft.aspx?key=KbseUklCOZUq9+qNmCtvRVijusORFC3MKm1JQNAQKJgvNVYvO4ZYh+SUNFAZCi76OLTSAvhucg+O9vMR&vijaQ==.

⁷ See Gbabandi et al (2019), *La situation des peuples autochtones de la forêt au Cameroun : fiche d’information*, available at :

http://www.forestpeoples.org/sites/default/files/documents/La%20situation%20des%20peuples%20autochtones%20de%20la%20fore%CC%82t%20du%20Cameroun%20-%20Fiche%20d%E2%80%99information_0.pdf

⁸ Mveng, E (1984), *Histoire du Cameroun. Tome premier*. Edition CEPER, Douala, cited in J C Owono (2001), “Cameroon – Campo Ma’an: the extent of Pygmy involvement in the development and the Management Plan of the Campo Ma’an UTO”, in Forest Peoples Programme, *From principles to practice: Indigenous peoples and protected areas in Africa*, 243-268, at page 249.

contrast, different Bantu peoples live primarily from agriculture, fishing, raising livestock, artisanal mining or other livelihood activities (principally dependent on their location), supplemented on a much smaller scale by the use of forest products. Bantu communities in general also have much higher levels of education and are significantly more likely to leave their villages and traditional livelihood activities for formal employment in another sector. Because of the different emphasis in their livelihoods, the forest is used much more significantly by forest indigenous peoples and has a much greater, and indeed central, importance to their livelihoods, culture and health.

11. The distinction in culture and livelihoods between the two groups continues to be strong, despite a range of policies that have constrained the traditional livelihoods of forest indigenous peoples. Such policies include, for example, sedentarisation policies pursued by the Cameroonian government in the second half of the 20th century, which required indigenous peoples to move to live in permanent settlements by the road,⁹ and more recently, allocations of indigenous peoples' forest lands for logging, mining, agribusiness or conservation, usually entailing restrictions on access and use by indigenous peoples.
12. Administratively and socially, Bagyeli communities are often "twinned" with a neighbouring Bantu community. Sometimes they live physically in one village (described as a "mixed community"); in other cases, Bagyeli communities live nearby but in a separate village, usually described as a "hameau" or "campement". The relationship between Bantu and Bagyeli peoples reflects a complex range of social, political, economic and historical elements, both positive and negative. However, there is a clear element of marginalisation or exploitation of the Bagyeli. Historically, Bagyeli were considered to be the "property" of their Bantu neighbours and effectively used as forced slave or semi-slave labour. While the most exploitative forms of these practices are now rare, they have not been eradicated.¹⁰ It is not uncommon, for example, for Bantu to place significant pressure on the Bagyeli to undertake agricultural labouring work in their fields, often against their will, at a low rate of pay (and often in kind rather than in cash, frequently against the express wishes of Bagyeli workers, and including sometimes with alcohol). There remains a strongly embedded culture of discrimination and marginalisation against the Bagyeli by their Bantu neighbours.
13. This marginalisation of Bagyeli people is also embedded in State institutional arrangements. Most relevantly for the purposes of this submission, Bagyeli communities do not have distinct representation as individual communities in the administrative structure of the State.¹¹ Rather, the State structure for territorial administration treats Bagyeli communities as forming part of the same "village" as the neighbouring Bantu community, and they are therefore represented

⁹ See e.g. Jean-Pierre Nguede Ngoni, (2019) « La transmission orale chez les Baka du Cameroun dans un contexte de mutations socioenvironnementales », halshs-02085123, <https://shs.hal.science/halshs-02085123/document>, accessed 14 March 2023.

¹⁰ See CESCR (2019), *Concluding observations on Cameroon*, para 36. See also ILO (2015), *Indigenous peoples in Cameroon: A guide for media professionals*, available at: https://www.ilo.org/wcmsp5/groups/public/---dgreports/---gender/documents/publication/wcms_438854.pdf, pp 14-15.

¹¹ ILO, op. cit., page 16 ; Gbabandi (2017), *Declaration on Land Rights from the Gbabandi Platform*, paragraph 3, available at: <https://www.forestpeoples.org/en/rights-land-natural-resources/news-article/2017/declaration-land-rights-gbabandi-platform-cameroon>.

only by a Bantu “traditional”¹² chief. The chief has important functions for representation vis-à-vis government authorities – he (or occasionally she) is the official representative of the community and can sign documents, approach the administration and take other official steps on its behalf. He or she is also the point of contact for any “consultations” – such as they are – in relation to proposed activities on the lands of the village. There is no obligation, on either the State or the Bantu chief, to directly notify Bagyeli communities sharing the same territory of any consultation or information meetings, or any proposed projects or activities that would affect them. Indeed, it is frequently the case that engagement between the administration and local communities excludes completely, or almost completely, any participation by Bagyeli communities.

14. It should also be noted that the level of formal education among Bagyeli communities is disproportionately low. As a result, many Bagyeli communities do not speak French or English – the languages of the administration – well, or at all. The majority of Bagyeli adults are also illiterate. Unless they are specifically addressed through administrative processes – which is extremely rare – both of these factors significantly hinder the participation of Bagyeli in decision-making processes and impede their ability to provide free, prior and informed consent, sign documents (which are almost always in French, and if not are in English) etc.
15. It is impossible to know with certainty the current population of Bagyeli in Cameroon, because the government fails to (and generally refuses to¹³) collate population statistics disaggregated by ethnic group – despite repeated recommendations from the Committee to do so.¹⁴ It is also worth noting that the last census carried out by the Cameroonian government was in 2005, as the planned 2015 census – which the government promised in its report to CERD would include some kind of “indigenous peoples’ indicator”¹⁵ – has still not been carried out. In the absence of any government data, Bagyeli population estimates are very rough. Estimates used by the ILO in a 2015 publication suggest the population is between 10,000 and 30,000,¹⁶ but even these estimates are uncertain.
16. There is equally no public database or other compiled list of Bagyeli communities. This is in part because the territorial administration of Cameroon works through the recognition of Bantu “villages”, as noted above. While the co-authors do not have a comprehensive list of Bagyeli communities, there are at least 58 Bagyeli majority communities, or mixed communities with

¹² Although called traditional chiefs or traditional authorities, in many parts of Cameroon including in the Ocean department, chieftdom as it currently exists is not necessarily a pre-colonial cultural tradition but was rather imposed during colonial times by the French administration as a means to control the population: see P Geschiere, “Chiefs and Colonial Rule in Cameroon: Inventing Chieftancy, French and British style”, in *Africa: Journal of International African Institute* 63, no. 2 (1993): 151-175; Mback, Charles Nach. “La Chefferie Traditionnelle Au Cameroun : Ambiguïtés Juridiques et Dérives Politiques.” *Africa Development / Afrique et Développement* 25, no. 3/4 (2000): 77–118.

¹³ See Republic of Cameroon (2019), Combined 22nd and 23rd reports submitted by Cameroon under article 9 of the Convention, due in 2017. UN Doc No. CERD/C/CMR/22-23, at paras 31 and 32.

¹⁴ See most recently CERD (2022), Concluding Observations: Cameroon. UN Doc No. CERD/C/CMR/CO/22-23, paras 4 and 5.

¹⁵ Republic of Cameroon (2019), Combined 22nd and 23rd reports submitted by Cameroon under article 9 of the Convention, due in 2017. UN Doc No. CERD/C/CMR/22-23, para 32.

¹⁶ International Labour Office, *Indigenous Peoples in Cameroon: a guide for media professionals* (ILO: 2015)

Bagyeli populations, known to the co-authors within the department of Océan. Of these, approximately 10 Bagyeli or mixed communities are directly or indirectly affected by CamVert's plantation.¹⁷

17. The total Bagyeli population whose customary lands overlap the concession area is unknown. A 2012 management plan for the forestry management unit which covered broadly the same area as the current plantation concession recorded a population of 103 in 4 majority-Bagyeli communities identified in a study;¹⁸ however, this figure is incomplete as it does not identify Bagyeli population members in non-Bagyeli majority communities, may not have identified all Bagyeli communities, and may also include non-Bagyeli members of the identified communities. In the most recent field trip conducted by BACUDA and FPP in February 2023, 57 Bagyeli individuals from 7 communities participated, but this is not reflective of the whole population (for example, it does not include any children, nor necessarily all adults) and the field mission did not include all mixed villages in the area.

Customary rights of other peoples

18. The named Bagyeli communities will be disproportionately and seriously affected by the oil palm plantation, because of their particular cultural dependence on and links to forest areas, which are substantially greater than those of other ethnic groups. They have also had substantially fewer opportunities to participate effectively in the decision-making processes leading up to the grant of the concession, because of the way in which so-called "consultations" were carried out, linked to the discriminatory administrative arrangements in Cameroon vis-à-vis administrative representation of indigenous peoples, mentioned above.
19. In submitting this request, however, the authors do not wish to deny that the rights, including land and resource rights, of other ethnic groups, notably affected Mvae and Iyasa communities, may also be affected. Mvae and Iyasa communities are both considered "Bantu" communities (the broad term for the multiple ethnic groups which speaks languages belonging the Bantu language group). Bantu groups are generally dominant in Cameroon and are not considered "indigenous peoples" within the legal meaning of that term proposed by the African Commission on Human and Peoples' Rights.¹⁹ However, most Bantu communities also have collective customary land ownership traditions, and their land ownership is also poorly respected and protected under Cameroonian laws. Specific groups, and particularly those in more rural areas such as the Mvae and Iyasa, are also often marginalised within the broader national context.

¹⁷ These include the Bagyeli communities of Mimbozo, Bibera, Biyengue, Nkongo, Nyamabande as well as the mixed communities of Zambe Alô/Nazareth, Assok Bitande, Akak, Nkoélon, Afan Essokié and Lobé Village. The size of the Bagyeli population in mixed villages can vary significantly, sometimes reflecting only 2-3 people and sometimes constituting a significant minority.

¹⁸ SCIEB (Société Camerounaise d'Industrie et d'Exploitation de Bois) (2012). *UFA 09-025 : Plan d'aménagement*, page 34.

¹⁹ African Commission on Human and Peoples' Rights (2003), *Report on the Working Group on Indigenous Populations/Communities*, adopted by the African Commission on Human and Peoples' Rights at its 28th ordinary session, p 89.

20. Mvae communities are predominantly agricultural communities but retain some livelihood dependence on, as well as spiritual and cultural links with, the forest. Iyasa communities (based closer to the coast) are predominantly fishing communities, but also retain livelihood dependence and cultural and spiritual links to forest areas. Over the course of the last three years, the authors have together or separately worked with the totality of communities affected (Mvae and Iyasa as well as Bagyeli), and are aware of concerns held by communities beyond the specific communities on whose behalf this request is submitted. However, the mandate for this action has been given only by the named Bagyeli communities mentioned above,²⁰ and is therefore brought only on their behalf.

The status of customary land rights in Cameroon

21. Customary land rights receive very limited recognition and protection under Cameroonian national law.²¹ Existing national legislation has broadly maintained colonial-era property systems. These privilege formal, registered titles based on western conceptions of individual private property while offering minimal recognition, and no effective protection, of pre-existing customary rights.

22. The 1974 land law (and related legislation) does provide some possibility of registration of customary titles. However, there are a number of well-documented and serious limitations to this, including that:

- The law only permits the registration of customary land which has been “developed”. This discriminates particularly against forest indigenous peoples, whose traditional use of their customary forest areas does not leave obvious traces or constitute “development”, with the result that they can never be registered through this process. Forest areas in particular can by definition not be registered.
- The law provides extremely limited and largely ineffective options for collective land titling, even though most communities in Cameroon (both indigenous and Bantu) hold lands collectively and apply collective rules to their use and ownership.
- The procedure required to register customary lands is complex and expensive, and largely inaccessible to remote rural communities (and even more so to indigenous communities, who are more marginalised, poorer and more likely to be illiterate).
- The law permits registration only of lands which (it can be demonstrated) were already under customary in use in 1974. Almost 50 years on, this represents a major practical barrier to registration of the limited customary lands that meet the above criteria, and precludes the registration of lands which have come into use since this time. Given rotational agriculture is the norm amongst both Bantu and indigenous groups who engage in agriculture, and that each generation tends to create some

²⁰ No consultations occurred with other communities because of time and financial constraints, and therefore no mandate was sought from these communities.

²¹ For further explanation of the national legal system and the recognition of customary rights, see e.g. S Nguiffo et al (2009), “Historical and contemporary laws and their impact on indigenous peoples’ land rights in Cameroon”; L Alden Wily (2011), “Whose Land Is It?: The status of customary land tenure in Cameroon”, CED, Fern, RFUK (<https://www.rainforestfoundationuk.org/media.ashx/cameroonenginternet.pdf>) (accessed 14 March 2023).

new fields, this is a serious limitation.

- For indigenous peoples, the time limitation has a further discriminatory aspect. As noted above, sedentarisation policies were introduced only in the second half of the 20th century. Before that time, forest indigenous peoples generally did not engage in agriculture at all. In the years subsequent to sedentarisation, as noted above, many indigenous peoples were treated as slave or semi-slave labour, working on the fields owned by Bantu. Most indigenous peoples who engage in agriculture on their own account – and there are still very few – obtained their own fields only since after 1974. In practice, this means indigenous peoples are almost wholly excluded from the possibility of registering agricultural lands.
23. As a result of these factors, the vast majority of customary lands under use by both Bantu and forest indigenous communities in Cameroon remain unregistered. Those that have been registered tend to be owned by relatively more powerful individuals (local “elites”). It is extremely rare for forest indigenous peoples to have registered lands. Moreover, in the process of registration, lands are in effect alienated from the collective customary estate, in contravention of customary laws.
24. The widespread lack of registered customary titles across rural villages in Cameroon means that under national legislation, vast forest areas under customary occupation and use are considered to be in the guardianship of the State, which may allocate them for other uses without any acknowledgement of customary ownership. While these lands remain unallocated, the law permits communities to exercise traditional activities such as hunting and gathering for subsistence purposes; however, these privileges are automatically revoked – although they may sometimes be renegotiated – when the State allocates the land for another purpose. Allocation of lands by the State can occur without or with minimal (and ineffective) consultation. In addition, because customary ownership is not equally recognised, there is no compensation for the loss of this land, nor any mechanism under existing property legislation to challenge these allocations on the basis of prior customary ownership.

History of the concession area

25. As noted above, Bagyeli communities, as well as Mvae and Iyasa communities (among other Bantu groups), have lived in the Ocean department for many generations. For much of this time, due to the remote and isolated nature of the forest, they remained largely undisturbed, although during the colonial and early post-colonial period both forestry and conservation activities did exist in the zone.²² In recent decades, however, the progressive opening of the area has led to increased incursions on customary lands by State or private actors, as well as more exclusionary conservation practices.
26. The land area of the current concession was first formally allocated by the State in 2005. On 14 February 2005, the State gazetted a long-term forestry concession Forestry Management Unit

²² J C Owono (2001), “Cameroon – Campo Ma’an: the extent of Pygmy involvement in the development and the Management Plan of the Campo Ma’an UTO”, in Forest Peoples Programme, *From principles to practice: Indigenous peoples and protected areas in Africa*, 243-268, page 246.

(FMU) 09 025, with a total area of 88,147.84 hectares.²³ The effect of gazetting this area was that, legally, the land was removed from the “national estate” (which refers to all unallocated lands under the guardianship of the State, and includes many customary lands) and became the private property of the State. It also became part of the “permanent forest estate”, which meant that it was intended to remain permanently forested, and indeed could not be cleared unless and until it was degazetted.²⁴

27. FMU 09 025 was created on the customary lands of the Bagyeli, Mvae and Iyasa communities referred to in this submission. Under international law, on the basis of their customary use and occupation of those lands under their own customary laws, these communities have the right to own, occupy, manage and use those lands. As such, these lands should not have been gazetted or become the private property of the State without obtaining their free, prior and informed consent and providing just and equitable compensation. Due to the non-recognition of customary rights in national law, however, no free, prior and informed consent was sought nor was compensation provided when the FMU was created. Communities in this area were however largely unaware of these rights, and the creation of the FMU has never been formally challenged by them.

28. The FMU also met with less resistance in practice from communities because its management plan explicitly permitted communities to access and use traditional forest resources within the concession area²⁵ – something which Cameroonian forestry laws permit, but do not require, in forestry concessions. The deliberate accommodation of communities in the provisions in the FMU’s management plan was designed in part to counter restrictions on access and use in the neighbouring Campo Ma’an National Park, which was created in 2000,²⁶ as well as the Hevecam rubber plantation to the north of the FMU. Because of the restrictions in adjacent areas, access to resources within the FMU took a central significance for the livelihoods, health and cultural activities of the Bagyeli.

Precursor to the grant of the concession of Camvert

29. As noted above, the area of the current concession was, from 2005, gazetted as part of the permanent forest estate and allocated as a long-term forestry concession. This categorisation legally prevented it from being deforested or converted to an oil palm concession.

30. As a matter of Cameroonian law, prior to a degazettement of the permanent forest estate

²³ Décret n° 2005/0527/PM du 14 février 2005 portant incorporation au domaine privé de l'Etat et classement en Unité Forestière d'Aménagement d'une portion de forêt de 88.147,84 hectares, dénommée UFA 09 025.

²⁴ Articles 9 et 22, Décret 1995 et Article 16 loi de 1994 : « *Le défrichement d'une forêt domaniale ne peut être autorisé qu'après déclassement de ladite forêt pour cause d'utilité publique, et présentation d'une étude d'impact sur l'environnement réalisée par le demandeur, suivant les normes fixées par l'administration chargée de l'environnement* » (Art. 9 Décret 1995).

²⁵ SCIEB UFA 09-025 Plan d'Aménagement, 2000-2029 (révisé en janvier 2012).

²⁶ Décret n°2000/004 portant création du Parc National de Campo-Ma'an. The national park created by this decree unified the Campo Fauna Reserve (created in 1932 by the French colonial administration) and the Ma'an Forest Plantation, created by the Cameroonian government in 1980.

taking place, several steps are required, including:

- (a) A public notice must be issued and displayed announcing the intention to degazette the area from the permanent forest estate, providing at least 30 days for objection.²⁷ The notice must be posted in all district and sub-district offices, town halls, and offices of the Ministry of Forests in the region, or any other effective mechanism of notification.²⁸
- (b) The proposed degazettement must be considered by a “consultative commission”²⁹ made up of local authorities and chiefs,³⁰ which undertakes a site visit that must include hearing community objections or concerns, and makes a recommendation as to whether the degazettement should proceed.
- (c) Compensation must be provided for any goods destroyed (limited to building or crops).³¹
- (d) The State must issue a declaration of public interest.³²
- (e) A forest area of a similar size, in a similar ecological zone, must be gazetted in compensation.³³
- (f) An environmental and social impact study must be completed.³⁴ It is clear from the Forest Decree 1995 that this process must be entirely completed before degazettement can take place.³⁵

31. In addition to these procedural steps, degazettement which is to be followed by deforestation may only legally occur where the degazettement and subsequent deforestation will not “prevent the needs of local people for forest products from being satisfied” or “threaten the survival of persons living on the forest edge whose way of life is linked to the forest concerned”.³⁶

32. On 11 November 2019, a decree was issued by the government which “degazetted” 60,000 hectares of UFA 09 025 and purported to allocate it for “agricultural production”.³⁷ At the time that this decree was issued, multiple procedural steps had not been complied with:

- (a) An environmental and social impact assessment (ESIA), although underway, had not been completed. This is explicitly evident on the face of the ESIA as it contains a reference to the decree degazetting the area, which was issued on 11 November 2019.³⁸ In fact, the ESIA

²⁷ Article 18(1) and (2), Forest Decree 1995.

²⁸ Article 18(3), Forest Decree 1995.

²⁹ Articles 23 and 19, Forest Decree 1995.

³⁰ Article 20, Forest Decree 1995.

³¹ Article 23(2), Forest Decree 1995.

³² Article 22(2), Forest Decree 1995.

³³ Article 28, Forest Law 1994 and Article 22(1), Forest Decree 1995.

³⁴ Articles 9 et 22, Forest Decree 1995 et Article 16, Forest Law 1994. Article 22(2) of the Forest Decree 1995 states « *Le défrichement d'une forêt domaniale ne peut être autorisé qu'après déclassement de ladite forêt pour cause d'utilité publique, et présentation d'une étude d'impact sur l'environnement réalisée par le demandeur, suivant les normes fixées par l'administration chargée de l'environnement* ».

³⁵ Article 23(2) of the Forest Decree 1995 states: “*Lorsque les conclusions de l'étude d'impact prévue au (2) ci-dessus sont favorables au déclassement, le ministre chargé des forêts engage la procédure de déclassement total ou partiel de ladite forêt, telle que prévue à l'article 24 ci-dessous.*” See also article 9(2), Forest Decree 1995.

³⁶ Article 9(3), Forest Decree 1995.

³⁷ Décret No. 2019/4562 portant déclassement d'une parcelle de forêt de 60,000 hectares relevant du domaine privé de l'Etat (11 novembre 2019)

³⁸ « *Projet de construction d'un complexe industriel de production et de transformation de l'huile de palme*

was not approved by the relevant Ministry until 2020. Communities did not receive a copy of the ESIA until it was provided by the authors, who received it only in September 2020.

- (b) A public notice referring to the proposed degazettement was issued by the Ministry of Forests and Fauna on 15 May 2019. However, the authors have reason to believe that this was not displayed in all the places required by law.³⁹ There was certainly no direct notification of any Bagyeli community affected by the proposed degazettement.
 - (c) No forest of a similar size, and in the same ecological zone, had been gazetted in place of the degazetted area.
 - (d) No compensation had yet been provided, although it may have been assessed. Where Bagyeli communities may have been entitled to compensation, no explanation was provided on the procedures for obtaining it.
 - (e) The authors are unaware of whether any consultative commission was convened and conducted site consultations as required by law. No Bagyeli communities were aware of any such consultative visit having taken place. While CamVert had organised some meetings with community representatives and other stakeholders in the area, no Bagyeli communities had been invited, and when BACUDA and FPP visited Bagyeli communities in November 2019, none were aware of the proposed oil palm project.
33. In light of the central dependence of the Bagyeli communities on the concession area for their livelihood and cultural activities, increased by the creation of the Campo Ma'an National Park and the Hevecam rubber plantation in the same area, it is also extremely difficult to see how the degazettement could have met the requirements of Article 9 of the Forest Decree 1995, which allows degazettement for clearing only where the activity will not “prevent the needs of local people for forest products from being satisfied” or “threaten the survival of persons living on the forest edge whose way of life is linked to the forest concerned”.
34. Moreover, these requirements, even if met, fall far short of the requirements of international law in relation to respect and protection of territorial rights, free, prior and informed consent, effective participation and fair and just compensation. The national legal provisions also specifically discriminate against the Bagyeli because (a) the public notice is particularly inadequate and ill-adapted to their needs as a poor and largely illiterate, non-French-speaking population; (b) they are not represented in the consultative commission that considers the proposal, and are unlikely to be adequately consulted by any commission because of their marginal status and lack of direct administrative representation; and (c) much or all of their customary property is not eligible for compensation (as it is unregistered and/or ineligible for registration).
35. During a meeting between FPP and Camvert in November 2019, Camvert asserted that all Mvae and Iyasa villages were in favour of the project. This assertion is broadly supported by the minutes of community meetings held with those communities and appended to the ESIA.⁴⁰

dans l'arrondissement de campo, Département de l'Océan, Région du Sud : Etude d'Impact Environnemental et Social », réalisé par GeoConsulting, Novembre 2019 : Introduction.

³⁹ According to municipal and other actors, there was no local notification of the decree at the town halls, although it may have been displayed at the Prefecture.

⁴⁰ « Projet de construction d'un complexe industriel de production et de transformation de l'huile de palme

It is on public record however that the chief of one of these villages (Ebodjé), in the name of his village, has repeatedly and publicly opposed the project.⁴¹ Moreover, the minutes, as well as subsequent discussions with those communities, reveal multiple problems with the way these so-called “consultations” were carried out. Among other things, when questioned by communities about activities on their traditional lands, CamVert’s response during community meetings was that their project would not take place on community lands as it was entirely within the forestry concession which was owned by the State.⁴² This approach not only demonstrates a complete lack of recognition of the ongoing customary rights to own, access and use areas inside UFA 09 025 (the latter two of which at least had been explicitly recognised as part of the UFA management plan), it was also arguably legally incorrect, because after degazettement, the land was no longer part of the State’s private property, but reverted to the national estate. In this respect the decree granting the concession specifically stated it was a grant of land *from the national estate*.⁴³

36. Describing the land that would be used by the project as “State land” also had the effect of presenting the project as a “done deal” that communities could not stop. This impression was heightened by the fact that CamVert had already set up an oil palm nursery in part of the project area before degazettement had even taken place.⁴⁴ There are indications expressed in the meeting that many communities had no trust in the promises of companies in general.⁴⁵ Already at the time of the meetings, there were rumours that the project had close links to the President⁴⁶ and had already been decided at the top levels of the State. The meetings did not include any objective explanation of the negative impacts of the project or of communities’ rights, but instead was presented as an opportunity for communities to nominate some types of side benefits it may receive from CamVert as part of the project.

dans l’arrondissement de campo, Département de l’Océan, Région du Sud : Etude d’Impact Environnemental et Social », réalisé par GeoConsulting, Novembre 2019, community meeting minutes, pages 244-284

⁴¹ See e.g. *Cameroon Business Today*, 08-14 January 2020, page 6; *Mutations*, 4 June 2021, pages 8-9; *Le Quotidien*, 17 November 2020, page 10; see also EIES community meeting minutes from the village of Edodje, pages 252-253, which record multiple reservations raised by the community.

⁴² See EIES community meeting minutes from village of Malaba (page 245), Bouandjo (page 250), Mintom (page 255), Itondefang (page 257), Ntondefom (page 272). See also comments which indirectly express concern about the destruction of forest inside the former FMU 09 025, such as the request from the village of Afan Essokye “not to profane the sacred sites in the FMU because we come from the forest and our ancestors are there” (informal translation from the original “ne pas profaner les sites sacrées dans l’UFA car nous venons de la forêt et nous ancêtres y sont”: page 268); see also Itondefang, page 257.

⁴³ The “national estate” in French is called the “domaine national”. The title of the decree granting the concession is “Décret No. 2022/112 du 7 mars 2022 portant attribution en concession provisoire à la Société CAMEROUN VERT S.A. (CAMVERT) **d’une dépendance du domaine national**, sise au lieu-dit « Malaba-Akak-Lobé village », dans l’arrondissement du Campo, Département de l’Océan, Région du Sud. This roughly translates as « Decree No. 2022/112 of 7 March 2022 attributing a provisional concession to Cameroun Vert S.A. (CAMVERT) **over a parcel of the national estate**, located at Malaba-Akak-Lobé Village, in the Campo subdivision, Ocean Department, South Region.”

⁴⁴ See EIES community meeting minutes from village of Mabiogo, page 274.

⁴⁵ See e.g. EIES community meeting minutes from villages of Ebodje (page 251); Nkoelon (page 281).

⁴⁶ A rumour which there is some evidence to support in practice: see Green Development Advocates and Greenpeace (2021), *CAMVERT: A recurring nightmare. A mega palm oil plantation threatening people’s rights in Cameroon, seeds made in France*. <https://maps.greenpeace.org/project/camvert-a-recurring-nightmare/> (accessed 16 March 2023).

37. Subsequent discussions between the authors and Mvae and Iyasa communities in 2020 and 2021 have confirmed that many feel the discussions were inadequate, that the project was presented as a *fait accompli*, and they were duped by the company.
38. On 26 March 2020 – still before any concession had formally been issued, and at the outset of the Covid pandemic, days after the Cameroonian government had implemented restrictions on meeting sizes – CamVert signed a “*cahier de charges*” (benefits agreement) with “the indigenous Bagyeli peoples of [the subdivision of] Campo”. The agreement purported to be prepared on behalf of 5 Bagyeli communities located in the Campo subdivision who would be affected by CamVert’s project. At this point, no concession had in fact been issued, so the basis for the company negotiating this agreement was profoundly unclear. At the point that it was signed, the ESIA had not yet been provided either to communities or to local community organisations supporting them. The *cahier de charges* was developed without adequate consultation with Bagyeli communities⁴⁷ and was signed by only one Bagyeli man, Henri Nlema, a resident of Nyamalande, during a signing ceremony. M Nlema does not read or write French, or speak it fluently, and had not seen the draft in advance of the signing ceremony. No translator was present during the ceremony. M Nlema also had no mandate to sign from the 5 communities it purports to cover. Representatives of BACUDA attended the ceremony but were forbidden by the Sous-Prefet to speak at all during the ceremony, as they had not been invited.
39. The *cahier de charges* does not cover all Bagyeli communities affected by the project. It purports to impose obligations on the 5 communities allegedly covered by the agreement *inter alia* to support the project and not to undermine its implementation.⁴⁸ In return, CamVert agrees to provide a list of benefits, but with no clear timeframe and very limited specificity.⁴⁹ The enforceability of the agreement is extremely dubious, and the benefits promised were not at all culturally appropriate for a hunter-gatherer people.⁵⁰ The *cahier de charges* was subsequently evaluated at a meeting in July 2021 at which only 3 Bagyeli representatives – all chosen by CamVert – were present, although BACUDA was also able to attend. The participants again had no mandate to evaluate the agreement on behalf of the communities, and limited evidence of progress towards implementation of community support activities was provided during the meeting.⁵¹ A subsequent evaluation meeting was held in 2022, but the authors have no information about this meeting, as BACUDA was excluded as a result of its public position of opposition, on behalf of communities, to CamVert’s activities.

⁴⁷ See Letters from Bagyeli communities to the government sent October 2020, annex 1.

⁴⁸ See article 3.1 of the Bagyeli *cahier de charges*, included in annex 1.

⁴⁹ While Camvert undertakes to provide each of the 5 communities with 1 hectare of an orchard and 1 hectare of a community plantation, no timeframe is given for them doing so. Other proposed benefits, such as “accompanying the Bagyeli in sending their children to school”, are described only in very general terms which provides no certainty on the amount, frequency or timing of such support. There is equally an obligation to reserve a zone of the concession for communities to obtain forest and medicinal products, but no details on the size or location of this zone. See further article 3.2 of the *cahier de charges*.

⁵⁰ For example, one proposal was the creation of an area to raise small ruminants to counter the loss of hunting.

⁵¹ See CamVert SA, *Plan de Travail Annuel (PTA) 2021 de CAMVERT, élaboré dans le cadre de la Mise en Œuvre du Plan de Gestion Environnementale et Sociale (PGES)*, Framotel, Kribi, le 12 juin 2021.

40. On 9 April 2020, the Minister of State Property and Land Tenure (MINDCAF) sent a letter to CamVert⁵² granting the company permission to exploit 2,500 hectares of forest within the declassified UFA (letter included in Annex 1). This authorisation was issued “subject to a commitment to delimit all the 60,000 hectares granted to [CamVert] by the State, within one year”.⁵³ In the absence of a concession, there appears to be no legal basis under national law for this permission to have been granted. The exact location of the area authorised for exploitation is also unknown.
41. On 2 May 2020, the Ministry of Forests and Fauna issued a call for tender for the sale by public auction (*vente aux enchères*) of the right to clear 2,500 hectares within the degazetted area. It appears that Cameroonian timber company Sextransbois was awarded the permit, although curiously, data on the World Resources Institute Interactive Forest Atlas indicated this permit was granted on 2 March 2020 – i.e. before any call for tender occurred.⁵⁴ This type of auctioned permit only arises in respect of forests under direct State control. Exploitation of forests under direct State control is only supposed to happen as an exceptional measure⁵⁵ where the removal of forest products is necessary to “salvage” them (for example as part of a confirmed development project or after a natural disaster⁵⁶), or as part of forest management work in accordance with a management plan.⁵⁷ Whether it was awarded in March 2020 or after the call for tender, given that throughout 2020 no part of the area had yet been formally attributed for agricultural production, it is difficult to find any legal basis for the use of such a permit.⁵⁸
42. Around June-August 2020, significant clearing was commenced in the degazetted area, and specifically within the area of the permit allocated to Sextransbois. However, according to information previously available on the Interactive Forest Atlas of Cameroon (compiled by World Resources Institute using data provided by the Cameroonian Ministry of Forestry and Fauna), the permit of Sextransbois expired on 2 March 2021.⁵⁹ Deforestation monitoring by World Resources Institute also clearly shows that clearing in the Sextransbois permit area continued significantly after that date, into late 2021, in contravention of national law (see aerial photos at annex 3 – see images 3 and 4). The same aerial imagery as well as community information confirms that the area was, at this time, already being developed as a palm oil

⁵² MINDCAF 09 avril 2020, objet: Demande d’exploitation d’une parcelle au profit de la société CAMVERT à Kribi

⁵³ «[...] sous réserve d’un engagement de délimiter l’ensemble des 60,000 hectares à vous concédés par l’Etat, dans un délai d’un an. »

⁵⁴ This data has now been removed from the Interactive Forest Atlas website, but was previously downloaded and is still held by Forest Peoples Programme.

⁵⁵ Article 51, Forest Decree 2015.

⁵⁶ Article 73, Forest law 1994.

⁵⁷ Article 52, Forest Decree 2015.

⁵⁸ For further analysis of the legality of these concessions, see Green Development Advocates (2022), *Camouflaged destruction : Plundering of Campo Forests under the pretext of a so-called “Development” Project*, <http://gdacameroun.org/download/897/> (accessed 17 March 2023); Green Development Advocates (2020), *Qualifying illegalities in the Degazetting process of 60,000 hectares of a forest and the attribution of a Concession for an agro-industrial project in Campo and Nyete of the Ocean division, South Region – Cameroon*, <http://gdacameroun.org/download/320/> (accessed 17 March 2023).

⁵⁹ Cameroon Forest Atlas. Ministry of Forestry and Fauna / World Resources Institute. *Ventes de coupe, bois d’oeuvre, zone forestière* data layer. Data accessed and downloaded on 11 April 2022.

plantation (gridlines associated with large scale agricultural development are clearly visible), despite no concession having yet been issued. It is unclear what relationship, if any, there is or was between CamVert and Sextransbois.

43. In August 2020, FPP and BACUDA received reports that CamVert had begun a process of negotiating with Mvae and Iyasa communities for remaining community lands outside of the declassified FMU for the production of oil palms. Community members reported that they felt coerced into these agreements and were worried that they wouldn't have enough land to grow food to support their families. A document presenting the number of hectares that each village had to give to CamVert was attached to the Mvae agreement. Communities were surprised by this document's contents because in prior discussions, CamVert had agreed that 5,000 hectares would be removed from the company's anticipated concession, to help communities extend their farms.
44. In September 2020, several Bagyeli, Mvae and Iyasa communities wrote to CamVert, the Minister of Forests and the President of the Republic, expressing their concerns with the proposed project (included in Annex 1). The Bagyeli communities are unanimous in their opposition to the project. The letter received no response.
45. On 6 July 2021, six Bagyeli communities affected by the degazettement (specifically Nyamabande, Mvini, Nyamalande, Mimbonzo, Biyengue and Bibera), sent a pre-action letter (*recours gracieux préalable*) to the Cameroonian government, contesting the degazettement decree. After the prescribed time period passed without a response from the government, on 12 November 2021, the same communities commenced a legal challenge contesting the validity of the degazettement decree. That legal challenge is still ongoing before the first instance tribunal. However, on 16 July 2021, the communities also filed a connected interim legal challenge (*recours aux fins de suspension*), asking the court to suspend the effects of the impugned decree pending the resolution of these legal proceedings – in effect an interim injunction. However, despite multiple submissions having been exchanged in the main legal proceedings, the request for a suspension of the effects of the decree has still not been determined, meaning the State and CamVert remain free to proceed.

ISSUE OF A CONCESSION TO CAMVERT

46. Despite the ongoing legal challenge to the degazettement, on 7 March 2022, the President issued a decree attributing a provisional concession of 39,923.0107 hectares to CamVert on the site of the former UFA 09 025.⁶⁰ The decree also gives CamVert an option to extend its concession over two further parcels, of 19,014.1638 ha and 715.4115 ha, in the same degazetted area.⁶¹ If CamVert is granted these parcels, it would in effect receive a concession of close to⁶² the full 60,000 hectares which was degazetted in November 2019.

⁶⁰ Décret No. 2022/112 du 7 mars 2022 portant attribution en concession provisoire à la Société Cameroun Vert S.A (CamVert) d'une dépendance du domaine national, sise au lieu-dit « Malaba-Akak-Lobé village », dans l'arrondissement de Campo, département de l'Océan, Région du Sud.

⁶¹ Article 7.

⁶² The exact total area would be 58,729.586 hectares.

47. Beginning in November 2022, a new wave of significant deforestation within the concession area commenced, adjacent to the area deforested in the previous Sextransbois permit area. More than 1000 hectares of forest (spread over a larger area of land) has been deforested since 22 November 2022.⁶³ Again, aerial imagery confirms that this area is being developed for the palm oil plantation.
48. In addition, according to data available on the Interactive Forest Atlas for Cameroun, on 16 February 2022, MINFOF issued a further 5 “sale of standing timber” permits⁶⁴ to forestry companies in areas that overlap the subsequent concession. Sale of standing timber permits (or *ventes de coupe*) effectively allow timber companies to cut timber in an area of up to 2,500 hectares. Each of these permits is for the maximum size, meaning 12,500 hectares of clear cutting within the area has apparently been authorised by the government. Although rapid clearing of the nature seen in and adjacent to the Sextranbois permit area has not occurred, clearing has commenced in at least some of these concessions (see annex 4). The existence of these permits means that further significant deforestation may be commenced imminently across several additional areas of the total degazetted area.

Legal challenge to the concession

49. Following the issue of the concession in March 2022, on 7 June 2022 the same 6 Bagyeli communities (Nyamabande, Mvini, Nyamalande, Mimbonzo, Biyengue and Bibera) sent a pre-action letter (*recours gracieux préalable*) to the President seeking the revocation of the decree granting the concession. In the absence of a response, on 7 November 2022 the same communities commenced legal proceedings in the Yaounde Administrative Tribunal contesting the validity of the decree issuing the concession to CamVert. Those legal proceedings are still ongoing, with submissions having been exchanged.
50. As with the proceedings contesting the degazettement, the communities also subsequently filed a connected action seeking the suspension of the effects of the decree, pending the resolution of the substantive legal proceedings. There have been no further developments in these proceedings since the action was filed.

GROUNDS FOR THIS SUBMISSION

51. As the above history and the background outlines, the process of allocation of this land to CamVert has several serious flaws, irregularities, and illegalities with respect both to national and international law. Despite these, and despite legal actions commenced by Bagyeli communities against both the degazettement and the subsequent grant of a concession to CamVert, deforestation is proceeding apace, and a further 12,500 hectares is already directly

⁶³ The area of direct tree loss calculated using the pixel method from 22 November 2022 to date is just under 1000 hectares.

⁶⁴ Permit number 0903516, attributed to company SANI et Fils; Permit number 0903517 attributed to Société Forestière et des Services du Cameroun SA; Permit no. 0903518, attributed to Société Forestière et des Services du Cameroun SA; Permit No. 09035219, attributed to Société Forestière des Frères du Cameroun SA; Permit No. 0903520, attributed to Société Forestière des Frères du Cameroun SA.

authorised to be clear cut. Bagyeli communities to seek interim relief through a suspension of these decrees while their legal case is ongoing has been denied by the Courts, leaving them with no effective recourse to prevent the ongoing destruction of their forest areas, which is proceeding at an extremely rapid pace and set to increase further.

52. If this project proceeds, it is likely to have devastating and irreversible impacts most particularly on the affected indigenous Bagyeli communities, but also on their Mvae and Iyasa neighbours. It will deprive them of the principal source of their livelihoods, traditional medicines and culture. Bagyeli communities in this department are already the poorest and most marginalised residents. Their vulnerability will make it nearly impossible for them to absorb a shock of this nature. Because formal education levels among the Bagyeli are also disproportionately low, their capacity to find employment or adapt to alternative livelihoods is limited. Indeed, in other areas within the department, developments of this nature have had catastrophic effects on local Bagyeli communities.⁶⁵
53. The project reflects the application of racially discriminatory national property laws, a legacy from Cameroon's colonial past, that protect only registered titles and fail to give equal protection to the longstanding, but unregistered, customary ownership of lands and natural resources. It also clearly contravenes international law requirements vis-à-vis the respect for collective customary property rights of indigenous and other peoples. There has been no attempt to obtain the free, prior and informed consent of the affected Bagyeli people (nor does the so-called consultation with Mvae and Iyasa communities amount to free, prior and informed consent). There has equally been no transparent or objective assessment of whether the violation of indigenous and community rights is necessary and proportionate to a legitimate public interest. Furthermore the manner in which the project has proceeded appears prima facie to contravene national laws, meaning that any expropriation has not occurred in accordance with law. Indeed, rather than a fair and transparent process, there are indications that the decision-making process may instead have been strongly tainted by corrupt practices and special favours to politically connected and protected individuals.⁶⁶
54. Discriminatory national laws on customary ownership of land affect both Bantu communities and indigenous peoples. However, the impact of the laws in their current form is particularly discriminatory against forest indigenous peoples, because of the legal impossibility for them to register their collective ownership of "undeveloped" forest lands – the lands most critical to their culture and survival. The inability to register their ownership of these forest lands reflects widely-held and discriminatory views that forest indigenous peoples' traditional livelihoods are antiquated and without value, and must make way for "development". The logical conclusion of these attitudes is seeking the assimilation of Bagyeli culture in dominant cultures and/or the "modern" national project – amounting in effect to the destruction of their

⁶⁵ See, for example, the concluding observations of the Committee on Economic, Social and Cultural Rights in 2019, which made specific reference to the situation of indigenous peoples in Cameroon (art. 12, 60e: https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=E/C.12/CMR/CO/4&Lang=En

⁶⁶ Green Development Advocates and Greenpeace (2021), *CAMVERT: A recurring nightmare. A mega palm oil plantation threatening people's rights in Cameroon, seeds made in France*. <https://maps.greenpeace.org/project/camvert-a-recurring-nightmare/> (accessed 16 March 2023).

cultural distinctiveness.

55. The process leading to the grant of the concession equally demonstrates a violation of the right of effective participation of the Bagyeli people in decisions that affect them, and the discrimination they experience in the implementation of such projects. The Bagyeli have been forgotten or excluded from much of the decision-making process, and the engagement with Bagyeli communities which has occurred has proceeded in a hasty, non-representative and culturally inappropriate manner. Bagyeli communities were initially not notified or included in consultations at all, nor were meetings held in Bagyeli-majority communities in the ESIA process. Translation was not provided, participation was limited (even more so because of restrictions imposed during the Covid pandemic). Illiterate community members were asked to sign documents they could not read or write in languages they did not speak, and the availability of external support from CSOs was limited. This is, unfortunately, reflective of a sustained pattern in government and private sector approaches to participation, representation of and consultation with forest indigenous peoples in Cameroon.
56. The CamVert project is emblematic of an increasing number of threats to the Bagyeli people as a whole in Ocean. In addition to this project, multiple other major projects are slated for development in the department, including a proposed iron ore mine to be operated by Chinese company Sinosteel,⁶⁷ a proposed railway connecting another iron ore mine in the East region with the Kribi port,⁶⁸ as well as existing and planned agricultural projects throughout the department. If the Bagyeli people's rights are not rapidly respected and protected in the department, there is a real and imminent threat to the survival of the Bagyeli people as a whole, both physically and culturally.
57. Unfortunately, despite repeated exhortations by the Committee as well as other treaty bodies to improve the respect and protection of indigenous peoples' rights (as set out in the next section), there has been minimal if any improvement in their situation. The Cameroonian government has continued to deny that the existing land law is discriminatory.⁶⁹ A study promised by the government which would define which peoples are legally considered "indigenous peoples" in Cameroon has been languishing for more than 9 years without finalisation.⁷⁰ Promised reforms of forestry and property laws have been equally delayed, and moreover the limited concessions to community rights so far granted by the government in those processes (such as the provision of a limited "vital space" (*espace vitale*) for villages or benefit sharing where mining is proposed⁷¹) are insufficient to address the realities of forest indigenous peoples, whose culture and livelihoods requires much larger forest areas than

⁶⁷ See e.g. Amindeh Blaise Atabong, "China's Sinosteel signs \$680 million iron ore mine deal with Cameroon", 20 May 2022, <https://www.reuters.com/world/africa/chinas-sinosteel-signs-680-mln-iron-ore-mine-deal-with-cameroon-2022-05-20/>.

⁶⁸ See e.g. "Cameroon partners with China-linked firms to build railway to Mbalam-Nabeba project", 28 June 2021, <https://www.nenergybusiness.com/news/cameroon-build-railway-mbalam-nabeba-project/>.

⁶⁹ Republic of Cameroon (2019), *Combined twenty-second and twenty-third reports submitted by Cameroon under article 9 of the Convention, due in 2017*, UN Doc No. CERD/C/CMR/22-23, para 150.

⁷⁰ CERD (2022), *Concluding observations on the combined twenty-second and twenty-third reports of Cameroon*, UN Doc No. CERD/C/CMR/CO/22-23, para 18.

⁷¹ Republic of Cameroon (2019), *Combined twenty-second and twenty-third reports submitted by Cameroon under article 9 of the Convention, due in 2017*, UN Doc No. CERD/C/CMR/22-23, paras 150, 134.

Bantu communities based on subsistence agriculture.

Treaty bodies' comments on the respect for IP rights in Cameroon

58. The lack of protection of indigenous peoples' rights to their land and natural resources has been recognised by UN treaty bodies on multiple occasions, and the CERD Committee has raised concerns multiple times.

59. In the Concluding Observations by the CERD Committee from 2014, the Committee equally noted its concern in relation to the lack of protection of indigenous peoples' land rights, stating at paragraph 16:

While noting the steps taken by the State party in favour of indigenous peoples, the Committee is concerned by the attacks on their land rights. It also finds it regrettable that current land ownership legislation does not take into account the traditions, customs and land tenure systems of indigenous peoples, or their way of life, particularly as it makes the recognition of land ownership and compensation conditional on land development. The Committee is concerned at reports that the right to consultation as provided in legislation and the right to prior, free and informed consent to projects and initiatives concerning indigenous peoples are not fully applied by the State party. It is also concerned that indigenous peoples are not always consulted about projects conducted on their lands or which affect their rights (art. 5).⁷²

60. On 8 April 2019, Baka organisation Association Okani and FPP submitted a similar request to the Committee under the early warning and urgent action procedure in relation to another palm oil concession, located slightly further to north in the same department, which overlapped the lands of (different) Bagyeli communities. In response to that request, the Committee addressed a letter to the State of Cameroon raising several concerns about the existing national property laws, as follows:

The Committee is concerned about the limited recognition of and absence of protection of customary land rights. In particular, the legislation on land rights of 1974 regulating the registration of customary titles appears to include discriminatory provisions, in particular the requirement for the land to be "developed". This provision prevents the legal recognition of collective land rights, since traditional use of forest areas by the Bagyeli communities does not leave traces or constitute "development". Moreover, the legislation seems to fail to ensure collective land titling, in contradiction with the collective nature of customary use of the lands by Bagyeli communities.

The allegations reviewed by the Committee, if verified, would amount to a breach of the State party duty to recognize and protect the rights of the Bagyeli and other indigenous peoples to own, develop, control and use their communal lands, territories and resources.⁷³

⁷² CERD, *Concluding Observations on Cameroon*, 26 September 2014, UN Doc CERD/C/CMR/CO/19-21, para 16.

⁷³ CERD, Letter to the Permanent Representative of Cameroon to the United Nations Office in Geneva, 10 May 2019, available at

https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=INT%2FCERD%2FALE

61. In its 2022 Concluding Observations on Cameroon, the Committee also raised concerns about land rights. The Committee emphasised in paragraph 45 that the Committee's recommendations on this matter at paragraph 27 were an item of particular importance. The comments and recommendations made were as follows:

Land rights

26. *While noting the information by the State party on the reform process of the land ownership framework, the Committee remains concerned about the inadequacy of the legislative framework on land ownership and compensation, which does not take into account the traditions, customs and land tenure systems of indigenous peoples or their ways of life, particularly as it makes the recognition of land ownership and compensation conditional on land development. The Committee is also concerned about reports that indigenous peoples are not consulted with a view to obtaining free, prior and informed consent regarding development projects on their lands and before lands are expropriated (art. 5).*

27. *Recalling the relevant recommendation in its previous concluding observations and the United Nations Declaration on the Rights of Indigenous Peoples, the Committee recommends that the State party:*

(a) Accelerate the review of the legislative framework for land ownership, including the ordinances of 1974, the law on forests of 1994 and the law of 2016 instituting the Mining Code, to ensure the protection of the right of indigenous peoples to own, use, develop and control their lands, territories and resources, while ensuring their effective and meaningful participation in the review process;

(b) Adopt measures to ensure consultation with indigenous peoples on any projects or legislative or administrative measures that may affect their land, territories and resources and with a view to obtaining their free, prior and informed consent;

(c) Take measures to ensure access by indigenous peoples to effective remedies and provide them with just and fair compensation for the lands, territories and resources that they have traditionally owned or used and which have been confiscated, occupied or used without their free, prior and informed consent or have been damaged;

(d) Adopt measures to ensure the availability of, and accessibility by indigenous peoples to, the land administration offices and to ensure that the legal land registry procedural framework respects the customs, traditions and land tenure systems of indigenous peoples, without discrimination;

(e) Adopt measures to mitigate the impact of climate change on the lands, territories and resources of indigenous peoples with a view to protecting their customs and traditional ways of life, while preventing intercommunal conflicts.⁷⁴

62. Other treaty bodies beyond the CERD Committee have echoed such concerns. The Committee

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⁷⁴ CERD (2022), *Concluding Observations: Cameroon*, UN Doc No. CERD/C/CMR/CO/22-23, at paras 26 and 27.

on Economic, Social and Cultural Rights in its 2019 Concluding Observations on Cameroon in paragraph 12 stated:

*The Committee is concerned by the discrimination and exclusion faced by indigenous peoples in the State party and at the lack of recognition of their rights with regard to access to land, their ancestral territories and natural resources. The Committee is also concerned by reports that the indigenous peoples concerned have not been consulted with a view to obtaining their free, prior and informed consent before development projects are conducted on their lands and territories.*⁷⁵

63. The Committee also made specific observations on the lack of protection of these rights in the context of large development projects, noting in paragraph 16:

*The Committee expresses its concern at the lack of effective instruments to ensure the protection of the rights set out in the Covenant when permits are being granted for projects for economic development or the exploitation of natural resources. The Committee is concerned by reports regarding the negative impacts that some of these projects have on the traditional lifestyles of the relevant population groups, including indigenous peoples, and on their access to land, an adequate food supply and an adequate standard of living (art. 1, 11, 12).*⁷⁶

64. The Human Rights Committee also raised concerns about discrimination against indigenous peoples, including in respect of land, during its most recent concluding observations on Cameroon, issued in 2017. At paragraph 45, the Committee stated:

45. The Committee is concerned about the situation of the Pygmy and Mbororo communities, especially in light of reports of: (a) discrimination; (b) confiscation of their traditional lands; and (c) violence, harassment and threats against them ...

*46. The State party should take the necessary steps to: (a) ensure that there is no discrimination against indigenous peoples and minorities; (b) provide effective legal protection of the right of indigenous peoples to their ancestral lands and natural resources; (c) see to it that cases of violence, harassment and threats against persons belonging to such communities are investigated and prosecuted*⁷⁷

MEASURES REQUESTED FROM THE COMMITTEE

65. In light of the information set out above, there is a need for urgent intervention by the Committee in an attempt to cease the ongoing and prevent the imminent further physical encroachment on and devastation of the lands of the named Bagyeli communities. The impacts of this encroachment and the associated deforestation will be irreversible and have disastrous effects on the livelihoods and culture of these communities. Given the repeated failure of

⁷⁵ CESCR, *Concluding Observations on Cameroon*, 25 March 2019, UN Doc E/C.12/CMR/CO/4, para 12.

⁷⁶ *Ibid*, para 16.

⁷⁷ HRC (2017), *Concluding Observations: Cameroon*, UN Doc No. CCPR/C/CMR/CO/5, at paras 45 and 46.

Cameroon to respond effectively to recommendations of the Committee and other treaty bodies on this issue, combined with the failure of the judicial system to determine expeditiously the communities' requests for interim protection, the authors respectfully request that the Committee:

- adopt a decision addressed to the State of Cameroon, expressing their concern about the serious and irreparable damage being caused by the rapid development of CamVert's oil palm plantation currently underway and requesting the State to:
 - i. revoke the concession granted to CamVert;
 - ii. cease all further deforestation and/or encroachment, or the grant of further concessions, on the territories of the named Bagyeli communities and any other Bagyeli, Mvae or Iyasa community affected by the project, until and unless proper consultations are held and free, prior and informed consent is obtained;
 - iii. in the event that free, prior and informed consent is withheld, return the customary lands of the named Bagyeli communities (and any other Bagyeli, Mvae or Iyasa community affected by the project) to those communities, and provide legal security for their continued ownership of them;
 - iv. amend its laws to protect all customary ownership in Cameroon, including collective customary ownership of forest lands by indigenous peoples, on an equal basis with other forms of title.
- recommend to the State of Cameroon that it seek the advice of the OHCHR Office in Cameroon in relation to its obligations towards the named Bagyeli communities, and indigenous peoples in general, in respect of the recognition, protection and titling of their territories.

66. The authors, and the communities on behalf of whom they submit this request, thank the Committee for its consideration of this request under its Early Warning and Urgent Action Procedure.