



# Forest Peoples Programme

1c Fosseway Business Centre, Stratford Road, Moreton-in-Marsh GL56 9NQ, UK  
tel: +44 (0)1608 652893 fax: +44 (0)1608 652878 info@forestpeoples.org www.forestpeoples.org

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UN Committee on the Elimination of Racial Discrimination  
Human Rights Treaties Division (HRTD)  
UNOG-OHCHR  
1211 Geneva 10, Switzerland  
[cerd@ohchr.org](mailto:cerd@ohchr.org)

## **Request for consideration under the Early Warning / Urgent Action Procedure of the grant of a long-term lease of Bagyeli lands to Biopalm (an oil palm company) in Cameroon**

1. Association Okani, an indigenous peoples' organisation based in Cameroon, in conjunction with Forest Peoples Programme (**FPP**), an international NGO (together, the **authors**), acting on behalf of (and with the authority of) the Bagyeli communities of Bella, Nkollo, Gwap and Mougue (**the affected Bagyeli communities**)<sup>1</sup>, respectfully submit this request to the United Nations Committee on the Elimination of Racial Discrimination. The authors request that the Committee consider, under its Early Warning / Urgent Action Procedure, the imminent encroachment on the customary lands of the affected Bagyeli communities, pursuant to a long-term lease recently granted by the Cameroonian government for the establishment of an oil palm plantation. The affected Bagyeli communities – whose customary ownership of forest lands is not recognised under Cameroonian law – continue to live on and use the customary lands in question, and their identity, culture and livelihoods depend on access to these forests and their resources. The lease of this land to Biopalm:
  - (a) Fails to respect, protect and fulfil the rights of the indigenous Bagyeli people to their customary lands, territories and natural resources, and reflects a discriminatory non-recognition of indigenous peoples' customary land ownership and use in Cameroon;
  - (b) Has taken place without any proper consultation process or the implementation of free, prior and informed consent (and in fact in the face of clear opposition from the affected Bagyeli communities);
  - (c) Does not envisage any, let alone adequate, compensation to the affected Bagyeli communities; and

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<sup>1</sup> These four communities are located in the Ocean department in the south region of Cameroon. See maps in Annex 1.

- (d) Creates a very significant risk of causing grave harm and impoverishment to these communities, whose enjoyment of economic, social and cultural rights are likely to be severely detrimentally affected if the oil palm plantation proceeds.
2. This request relates particularly to the Bagyeli people, an indigenous hunter-gatherer group whose traditional forest territories are located within the Ocean department of Cameroon (in the south region). The affected Bagyeli communities will be disproportionately and extremely seriously affected by the proposed oil palm plantation, although it will also have negative effects on neighbouring Bantu communities (Bassa'a and Bakoko communities). As the details below set out, there is the imminent risk that the affected Bagyeli communities will be dispossessed wholesale of the forest areas of their lands and territories with no or minimal compensation, and having had no direct representation in any of the formal decision-making process. This violates the right of the Bagyeli to non-discrimination in respect of the ownership of property (under article 5(d)(v) of the International Convention on the Elimination of All Forms of Racial Discrimination (**ICERD**)), and the right to participate in the conduct of public affairs at any level under article 5(c). It also puts at risk the enjoyment by the affected Bagyeli communities in particular of a range of economic, social and cultural rights (article 5(e)).
  3. The proposed plantation is to be established pursuant to a decree issued in December 2018.<sup>2</sup> The decree was not widely publicised, with the result that the affected Bagyeli communities only became aware of it in early March 2019. The authors and the affected Bagyeli communities (and the neighbouring Bantu communities) fear that the arrival of the company on their lands is imminent. The establishment of the proposed oil palm plantation will involve mass clearing of their traditional forest lands – which include culturally important sites, and which remain a key source of food and medicine for the affected Bagyeli peoples – and will cause irreparable damage to their ancestral lands, and will lead to extremely serious violations of other human rights. These fears are not without foundation – several other Bagyeli communities within the Department have already suffered this fate, and are now in a state of extreme marginalisation and impoverishment.

### **Background to this submission**

#### *The status of customary land rights in Cameroon*

4. Customary land rights receive very limited recognition and protection under Cameroonian national law.<sup>3</sup> Existing national legislation has broadly maintained colonial-era property

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<sup>2</sup> Décret No. 2018/736 du 4 décembre 2018 autorisant la conclusion par dérogation spéciale, d'un bail emphytéotique entre l'Etat du Cameroun et la Société PALM RESOURCES CAMEROON S.A. sur une parcelle du domaine privé de l'Etat. (Unofficial translation: Decree No. 2018/735 of 4 December 2018 authorising the conclusion by special derogation of a long-term lease between the State of Cameroon and the company Palm Resources Cameroon S.A., for a parcel of land from the State's private estate).

<sup>3</sup> 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", in FPP (2009), *Land Rights and the forest peoples of Africa*, FPP (<https://www.forestpeoples.org/sites/default/files/publication/2010/05/cameroonlandrightsstudy09eng>).

systems, which privilege formal registered titles derived from western conceptions of private property and offer minimal recognition and no effective protection of pre-existing customary rights. Although the 1974 land law (and related legislation) provides some possibility of registration of customary titles, there are a number of well-documented problems with this, including that:

- The law only permits the registration of customary land which has been “developed”. This discriminates against forest indigenous peoples, whose traditional use of their customary forest areas does not leave traces or constitute “development”, with the result that they can never be registered under national laws.
  - The law only permits the registration of customary land that was already developed *in 1974*, when the law came into force. This is inconsistent with the manner in which customary land is used by Bantu and indigenous communities (including for example the use of rotational agricultural systems). Younger people are thus systematically disenfranchised; and those who have not already registered customary ownership – which remains widespread – have great difficulty in proving that land they are using was already developed over 40 years ago. For forest indigenous communities, who were often “encouraged” (forcibly) to relocate to roadside villages after 1974, it is almost universally the case that they cannot claim title even for their “developed” lands.
  - The law does not permit collective land titling, despite the fact that most communities hold lands collectively and apply collective rules to their use and ownership (even where these collective areas also include individual use areas, they are constrained by certain collective rules).
  - 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). As a result, the vast majority of customary lands within Cameroon remain unregistered, and those that have been registered tend to be owned by relatively more powerful individuals (local “elites”). Often in the process these lands are alienated from the collective customary estate.
5. In reality, the widespread lack of registered customary titles across rural villages in Cameroon (combined with the fact that it is impossible to obtain such titles for forest areas) means that under national legislation these vast areas 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 continue to exercise traditional activities such as hunting and gathering for subsistence purposes; however, these privileges are automatically revoked when the State allocates the land for another purpose, which can occur without or with minimal (and ineffective) consultation.<sup>4</sup> Because the

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[pdf](https://www.rainforestfoundationuk.org/media.ashx/cameroonenginternet.pdf)); 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>).

<sup>4</sup> There is one mechanism – a visit by a “consultative board” that is supposed to provide some participation in decision-making. However, both legally and in practice these fall far short of proper consultation. They usually involve only two chiefs or notables in total from affected communities – no matter how many communities are affected. The representatives are invited by the administration, and often those

customary ownership of the land is not recognised, there is also no provision under Cameroonian law for the loss of this land when it is, in effect, appropriated by the State.

6. The lack of protection of indigenous peoples' rights to their land and natural resources was explicitly recognised by the Committee on Economic, Social and Cultural Rights in its 2019 Concluding Observations on Cameroon. In paragraph 12, the Committee stated:

*The Committee is concerned by the discrimination and exclusion confronting indigenous peoples in the State party, as well as the lack of recognition of their rights in respect of access to land, to their ancestral territories and to natural resources. The Committee is equally concerned by information suggesting that indigenous peoples are not consulted, in order to obtain their free, prior and informed consent, before the implementation of development projects on their lands and territories.*<sup>5</sup>

7. 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 regarding the absence of effective instruments aiming to guarantee the protection of rights contained in the Convention when permits are granted for economic development projects of the exploitation of natural resources. The Committee is concerned by informations received demonstrating the negative consequences that some of these projects have on the traditional ways of life of affected populations, including indigenous peoples, as well as on their access to lands, to sufficient food and to an adequate standard of living (art. 1, 11, 12).*<sup>6</sup>

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chosen are the ones more aligned with the administration's position. There is no requirement that the consultative board meet with or even inform the community as a whole, and there is equally no requirement to ensure input from different groups (such as the Bagyeli or women) who are not represented in the consultative board. Frequently in practice these visits take place without the communities even being made aware of what is under consideration.

<sup>5</sup> CESCR, *Concluding Observations on Cameroon*, 25 March 2019, UN Doc E/C.12/CMR/CO/4, para 12. Note this is an unofficial translation of the French version, as the English version is not yet available. The original text states : *Le Comité est préoccupé par la discrimination et l'exclusion auxquelles sont confrontés les peuples autochtones dans l'État partie, ainsi que par le manque de reconnaissance de leurs droits en ce qui concerne l'accès à la terre, les territoires ancestraux et les ressources naturelles. Le Comité s'inquiète également des informations selon lesquelles les peuples autochtones concernés ne seraient pas consultés afin d'obtenir leur consentement préalable, exprimé librement et en connaissance de cause, avant la mise en œuvre de projets de développement sur leurs terres et territoires (art. 1er et 2).*

<sup>6</sup> *Ibid*, para 16. Note this is an unofficial translation of the French version, as the English version is not yet available. The original text states : *Le Comité exprime sa préoccupation quant à l'absence d'instruments effectifs visant à garantir la protection des droits contenus dans le Pacte lors de l'octroi de permis pour la réalisation des projets de développement économique ou d'exploitation de ressources naturelles. Le Comité est préoccupé par les informations faisant état des conséquences négatives que certains de ces projets ont sur les modes de vie traditionnels des populations concernées, y compris les peuples autochtones, ainsi que sur leur accès à la terre, à une alimentation adéquate et à un niveau de vie suffisant (art. 1er, 11 et 12).*

8. In 2017, in its Concluding Observations on Cameroon, the Human Rights Committee similarly expressed concern about the “confiscation of [indigenous peoples’] traditional lands” and recommended that Cameroon “provide effective legal protection of the right of indigenous peoples to their lands and natural resources”.<sup>7</sup> Similar observations were also made by the African Commission on Human and Peoples’ Rights in its most recent concluding observations on the State of Cameroon.<sup>8</sup>
9. In the most recent 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).<sup>9</sup>*

*A brief explanation of forest indigenous peoples in Cameroon*

10. The indigenous Bagyeli people, an indigenous hunter-gatherer group, are one of several forest indigenous peoples in Cameroon (forest indigenous peoples are also referred to as “pygmies”, but that term is considered pejorative). The customary territories of the Bagyeli are in the South region of Cameroon, and specifically the department of Ocean, and form part of the Congo Basin tropical forest.<sup>10</sup>
11. 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. These two groups share many of the same lands and territories, although the two groups continue to have distinct ways of life. Specifically, indigenous communities continue to live primarily from forest activities – hunting, fishing and gathering – supplemented by agriculture on a very small scale. In contrast, Bantu communities

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<sup>7</sup> CCPR, Concluding Observations on Cameroon, 30 November 2017, UN Doc CCPR/C/CMR/CO/5, paras 45-46.

<sup>8</sup> ACHPR, Concluding Observation on Cameroon, March 2014 (see paras 73-75).

<sup>9</sup> CERD, *Concluding Observations on Cameroon*, 26 September 2014, UN Doc CERD/C/CMR/CO/19-21, para 16.

<sup>10</sup> 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%20for%C3%AAt%20du%20Cameroun%20-%20Fiche%20d%E2%80%99information\\_0.pdf](http://www.forestpeoples.org/sites/default/files/documents/La%20situation%20des%20peuples%20autochtones%20de%20la%20for%C3%AAt%20du%20Cameroun%20-%20Fiche%20d%E2%80%99information_0.pdf)

live primarily from agriculture, supplemented on a much smaller scale by the use of forest products. In addition, Bantu communities (who in general have much higher levels of education) are significantly more likely to leave agriculture for formal employment in another sector. Because of the different emphasis in their livelihoods, the range of forest used by forest indigenous peoples, the frequency of this use and its importance is much greater for forest indigenous peoples than for their Bantu neighbours.

12. This distinction in culture and livelihoods between the two groups continues to be strong, despite a range of policies that have had placed constraints on 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 20<sup>th</sup> century, by which indigenous communities were required to live in permanent settlements by the road, and more recently, allocations of land to other actors (e.g. for agro-industrial or conservation purposes) and concomitant restrictions on access and use by indigenous peoples.
13. In the regions where forest indigenous peoples are found, indigenous communities are often “twinned” with a Bantu community. This arrangement reflects a complex range of social, political, economic and historical factors that cannot easily be condensed to simple explanations. However, it is important to note that this complexity includes multiple elements which have involved marginalisation or exploitation of forest indigenous communities. For example, many forest indigenous communities were historically considered to be the “property” of their Bantu neighbours, and were effectively used as forced (slave or semi-slave) labour. Although these especially exploitative practices are now less common, they have not been eradicated.<sup>11</sup> Moreover, their legacy continues, in that there remains a strongly embedded culture of discrimination and marginalisation against forest indigenous peoples by their Bantu neighbours.
14. This historic marginalisation of Bagyeli people by neighbouring Bantu communities also continues in various 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.<sup>12</sup> Rather, the State administrative structure – which is based on increasing divisions of territorial authority from the President down to village level – treats Bagyeli communities as forming part of the same “village” as the neighbouring Bantu community, and they are therefore represented only by a Bantu 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. The fact that Bagyeli communities are subsumed into

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<sup>11</sup> 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](https://www.ilo.org/wcmsp5/groups/public/---dgreports/---gender/documents/publication/wcms_438854.pdf), pp 14-15.

<sup>12</sup> 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>.

Bantu villages thus means that their communities are deprived of self-representation vis-à-vis the administrative structure even at the local level (and even more so at higher levels).

*History of the Biopalm oil palm lease<sup>13</sup>*

15. The present submission relates specifically to four Bagyeli communities (located in four joint Bantu-Bagyeli villages) in the Ocean department, notably Bella, Nkollo, Gwap and Mougue. The authors have been working with these communities for over 8 years, and particularly in the course of the last five years.
16. Approximately four weeks ago, these communities (and the authors) became aware of a presidential decree dated 4 December 2018 (**the 2018 decree**), granting a long-term (99 year) lease to Palm Resources Cameroon SA (**Biopalm**), a subsidiary of Singaporean company Biopalm Energy Limited. The lease, for 18,365 hectares of forest land, is for the purposes of creating an agro-industrial oil palm plantation. The lands leased (shown in the map attached in annex 1) are, in their totality, lands under customary ownership and use of the affected Bagyeli communities. These lands are used also by the Bantu communities, although at much lower intensity because of the different use patterns of these two groups explained above.
17. The 2018 decree was not the first time that the affected communities (and the authors) had encountered Biopalm. The authors first became aware of the company in 2011, when it was announced in the press that the Cameroonian government had signed a memorandum of understanding with the company to develop a 200,000 hectare oil palm plantation in Ocean.<sup>14</sup> This was followed in 2012 by two Government decrees which, together, had the effect of granting to Biopalm a provisional concession (of 3 years) over substantially the same area as the 2018 decree. Specifically:
  - in March 2012, Decree No 2012/168 of 28 March 2012 granting a provisional concession of 3,348 hectares of “national estate” (*domaine national*) lands, located in the vicinity of Bella, to Biopalm. These lands were “unregistered” customary lands that are legally considered “unowned” by the government, as described above.
  - In November 2012, Decree No 2012/3059 of 2 November 2012 purported to reallocate 21,552 hectares of land from forestry concession no 003<sup>15</sup> (**UFA 003**) for “agricultural

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<sup>13</sup> Further details of the history of this concession, focussed particularly on 2014-2016, can be found at: A Perram (2016), *Behind the Veil: Transparency, access to information and community rights in Cameroon's forest sector*, FPP, Moreton in Marsh. Available at: <https://www.forestpeoples.org/sites/default/files/publication/2016/06/behind-veil-artwork-english-web-1.pdf>.

<sup>14</sup> <https://www.forestpeoples.org/en/topics/palm-oil-rspo/news/2011/10/biopalm-plantation-will-lead-destruction-bagyeli-communities-camer>

<sup>15</sup> This forestry concession had been established in 1997, also overlapping the customary lands of the affected communities, again without reference to those rights and without having obtained the free, prior and informed consent of the communities. However, the impacts of long-term forestry operations of this nature were significantly less detrimental for the communities (who still had access to significant areas of forest in practice), and as a result did not incite the same opposition as the proposed oil palm plantation.

production”. This reallocation of land required declassification of land that had been set aside as permanent forest estate, and as such required specific procedures to be followed (including meetings with the community). These procedures were not complied with.

18. By law in Cameroon, when a large agro-industrial concession or lease is first being established, the normal course is for this to proceed first by way of a provisional concession of 3-5 years, followed by a longer concession (or long-term lease, where the company involved is foreign-owned) at the expiry of that period. Therefore the initial provisional concessions were the first step towards the establishment of a long-term concession / plantation on these lands.
19. The circumstances in which these initial decrees were issued is described in more detail in an earlier publication by Forest Peoples Programme,<sup>16</sup> but in summary, they reflected an appropriation of the customary forest lands of the affected Bagyeli communities without any consideration of their customary rights, without obtaining their free, prior and informed consent, and with no or minimal (and manifestly inadequate) compensation for the profound negative effect the loss of these lands would have on the enjoyment of these communities of their most fundamental human rights (and indeed on their very survival). It should also be noted that the decrees themselves were not made available to the communities, and were only obtained in subsequent years (after various attempts to obtain them by the authors of this submission).
20. In fact, the affected Bagyeli communities, as well as their Bantu neighbours, were for the most part strongly opposed to the establishment of an oil palm plantation on their lands. This was evidenced repeatedly in community meetings in these villages attended by the authors throughout the period 2014 to the present. In three villages (Nkollo, Gwap and Mougue), both the Bagyeli communities and the Bantu communities have unanimously opposed the oil palm plantation on their lands from the outset and continue to do so to this day. In Bella, the Bagyeli community has also been consistently and unanimously opposed to the plantation. In the Bantu community of Bella, however, there has been a division in opinions, notably because the (Bantu) chief of Bella is a strong supporter of the project (in this respect, it is important to note that it is difficult for Bella community members to contradict their chief, which may sometimes have repercussions).
21. For unknown reasons, after some initial scoping work and delimitation of boundaries, no further physical work towards the establishment of the plantation was carried out by Biopalm during the period of the provisional concession (i.e. up to 2015). During this time and following the expiry of the provisional concession, the communities repeatedly sought information about the

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<sup>16</sup> E Freudenthal, T Lomax and V Messe (2013), “The BioPalm oil palm project: a case study in the Department of Ocean, Cameroon”, in M Colchester and S Chao (eds) (2013), *Conflict or consent?: The oil palm sector at a crossroads*, Forest Peoples Programme, Sawit Watch and TUK Indonesia. Available at: <https://www.forestpeoples.org/en/topics/palm-oil-rspo/publication/2013/conflict-or-consent-chapter-14-biopalm-oil-palm-project-case-s>



status of the concession and lease, and (except for the smaller group of Bantu community members at Bella who supported the proposal), repeatedly expressed their opposition to the plantation. This was done, for example, through the following:

- A letter sent by the communities to Biopalm in late 2014, requesting information about the proposed plantation and insisting that the plantation could only proceed following consultation and with the free, prior and informed consent of the affected communities;
- A letter of opposition sent by the development committees of the villages of Nkollo, Gwap and Bella in 2015;
- A letter of opposition (signed in large numbers by members of all four villages) sent to the President of Cameroon in September 2015;
- A second letter of opposition, again signed in large numbers, sent by the communities to the President of Cameroon in May 2016.

22. Following these letters, and in light of the sustained community opposition to the proposed oil palm plantation, on 1 June 2016, the prefect of the Department of Ocean convened a meeting to discuss the concerns raised. The (Bantu) chiefs were invited to this meeting. No Bagyeli member was directly invited, although supported by the authors, some Bagyeli representatives attended nonetheless. However, because the room was not sufficiently large for all those who attended, they were requested to wait outside (and await a report from one of the attendees). In fact, it was clear from the comments of the Prefect during this meeting that he intended for the plantation to go ahead, and mentioned specifically that it would now focus on the area that had been “reallocated” from UFA 003. The Bantu chiefs in attendance (who were also formally the subordinates of the Prefect within the administrative hierarchy) insisted that there must be sufficient “living space” for the communities, and also that a sacred site (the Tsia mountain and its surrounds) must be respected.

23. No further information was provided by either the Government or the company until 26 January 2017, when the Prefect held another meeting (to which no Bagyeli representatives were invited). During this meeting, the Prefect indicated that in the coming days, the “sacred site” would be mapped so that the plantation could take it into account. This mapping was carried out by the communities, and, because they continued in opposition to the project, they mapped a very large area for the sacred forest, and demanded a 10km buffer zone for their “living area” – the result of which would have been that there would be no space left for the plantation. However, the Prefect refused to accept this mapping and agreed on (or imposed) a smaller buffer in discussion with the Bantu chiefs alone.<sup>17</sup>

24. The communities were unhappy with the position that had been reached and the continued possibility that Biopalm would be granted a concession on their lands. Accordingly, in the immediate aftermath of this exercise (in March 2017), they wrote yet another letter of opposition to the President.<sup>18</sup> The Bagyeli communities separately wrote a further letter to the

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<sup>17</sup> Official minutes of a meeting between the Prefect and the village chiefs, 8 February 2017.

<sup>18</sup> Community letter dated 29 March 2017.

Prefect complaining that they had not been invited to the meeting he had convened on 26 January, despite the fact that their fundamental interests were at stake.

25. A long period of silence and inactivity followed this letter, during which time the communities were unaware of any further developments or advancement of the proposed plantation. It was only in February 2019 – almost two years later - that the communities received further news of the proposal and learned of the 2018 decree. The Bantu and Bagyeli communities of Bella were first alerted to this on 2 March 2018, when the Chief of Bella – who had always been (and remains) a strong supporter of the project – held a village meeting during which he announced the grant of the lease to Biopalm over the customary forest lands of the communities. This information (together with a photo of the 2018 decree, a formal copy of which has not been forthcoming from the administration) was provided by community members to the authors, who then disseminated it to the other three communities. The area of the new plantation has been very slightly reduced near the sacred Tsia site, but substantially less even than what was reluctantly agreed by the chiefs (which did not in any event have the communities' endorsement) in early 2017.
26. Opposition to the project remains extremely strong and indeed has intensified, because over the last three years, the communities have been developing their own proposals for community forests in the same area. These proposals involved significant investments of time and effort by the communities involved (and included engagement with various arms of the administration over a long period), and were submitted shortly before the information about the new long-term lease to Biopalm was made public. The communities are currently in the process of finalising further letters of opposition to the President, expressing their continued opposition to the plantation, and asking for the decree to be revoked and the lands returned to the communities. However, all the residents of the area, but the Bagyeli communities in particular, are extremely concerned about the impacts that the plantation will have on them, and are fearful that the arrival of the company is imminent.

### **Grounds for this submission**

27. As the above background explains, the Biopalm lease is likely to have significant and irreversible impacts on the affected indigenous Bagyeli communities in particular, as well as on their Bassa'a and Bakoko neighbours. It reflects 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.
28. These discriminatory laws affect both customary ownership of land by Bantu communities and indigenous peoples, in that unregistered customary ownership is not recognised as ownership by the Government. However, the impact of the laws in their current form is particularly discriminatory against forest indigenous peoples, in that it is legally impossible to register collective ownership of "undeveloped" forest lands – which are the types of lands generally owned by (and most critical to) forest indigenous peoples. 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". Moreover, the series of events makes absolutely clear that: there has been no process, let alone an effective process, of consultation or free, prior and informed consent, and indeed the affected Bagyeli communities have consistently been opposed to the establishment of a palm oil plantation on their lands; the Government is aware of the consistent opposition of these communities to the proposal; there are no plans to compensate the affected communities (and certainly not adequately) for the significant impacts the oil palm plantation will have on their livelihoods.

29. If the palm oil plantation proceeds, it is likely to have devastating impacts on all the communities in the area, but most particularly on the Bagyeli communities. It will deprive them of, in one blow, of the principal source of their livelihoods, with no compensation. Bagyeli communities in this department are already the poorest and most marginalised residents, and they have very limited capacity to absorb a shock of this nature. Education levels among the Bagyeli are also disproportionately low – the majority of these communities is illiterate – and as such their capacity to find employment or adapt to alternative livelihoods is equally limited. Indeed, in other areas within the department, developments of this nature have had catastrophic effects on local Bagyeli communities.
30. The racial discrimination experienced by the affected Bagyeli communities is evident not only in the content of the property laws, but also in the manner in which this project was discussed with the affected villages. The fact that Bagyeli communities do not have direct administrative recognition (equivalent to the Bantu village chief) means that these communities have been even more weakly integrated in the limited negotiation processes between the government and the communities. This is typical of a sustained history of ineffective opportunities for political participation and representation for forest indigenous peoples.

#### **Measures requested from the Committee**

31. In light of the information set out above, there is a need for urgent intervention by the Committee. The authors respectfully request that the Committee consider adopting the following measures:
- A request to the Government of Cameroon seeking further information on the process through which the 2018 decree was issued, and in particular why it was granted in the face of consistent implacable opposition from the affected communities, and despite the serious risks to the physical and cultural survival of the Bagyeli communities.
  - Request OHCHR to collect further information about the situation and its likely effects on the affected communities;
  - Adoption of a decision addressed to:
    - i. The State of Cameroon, expressing the concern of the Committee about the likely serious and irreparable damage that will be caused by the Biopalm oil palm plantation, and requesting:
      1. That the State revoke the decree and annul the plantation;

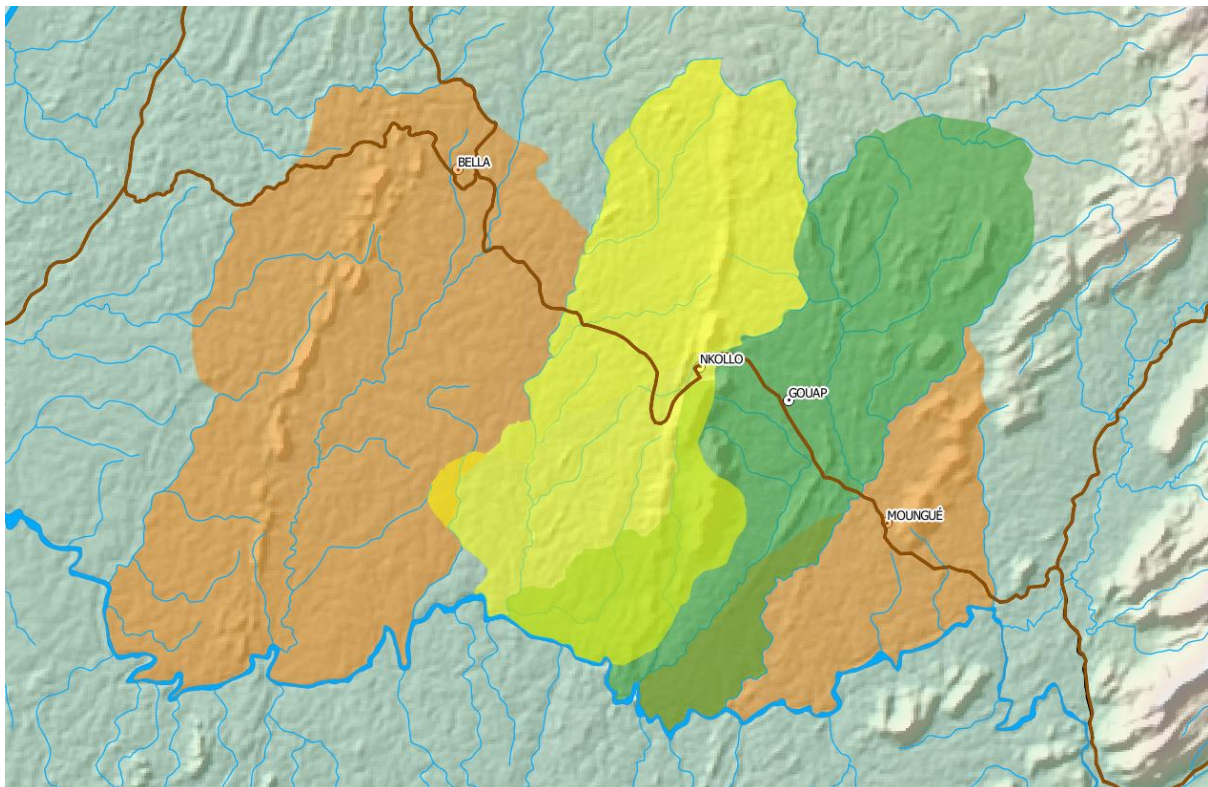
2. That the State return the customary lands of the affected Bagyeli communities (which are currently registered under a State private property title) to those communities, and provide legal security for their continued ownership of them;
  3. That the State amend its laws to protect all customary ownership in Cameroon, including collective customary ownership of forest lands by indigenous peoples, on an equal basis with other forms of title;
  4. That the State approve the creation of the community forests on these customary lands, as sought by 3 of the 4 affected villages.
- Recommendation to the State of Cameroon that it seek the advice of the OHCHR Office in Cameroon in relation to its obligations towards the affected Bagyeli communities, and indigenous peoples in general, in respect of the recognition, protection and titling of their territories.

## Annex 1: Maps

**Map 1: Location of the affected area in Cameroon**



**Map 2: Bagyeli community use areas**



**Note and disclaimer:** this map shows a preliminary indicative mapping conducted by the affected Bagyeli communities, with the assistance of the authors, between 2014 and 2016. It is not necessarily exhaustive of all customary ownership and use areas. It may also reflect existing constraints on use of customary areas because of the (multitude of) other land allocations by the administration in the area.

**Map 3: Map showing the boundaries of the new long-term lease (overlain on the previous boundaries of the provisional concession, as well as the communities' proposed community forests).**

