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Notes on maps

This publication contains maps indicating customary land use by the villages of Moungué, Gwap, Nikolba and Bella. Those maps are based on data gathered using participatory mapping with those communities, the process of which is ongoing. The maps are not and do not purport to be definitive maps of the customary lands owned or used by those communities, and should not be used or construed as such, or in any way seen as a limitation on the customary rights of those communities. Data obtained during the participatory mapping process remains the exclusive property of those communities, and it (and the maps produced from it) may not be used or reproduced without their free, prior and informed consent.

In 2010, Cameroon and the European Union signed a Voluntary Partnership Agreement (VPA) on forest law enforcement, governance and trade in timber and derived products. 1 One apparently positive element highlighted by the European Union and civil society organisations has been the inclusion of a “transparency annex” in the document, which aimed to “make information available for public scrutiny to improve transparency and accountability”. 2

The push for transparency in the VPA is undoubtedly a positive step. Under the VPA rules, the Cameroonian government undertakes to publish a range of information about timber production, allocation of titles, management, and taxation and financial transactions, among others. 3 How far, however, has transparency moved in practice?

This report describes work undertaken by FPP, together with Association Okani, in the department of Okani in the southern region of Cameroon, principally over a period of 18 months between October 2014 and April 2016. As this account illustrates, transparency and access to information remain key challenges for communities in Cameroon. Our experience has been that in practice transparency remains limited in scope, and bureaucratic in approach. Moreover, the concept of transparency appears to be understood in a very restrictive sense by the government, which has only published a list of the titles granted, without providing information on the processes by which they were granted. This has not allowed independent verification of (and challenge of, where appropriate) those processes. A wider, more citizen- and community-focused approach to transparency will be necessary if the VPA is to bring accountable forest governance to Cameroon. The new approach would give direct rights to access to information to individuals and communities, oversight into the process of attribution of permits and titles, and real opportunities for communities and others to challenge deficiencies in these processes.

1 The Agreement was ratified by Cameroon on 1 December 2011.
3 Cameroon-EU VPA, Annex VII.
BACKGROUND

The eight communities are divided into four administrative villages — Bella, Gwap, Nkollo and Mountué — each headed by a Bantu chief, and comprising both a Bantu and Bagyeli community. Bella is the largest village of the four, and has two districts — Bella Haut (where the chafferie is located, and which is predominantly Bantu) and Bella Bas. As is almost always the case in Cameroon, the Bagyeli (indigenous) communities do not have a separate administrative identity nor their own direct administrative representation, and are considered to form part of the Bantu village. The lands used by Bantu and Bagyeli communities within each village (and indeed between villages) overlap and communities interact regularly. There are broad differences, however, in the way in which the Bantu and their Bagyeli neighbours use their lands: notably, the Bagyeli rely significantly more on gathering and hunting activities and less on agricultural cultivation. The Bagyeli are therefore more reliant on forested areas, whereas the Bantu communities are more focused on agricultural activities.

Social and economic relationships are common between the Bantu and Bagyeli communities. The Bagyeli, for instance, are frequently employed as labour force for Bantu agricultural work, they often sell forest products and buy agricultural goods from Bantu members of the community. Bagyeli singers and dancers also perform at important social events such as funerals. In general, however, the Bagyeli remain marginalised in cross-community discussions, and have much higher poverty indicators across the spectrum. Certain social problems, including alcoholism, are more prevalent in Bagyeli communities. Bagyeli community members are sometimes mistreated or exploited by their Bantu neighbours, and although this is far from universally practiced it is widely tolerated.

As they form a minority in each village, the Bagyeli are in a weak position to assert themselves in relation to community decision-making in cases where their interests diverge from the Bantu. They are also often excluded from access to relevant information, because they are not directly notified by state actors or Bantu members of the community. The low levels of literacy and lack of French language skills are also additional barriers. Access to information, however, is not a problem exclusive to Bagyeli communities - there is a lack of dissemination of official (or other) information in both Bantu and Bagyeli communities.

In recent years, the customary territories of these eight communities — which have not been mapped by the government, and the limits of which are not registered in official records — have been subject to the award of a confusing and overlapping maze of third party titles, granted without any genuine, prior consultation of the affected communities. According to the most recent data available from the World Resources Institute (WRI) Interactive Forest Atlas of Cameroon, almost the entirety of the customary lands of the four villages are subject to some kind of concession or permit. The titles burdening the territories include:

- Forest Management Unit (UfA)
- Sales of standing timber
- Agro-industrial concessions granted to Hévécam for the creation of rubber plantations; and
- A mining exploration permit granted to G-Stones Resources Limited.

As discussed below, there are many unanswered questions about compliance with national and international laws surrounding the grant of all these permits. Even more critical, however, are the effects — particularly when taken cumulatively — that these third party activities are having on the rights and livelihoods of the communities living in the area.

4 The Bassa’s and Bakoko communities are the dominant groups in the area, known collectively as “Bantu” communities. The Bagyeli are a distinct community, recognized as an “indigenous people” within the legal sense of that term in Africa (they are more commonly known as “pygmies”, although this is considered pejorative and FPP does not use this term.

5 The Bagyeli have some representation in village affairs — the Bagyeli “chief” is a “notable”, one of the village “seniors” who in theory acts as an advisor to the chief. Although in theory this allows the Bagyeli some opportunity to participate in village-level decision-making, in practice Bagyeli notables are frequently excluded from discussions between the chief and notables (although we have observed better inclusion in the four villages the subject of this report). Even when they are included in discussions, with only one representative they are always in the minority — which means that it may be difficult or impossible for a Bagyeli notable to prevail in decisions which have a disproportionate impact on their community, or to raise issues about marginalization of their community within the broader village.

6 This is not an unusual position in Cameroon. Although the government recognizes the existence of administrative villages based on customary ownership, there is almost no mapping of these customary boundaries, and the official limits thus remain unknown (although there is a procedure for resolving boundary disputes, namely Décret no. 78/263 du 3 septembre 1978 fixant les modalités de règlement des litiges agro-pastoraux).


8 This refers to a large scale, long-term forestry concession which is intended to be exploited sustainably, over the long-term, and remains part of the permanent forest estate.

9 The English term, “sale of standing timber”, is not commonly used and we will use the term vente de coupe, or VC, throughout this document. A VC is a small, short-term concession which is used to supply timber needs. Unlike a UFA, a VC frequently involves clear-felling over a small area and are not intended to be used in forests that form part of the permanent forest estate.
In October 2014, FPP and Okani were approached for help by concerned members of Bagyeli communities from Moundou, Gwap, Nkollo and Bella. After a two year hiatus, employees of Biopalm had visited the communities and had commenced demarcating the territory of their oil palm concession. Some of the marker stones were located in the middle of fields and yet the community members had no idea of the size of the concession and were unaware of what was going on.

FPP had already done some preliminary investigations into the Biopalm concession, the results of which were published in a report in 2013.10 In the months after that initial fieldwork, the company’s activities in the area ceased for several years. When these activities recommenced in 2014 and community members sought assistance, Okani and FPP’s legal and human rights programme (LHRP) team became involved in the area. We began to look into the Biopalm concession (and subsequently, at the request of the communities, into other concessions as well) and to share the results of our investigations with community members.

It is worth setting out that, as a matter of principle, FPP and Okani do not of their own accord take a position in support of or against any particular project proposed by the government or a company. Rather, our role is to make communities aware of their legal rights at national and international level and to facilitate informed community decision-making. This has included seeking out information about projects which communities are concerned with, consulting with communities about their legal and non-legal options, and supporting communities in respect of their decisions.

Why do FPP and Okani focus on seeking out and providing this information to the communities? Primarily because information is critical to the exercise of various human rights held by indigenous peoples and traditional communities in Africa. Under international human rights laws that have been ratified by and are binding upon Cameroon, indigenous peoples and other traditional communities have protected property rights to their customary lands.11 Unfortunately, in Cameroon as in many other countries, these rights are generally not respected under national laws, which have largely continued the colonial terra nullius principle, under which lands owned by local peoples were appropriated by the state, and local ownership not recognised. This is not only in violation of Cameroon’s international obligations, it also creates problems for the communities in respect of their decisions.

Communities must be able to participate freely (without intimidation, coercion, or misleading enticements) and should be given full information prior to the meetings. If this does not happen, no proper consultation process can take place - let alone any free, prior and informed consent by the communities - and thus any project on customary lands involves a violation of their property rights. Providing information about specific projects, as well as about legal rights and options, is a way of supporting the communities’ exercise of their internationally-protected customary property rights.

Following the resurrection of the Biopalm project, members of FPP and Okani visited communities in November 2014. Since then Okani together with members of FPP’s LHRP team have returned for numerous (extended) consultation visits in the communities: in February-March 2015, June 2015, August 2015, November-December 2015, and March 2016; and shorter visits in July and late September 2015. In between times, an Okani staff member based nearby has been in regular contact with the communities both following up and carrying out other project activities. The details set out below are based upon the work carried out during these various visits.

THE STORY SO FAR…

OUR WORK IN THE COMMUNITIES

10 E Freudenthal et al, “The BioPalm oil palm project: a case study in the Department of Ocean, Cameroon”, in M Colchester and S Chao, 2013, Conflict or consent: The oil palm project on customary lands involves a violation of their property rights.

11 Such obligations arise under a number of conventions signed by Cameroon, including (but not limited to) Article 11 of the African Charter on Human and Peoples’ Rights, which guarantees the rights to property, and in which the African Commission on Human and Peoples’ Rights has held protects the rights, interests and benefits of traditional communities, in breach of which a special procedure may be warranted: see Centre for Minority Rights (Centre) and Minority Rights Group (on behalf of indivduals) v Kenya, ACHPR Case No. 276/2003, paragraph 187. Protections for the rights of indigenous peoples and/or local communities may also arise under inter alia, the International Covenant on Civil and Political Rights (Article 27), International Covenant on Economic, Social and Cultural Rights (Article 7), International Covenant on the Elimination of All Forms of Racial Discrimination (Article 5), International Covenant on the Elimination of All Forms of Discrimination Against Women (article 16) and other international treaties and standards.

12 The consultation visits have lasted between two and three weeks, and generally involve multiple meetings in each of the 4 villages, followed by a joint meeting (held in a different village each time) with representatives from all four villages, in which key decisions are taken and next steps planned. The last two joint meetings (December 2015 and March 2016) have attracted more than 100 members from the communities, many of whom attend despite no finance being available for their transportation (as limited resources mean that FPP can only finance transportation for a smaller number of participants).
The history of Biopalm, as best we have been able to discover to date, is as follows. On 28 March 2012, Biopalm, a Singaporean palm oil company, was granted a provisional concession of 3,348 hectares in the vicinity of Bella for the purpose of creating an oil palm plantation. The boundaries of the concession, which was for a duration of three years, were not clearly defined by the decree which awarded it, and have always been the subject of uncertainty for the communities involved. As noted in FPP’s 2013 report, the project had been launched in 2011, and was reportedly part of a proposal to grant a much larger area (200,000 hectares) to the Siva Group, the ultimate owner of Biopalm. Despite the decree granting only 3,348 hectares (which would have covered an area within the village of Bella only, consistent with the wording of the March 2012 decree), there was immediate uncertainty over the location and actual size of the project, with Biopalm and government officials in 2012 visiting not only Bella, but also Nkollo, Gwap and Moungué, giving the impression that a much larger area was involved.

FPP visited the communities in November 2014, together with representatives of NGOs BACUDA and APED, shortly after the renewed meetings with the company and government officials (which were also attended by an Okani staff member) had taken place. FPP and Okani, with inputs from the communities, drafted a summary of the discussion that had taken place during the meetings with company and government officials. According to those notes, government officials gave a figure of approximately 21,700 hectares for the Biopalm concession. It appears that this figure approximates the area “rezoned” from logging concession UFA 00-003 (see further below), although we were unaware of this at the time.

During the course of that visit, Okani also distributed copies of the decree dated 28 March 2012, following which Biopalm had been granted its provisional concession. This had never been provided to the community and caused some consternation.

The decree only mentioned the village of Bella, creating confusion and anger among villagers from the other three villages. Faced with this situation, the four villages decided to write a letter to Biopalm asking for more information about the proposed activities. The letter did not state any objections to the project, but rather asked for more information about it, specifically details of its exact location, its size, and the proposed calendar of works. The communities also asked Biopalm to confirm that it was a member of (and therefore bound by the principles and criteria of) the Roundtable of Sustainable Palm Oil (RSPO), the international oil palm certification body, which requires members to comply with environmental and social standards, including the respect for customary lands.

The letter was delivered by representatives from APED to Biopalm’s offices in Kribi on 17 November 2014. The employee at the office, however, refused to accept it. On the same day, a hard copy was also delivered to the prefect who accepted it. A few weeks later, a copy of the letter was sent by email to Biopalm, the lawyer acting for the company in Cameroon, and to representatives of Siva. Receipt was acknowledged by Siva and Biopalm’s legal advisors, but no other response has ever been received.

As noted, FPP and Okani were approached in 2014 by community members concerned by the return of Biopalm. Community members had been told that there would be meetings organised in the communities on 29 and 30 October 2014, which representatives of the company and the administration would attend.

The letter to Biopalm Energy Limited, dated 11 November 2011, written jointly with the communities of Moungué, Gwap, Nkollo and Bella.

See Decree No. 2012/168 of 28 March 2012. FPP and Okani only obtained a copy of this decree in 2014.


BACUDA is a Bagyeli NGO working in Océan.

APED, the Association pour l’Environnement et le Développement, is a local NGO headquartered in Kribi.

The figure was reported to us by community members following meetings held in the villages organised by Biopalm and officials from the prefecture on 29 and 30 October 2014 (a note recording the contents of the meetings was drawn up together with community members in the days following the meetings, and is held internally by FPP). Community members were told at the meetings that they did not have the right to be consulted about the rezoning because the area was part of the state’s private estate.
21 Pursuant to article 10 of Decree No. 76-166 of 27 April 1976 laying down the rules for management of the national estate (“National Estate Decree 1976”), the prefect can only propose the attribution of a definitive concession if the land has been developed in accordance with the conditions imposed by the terms of the concession. Given that nothing was done on the site between 2012 and 2015 (save some minor and partial demarcation), it seems difficult to see how this could have been complied with by the company.

22 Article 3, National Estate Decree 1976.

23 In a normal operational system any new decree or administrative decision would be published in the Journal Officiel, the French law equivalent of the English law gazette, as updating them on the nature of their legal rights to their customary lands under national and international law, as well as updating them on the situation with Biopalm.

In February-March 2015, FPP and Okani held a first series of consultation meetings, which focused on explaining to community members the nature of their legal rights to their customary lands under national and international law, as well as updating them on the situation with Biopalm.

MARCH 2015

Biopalm had not returned to the communities since the October 2014 meetings, and communities were unsure of what was happening. FPP explained that the provisional decree expired (on its terms) on 28 March 2015 (shortly after our visit), and discussed what might happen next as well as options for how the communities might respond, depending on their views on the project.

There were in fact several options in particular we considered possible following the expiry of the provisional concession. The first was that Biopalm would abandon the project – this seemed unlikely given its recent return to the area. The second, assuming that Biopalm wished to continue with the project, was that it would seek a definitive concession (of up to ‘99 years). It did not appear, however, that it would qualify for this, given that it had not commenced any substantive work on any part of the provisional concession only a few weeks out from its expiry. The third option was that Biopalm would seek an extension of its provisional concession for a further two years (the maximum duration for a provisional concession being five years), or a new provisional concession.

Any one of these options would have required a further decree. For that reason, since February 2015 FPP has monitored national newspapers (where notice of decrees is generally published). To the best of our knowledge, no new decree has been issued since that time. To this day we remain unaware of any extension to the provisional concession either before or after that time (and have made numerous attempts to obtain that information, as we describe below).

During these visits, it became evident from community comments that the members of the villages of Moungué, Gwap and Nikollo were opposed to the Biopalm plantation. In contrast, the Bagylé, and a large number of youth from the village, were opposed.

Our next visit to the communities was in June 2015. We had anticipated, at the time of our previous visit, that a new decree would have been issued by this time, but in fact our monitoring had revealed nothing. When we arrived the problem of Biopalm, quiet since October 2014, had been overshadowed by a new issue which had arisen in Bella and Nkollo: the arrival of forestry company SBAC.

In a normal operational system any new decree or administrative decision would be published in the Journal Officiel, the French law equivalent of the English law gazette, as updating them on the nature of their legal rights to their customary lands under national and international law, as well as updating them on the situation with Biopalm.

JUNE 2015

SBAC’s activities were causing a great deal of community consternation. We received several calls from community members the week before our planned arrival in June (when SBAC commenced work), advising us that SBAC was clear-felling areas of forest. During consultations, community members made complaints about the speed at which the work was taking place, the fact that areas were being clear-felled, and the resulting destruction of several field and crops. The “cubage” rate (a fee paid per cubic metre of wood taken by the company) was also less than the community believed was due.

According to statements by the notables involved during the course of our visit, the chiefs of Nkollo and Bella had been summoned, together with two notables, to the office of the sous-prefet a couple of months before the arrival of the company. They were then told that a forestry company would be arriving shortly to fell trees in their villages and that there was nothing they could do to prevent it. They were also asked to sign documents (the nature of which we do not know), and to deliver (on spot, without having the opportunity to discuss with their communities) a list of social benefits that they would like to receive. No documentation was provided to the chiefs, nor was any further explanation given. This information had not been disseminated in the communities prior to our arrival, which added to community members’ agitation, and highlighted the difficult issues with intra-community sharing of information.
Shortly after our visit, the chief’s representative in Bella[^23] visited the sous-prefet seeking copies of the documents authorising the activities. He was reportedly told that they were confidential and was not given a copy.

Armed with a VC number (VC0903344[^24]) which had been seen by members of the community stamped on logs cut by the company, FPP and Okani investigated further. Our first port of call was the APV-FLEGT website, where details of all exploitation licences are supposed to be published. In fact, the website is rarely up to date and there is quite a lot of information which has not been added. When we checked in June and July 2015, the most recent list of exploitation titles showed only those granted on or before 31 March 2015.[^25] The VC in question did not figure on the list available at the time.[^26]

Our next port of call was the MINFOF national office in Yaoundé. With both the VC number and the company name, we sought confirmation from MINFOF that VC0903344 was a valid VC. MINFOF could confirm that there was a UFA (UPA 00-0033) in the area, but did not have any information about a VC which was apparently being exploited, and could not provide any details on it.

Faced with the continuing lack of information on both Biopalm and SBAC, we considered it was time to make requests in writing. On 22 July 2015, FPP sent formal written requests seeking information on the status of the Biopalm project. The requests were delivered by hand to the local offices of MINFOF[^27], MINADER[^28] and MINEPAT[^29] in Kribi, and to the sous-prefet of Lokoundjé (the arrondissement in which Bella, Nkollo and Gwap are located). The letters to MINFOF and the sous-prefet also sought information about the forestry activities of SBAC.

No response to those letters was ever received from any of the recipients. However, while at the MINFOF office delivering the letter, FPP spoke to the Forests Section Chief. He said that the days of titles being granted without communities being informed had passed, and that MINFOF provided information to any community members that asked for it, but that they were more reluctant to provide information to non-community members or NGOs.[^30]

During the same week, FPP visited the site where clear-felling was taking place. By dint of discreet enquiries of employees, FPP was told that the VC was in fact a coupe de sauvetage (salvage permit) – i.e. cutting timber to make way for another land use, such as a plantation, also known as “conversion timber” – apparently not for Biopalm, but for Cameroonian rubber company Hévécam. (In late 2015, we discovered that one of the VCs (VC0903345), located at Bella Bas, adjoins but does not overlap a concession granted to Hévécam, meaning it would not have been a legitimate basis for a permit, if that was indeed the basis for it having been granted.[^31])

[^23]: Oftentimes, the appointed chief does not live in the village of which he is chief, but rather in a local town or the capital city. In these circumstances, he appoints a representative (usually a family member) to act in his stead during his absence (the representative is also the main point of contact for the chief with the village, and notifies the chief of any matters which require his attention).

[^24]: This is the reference number for the particular classe de coupe/sale of standing timber permit that has been granted by the authorities. It is required to be stamped on all timber that is removed pursuant to that permit.

[^25]: We note that when we checked this again on 16 March 2016, the website now has available information up to 18 October 2015.

[^26]: There was a VC0903343 – one number different – shown on the March 2015 list. However, this provided little satisfaction, particularly as we were informed by contact at a national NGO that a common tactic of companies engaged in illegal exploitation is to amend one letter or number in the name of VC number of a valid title, in order to confound investigation into the legitimacy of the documentation. The close resemblance to a genuine title lends itself to operators stating that the difference is merely a small typographical error, and makes it difficult for investigators to state with certainty that the documentation is false (particularly when governmental actors are not forthcoming with details of titles issued, as is usually the case).

[^27]: The Ministry of Forest and Fauna.

[^28]: The Ministry of Agriculture and Rural Development.

[^29]: The Ministry of Territorial Administration.

[^30]: This is a response that FPP has had on many occasions, and appears deliberately intended to stymie communities from obtaining support from organisations with the means and technical expertise to be able to advise them effectively. There are costs involved for community members visiting government offices, both opportunity costs but also financial costs for transport, which can mount up when delegates are not guaranteed to be at their post, so that multiple return visits may be required. Community members are also often discriminated against or treated badly; may not have the language skills needed to make their request. Attempting to address some of these factors, as well as the desire to overcome the stated reluctance to give information to NGOs or individuals who are not from the community, are some of the reasons we proceeded with a visit to MINFOF with community members in August, which was similarly unproductive in terms of providing concrete information, but was nonetheless a useful exercise for the women who participated from the four communities.

[^31]: This is apparent from information added to the WRI website, apparently in September 2013, of which we became aware in November-December 2015.
AUGUST 2015

We returned for further consultation meetings with the communities in August 2015. Once again, there was no firm news to report on Biopalm nor any new firm information provided on SBAC or the VCs which had apparently been granted.

FPF gave the community updates on the steps taken to elicit information, and shared copies of the list of VCs valid to March 2015 that we had located on the MINFOF website. In addition, in response to requests made during our June visits, we discussed with communities some of the advantages and disadvantages of a community forest.32 During this two week period, we also organised an accompanied visit by community members to the various government ministries in Kribi, to follow up on the letters which had been sent in July. Four women (one from each village), accompanied by a FPF lawyer, visited MINFOF, MINDER, MINERAP and the survey service, seeking information about the Biopalm project and SBAC’s activities. One reason for this visit was to counter any concerns the administration may have about giving information to non-community members, as expressed by the MINFOF employee in July. The community delegation did not receive any written or official information in any of these visits. One ministry representative did, however, tell the delegation that it was too late to “lawyer up” because the Biopalm dossier was already extremely advanced in the administration and could not be stopped. In the survey service, the representative had a file related to Biopalm, and seemed initially willing to discuss it. However, when asked for a copy of the document he was referring to in the file (apparently the Biopalm workplan, a document dating from late 2012), he suddenly retreated and refused to provide any further information.33

In the period between the June and August consultations, another natural resources-linked issue had emerged. On 5 August 2015, Moungué, Gwap and Nkollo had received a letter from a forestry company, the Compagnie Forestière de Kribi (CFK), informing them of proposed “inventory” activities which the company would be undertaking from 17 August, lasting five months.34 Under Cameroonian forestry law, an “inventory” of timber products, which involves an exhaustive enumeration of all the species capable of being exploited in the area and their size, must precede the exploitation of an area.35 The letter stated that the activities were linked to UFA 00-003. The communities were not familiar with CFK (the well-known owner of UFA 00-003 being MMG – see below). They were concerned that the activities were taking place at all, and also thought they may be illegal. At the end of the August consultation meetings, we held a joint meeting with representatives (men, women and youth, both Rantu and Bagyeli) from each of the four villages. A letter of request was drafted from each community and signed by the attending community representatives. These letters (save one from Bella) were subsequently lodged with MINFOF at Kribi. The letter from Bella was held up because the community wanted authorisation from their chief, who was not in attendance. That authorisation has never been forthcoming, despite multiple attempts to obtain it.36 No response from MINFOF has been received to any of the requests made by the communities to create community forests.37 The second item that was discussed was whether to send to the presidency a letter expressing opposition to the Biopalm plantation. Moungué, Gwap and Nkollo unanimously supported the move, and all the delegates from these villages signed a mandate to send a letter of opposition to the presidency. The village of Bella remained divided on the issue. They resolved not to sign on to a letter at this time, wanting to have further discussions in the community before deciding (the Bagyeli community from Bella nonetheless also chose to sign the mandate). A letter was drafted and lodged with the presidency on 7 September 2015. No response has yet been received, although the letter has apparently not been entirely without result.38

Moungué, Gwap and Nkollo also chose to send to MINFOF a letter denouncing CFK and requesting further information. In that letter, each village noted that the company CFK was unknown to them; that it had produced no official documentation which showed the basis for and extent of its rights to conduct forestry activities in the area; and that the latter made reference to UFA 00-003, which had apparently been the subject of declassification procedures and which was known to belong to MMGI.

32 Under Cameroonian law, a community forest is an area of up to 5,000 hectares, from within the customary lands of a community, which is demarcated and reserved for community management for a period of up to 25 years. A community forest does not give the community title to the land, but gives them exclusive management of the land (in accordance with an agreed management plan) for the duration of the community forest agreement.

33 This is entirely reminiscent of Cavell et al.’s description of administrative fear of repercussion from more powerful members of the hierarchy who they seek to enforce the law: “The second building block of the strategy to pre-empt the collection of bribes while avoiding the serious implementation of governance reforms involves the mechanisms set in motion where a state official tries to halt a forest operation that has already been “approved” by powerful individuals. In this case, state officials usually have to choose between allowing an illegal operation to continue or being threatened – usually by telephone – with personal or professional retaliation…” (Cavell et al. 2012, p. 316).

34 Despite this date being indicated, during our visits to the zone in August and September 2015, no inventory activities had in fact commenced, nor had any been commenced in November 2015.

35 Decree No 95-531-PM of 23 August 1995 fixing the modalities of implementation of the forestry regime (“Forestry Decree 1995”), article 43.

36 During the August meeting, held at Moungué, the chief of Moungué (but not of any of the other villages) was in attendance, and signed all of the letters from Moungué. Representatives from the other three villages asked that we obtain consent from their chiefs before proceeding to lodge any letters. We obtained the consent of the chiefs of Gwap and Nkollo within days of the meetings taking place (in fact, when confirming his agreement with submitting such a letter, the chief of Gwap stated he would be very happy if we managed to obtain a community forest for Gwap; that he had asked the local authorities around two years prior about creating a community forest, and had been told there were no further community forests being occupied; personal communication to the author from the chief of Gwap, September 2015); however the chief of Bella insisted that we meet him in person. An FPF lawyer accordingly met with him in late September 2015 to update him on the meetings and asked for his permission to send a letter expressing opposition to the Biopalm plantation. Moungué, Gwap and Nkollo unanimously supported the move, and all the delegates from these villages signed a mandate to send a letter of opposition to the presidency. The village of Bella remained divided on the issue. They resolved not to sign on to a letter at this time, wanting to have further discussions in the community before deciding (the Bagyeli community from Bella nonetheless also chose to sign the mandate). A letter was drafted and lodged with the presidency on 7 September 2015. No response has yet been received, although the letter has apparently not been entirely without result.

37 In fact, as a joint report by Milieudefensie and Les Amis de la Terre points out, contrary to the legal requirement of pre-emptive community rights, “in practice… the discourses of requests for community forest creation are oftenblanked by MINFOF where vectors de coupe are planned” (Milieudefensie and Los Amis de la Terre, Legal imports into Europe of illegal Timber from Cameroon, May 2008, available at https://milieudefensie.nl/publicaties/rapporten/logfile-legal-imports-into-europe-of-illegal-timber-from-cameroon Accessed 31 March 2016).

38 During our visit to the community in March 2016, we were informed by the chief of Moungué that he had been contacted by a national consultant working with the government on the regional zoning plan for the South region, which is currently under development. He was invited to explain the reasons why the community at Moungué did not want Biopalm (knowledge of which could only have come from the letter). He was subsequently invited to participate in a meeting in relation to the plan, at which (after also being contacted a number of alleged “facts” about the status of villages set out by the municipality of Bipindi) he gave an example, one word “fact”, according to the Chief’s report, was that there was a public tap with running water in each of the villages, which FPF can confirm is false). We note that the regional zoning process is largely non-participatory, and in FPF’s view poses a significant risk to community control of lands, as it purports to make decisions about land use on a regional scale, without consulting with or seeking the consent of affected communities.
Three weeks after the letters were lodged with MINOF, FPP accompanied members from the village on a visit to MINOF in Kribi. The MINOF delegate at the departmental office, presented with stamped copies of the letters which proved they had been received, stated that they had not yet arrived on his desk, but that he would nevertheless endeavour to provide responses orally.

In response to the letter of denunciation, the MINOF delegate stated that CFK had a contract with MMG, the title holder of UFA 00-003, in order to exploit that part of the UFA which had not been desaffectée (deallocated) – a telling choice of words since it appears that the declassification procedure has never been followed. He did not provide a copy of these contracts, stating these were confidential commercial documents. He also did not provide a map or any other information on what portion of the UFA had been “deallocated” (but promised to do so subsequently), and confirmed that this had been done to permit Biopalm to pursue its oil palm operations. He stated that an area of equal size had been classified in the South region (without specifying where that had occurred). A community member living at Kribi has visited MINOF several times seeking the promised map: he reported during meetings in March 2016 that the MINOF delegate simply laughs each time he mentions creating a community forest.

FPP also accompanied community members to the council headquarters (the mairie) for Lokoundjé (for Bella, Gwap and Nkollo) and Bipindi (for Mounqué), where community members asked about the level of forestry royalties (redevances forestières) available for their communities. They were told the amounts given to them for the two previous years, which was slightly less than 4 million CFCA (a little over 6,000 Euros). These amounts reflected a proportion (10 per cent) of the taxes paid by a company on logging in a particular village area, which are reserved for the community whose lands are affected (since 2015, this 10 per cent for communities has been abolished and funds now go to the municipality alone, but amounts accrued before that time should remain available to villages). Villages access these funds by preparing development projects. The projects are submitted to and approved by the council, which then releases the funds for their completion. All the four villages have expressed interest in these projects.

A news report appearing in the national newspapers about Biopalm, discussed with communities during the December 2015 meetings.

By the time of our next consultation in December 2015, there was little new information to report. Communities reported visits from a forestry company called Wijma, but had few further details.

No responses had been received to any of the letters sent. Gwap, Nkollo and Bella had been able to obtain information about the amount of forestry royalties held for their villages, and were preparing community projects for submission to the municipality.

SEPTEMBER 2015

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DECEMBER 2015
**MARCH 2016**

During meetings in March 2016, communities reported that they had been visited again by CFK and Wijma. FPP looked up Wijma after hearing the name had looked up Wijma CFK and Wijma. FPP reported that they had been visited again by MMG to undertake forestry activities in UFA 00-003. It was clear during these meetings that no one in the communities continued to support the project. By the end of the intercommunity meeting, the village representatives had unanimously decided that they wished to send a further letter of opposition to the presidency in respect of the Biopalm project, which will be sent in the coming months.

The aim is, apparently, to integrate this UFA into the certified portfolio of Wijma, from which it exports certified wood.

FPP also brought copies of the maps shown on the WRI website, showing the (apparent) extent of the Biopalm plantation. The communities, and particularly the community of Bella, were greatly concerned when they saw the location and size of the proposed plantation for the first time.

It was apparent that FPP was not aware of any decree which currently authorises the concession, the original provisional concession having expired in March 2015. It was also apparent that FPP had not visited the communities. The communities, and particularly the community of Bella, were greatly concerned when they saw the location and size of the proposed plantation for the first time.

**ACCESS TO OBfuscation**

The history above highlights one of the particular difficulties facing the communities we are working with (and many communities across the country): the continued inability to obtain reliable (if any) information from the administration on projects affecting their customary lands.

This issue creates numerous barriers to the exercise by communities over their rights to their customary land, and the maintenance and improvement of their livelihoods. It also presents challenges for verifying the legality of forestry activities under the VPA, and within existing national laws.

FPP and Okani, together with the communities, sought information about both forestry activities and the proposed oil palm conversion project through multiple means, including:

- Visits to the national offices of MINFOF and MINEPAT in Yaoundé
- Multiple visits (both with and without community members) to the departmental offices of various ministries in Kribi.
- Formal letters to MINFOF, MINEPAT and the sous-prefet of the Lokoundjé arrondissement
- Internet searches of the MINFOF-operated VPA website.

Despite these efforts spanning more than a year, and with the assistance of lawyers and an international organisation, the community has still no information about the proposed scope or the fate of the Biopalm project, or details of the declassification of the UFA which apparently permitted this reallocation to take place. Similarly, although FPP was able (several months after the logging took place) to locate the VCs on a MINFOF list granted to SBAC, these details were not available to the communities at the time and no documents or details of the procedure that followed have been made available. There is a similar dearth of information in the communities about the proposed activities of Wijma and CFK at this point in time, although there have not been attempts to obtain information about these companies’ activities at this stage.

The examples from our work in Océan demonstrate that the problem is not confined to one ministry or region, and that it has a real effect on community participation. If French-speaking communities assisted by lawyers and an international organisation, located within 50 km from a major town (Kribi), cannot obtain access to information, what hope is there for remote non-French-speaking communities with no external assistance to obtain information?

These problems of transparency are not new: access to information has been a continuing focus of discussion in governance questions in Africa (and elsewhere). There are legal bases for a right to access information in African countries, and there have been a number of initiatives from the African Commission on Human and Peoples’ Rights (the African Commission) aimed at increasing public and citizen access to information. Article 9(1) of the African Charter on Human and

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42 As noted below, FPP is not aware of any decree which currently authorises the concession, the original provisional concession having expired in March 2015.

43 This is particularly a problem for indigenous peoples in Cameroon; it disproportionately affects the Bawo in our area of work, but it is also a major barrier for Baka communities in the East.
there is a further problem highlighted by FPP and Okani’s experiences, namely, the lack of circulation of information within the community. While forestry laws require in certain circumstances that communities are notified, they these rights of notification are regularly confined to the chief, who is officially responsible for informing his population. There are many instances when chiefs are not properly informed as required by the legislation. They are also in some cases coerced by administrative officials (who are in fact their hierarchical superiors in some respects) into signing documents without being given full information. However, there are also instances where chiefs are in possession of information, but for reasons of disinterest, personal interest, lack of time or resources, or lack of cultural practice of sharing information, do not share it with their communities (or share it only with selected elite members). This can be a particular problem for marginalised groups (particularly women, youth and indigenous peoples), who do not traditionally form part of the decision-making circle and who are often not given access to information even where it is partially disseminated.

Community members faced with a chief who does not share information, even on request, are in a particularly difficult bind. Legally, the community is deemed to have been “notified” through the provision of information to their chief; practically, they have no means of obtaining access to this information. Their exclusion is made complete when the administration is not prepared to provide the same information to individual members of the community, telling them to “ask their chief”. This practice does nothing to resolve these difficulties for community members, and only supports chiefs who withhold information from members of their communities.

Access to information is also a principle set out in the African Union Convention on Preventing and Combating Corruption. Article 9 requires States parties to “adopt such legislative and other measures to give effect to the right of access to any information that is required to assist in the fight against corruption and related offences”.

Despite these initiatives, the record in Africa in general on access to information laws remains poor. Only 13 of the 54 states forming part of the African Union have adopted access to information legislation, and no Congo Basin country has done so. While one of the participatory principles set out in the Cameroonian Framework Environmental Management Law of 1996 is access to environmental information, this has never been the subject of specific implementation measures. Environmental and social impact statements must be made publicly available, but only during a limited consultation phase (after which the obligation to make them public ceases). Community access to information about projects that affect them remains limited both in principle and in practice, as has been regularly documented by local civil society actors such as the Centre pour l’Environnement et le Développement Rurale (CED) and Forêts et Développement Rurale (FODER); and moreover, according to the FLEGT auditor’s report, information is systematically missing from MINPFO’s records.

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Peoples’ Rights (which was ratified by Cameroon in June 1989) provides that “every individual shall have the right to receive information”. The African Commission on Human and Peoples’ Rights has sponsored a number of initiatives aimed at increasing access to information in Africa. In 2002 the Commission adopted the Declaration of Principles on Freedom of Expression in Africa, which provides inter alia for the creation of a pan-African Network of Principles on Freedom of Expression in Africa, which provides model legislation inter alia.

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44 Declaration, Article IV(2).
45 This Convention has been signed but not yet ratified by Cameroon.
47 Loi No. 96/12 du 5 août 1996 portant loi-cadre relative à la gestion de l’environnement.
50 C Duhesme, 2014, supra, see p 25 where the report notes that 2/3 of the documents were retrieved from the titleholders rather than government records, even though the majority of these documents had been issued by the administration; see also pp 43f, where the report recommends a “reconstitution” of forestry dossiers. Carvill et al, supra, note that “initial results in state officials choosing to either not collect or not retain information as a way of maintaining their vested interests”, highlighting the link between the lack of documentation retention and corrupt practices by State officials; see p 549.
Lack of access to information prevents communities from exercising their rights and acting to protect their customary territories from encroachments from third parties, which is happening with increasing regularity. It also however supports a wider, systematic lack of transparency which is often linked to illegality and corruption. The lack of publicly available information undermines the rule of law, prevents evaluation and improvement of practices and procedures, and feeds into a culture of state and administrative unaccountability.

To give just one small example of this link, consider the importance of information in the functioning of the legal system, and in particular the mechanism of judicial review. Judicial review, a fundamental feature of both common law and romanov-civil legal systems (and which exists in Cameroon’s law), is the legal mechanism by which affected citizens (such as communities) hold the state accountable for unlawful decisions. However, where information is unavailable, any challenge of government decisions becomes extremely difficult or impossible. In order to challenge an administrative decision, a complainant must lodge with the relevant authority, within three months of a decision been “published or notified”, 54 a written complaint, known as a recours gracieux préalable (RGP), detailing all aspects of their complaint about the decision. Failure to do so prevents recourse to an administrative court, and any recourse is confined to the matters set out in the complaint.

When information is drip-fed to communities, orally and without confirmation, when no documents are provided and when decisions are not published at the time that they are made (and sometimes not until after activities have already begun), it is very difficult or impossible for communities (or other affected parties) to challenge a decision effectively. Moreover, when there is no clear date of notification or publication of decision (and further information only leaks out some time after decisions are made), 55 there are significant risks of missing the (unclear) timeframe in which a decision may be challenged. Even if, in principle, citizens have access to this legal mechanism, a lack of effective access to information renders judicial review of government actions in the sphere of land and forest governance entirely illusory. Thus the lack of information has implications across the board for accountability and the rule of law.

This is merely one example, not necessarily the most important one, of a link between access to information and accountability. The reality is, of course, that there are powerful interests who have no desire to become accountable towards citizens: in some circumstances because of a paternalist conviction that “the administration knows best”, but often also because of corrupt personal interests in the existing system that would be threatened if there was genuine accountability.

The problems of transparency and corruption in the forestry sector are not new. Transparency International’s 2003 Global Corruption Report noted that 2002 had “witnessed a steady flow of reports of corruption in Cameroon’s logging industry”. 56

According to the report, the Centre for Environment and Development (CED), a Cameroonian NGO, estimated that 45 per cent of timber production in 2000 was illegal. 57 These concerns are not limited to the forestry sector – a recent investigative report on mining raised similar concerns in relation to the mining sector. 58

The situation does not appear to have greatly improved – although perhaps its dynamics have changed since that time. A report published by FODER in 2014 noted some improvement in the perception of corruption index within the forestry sector, but highlighted that “… this step forward remains particularly fragile to the extent where it is an expression of actions carried out at the periphery, which is at the level of those implementing decisions and those who do not have power. In order to support these achievements and make them sustainable, it is necessary to take up complementary measures such as the extension of anti-corruption initiatives towards the centre of decisions…” 59

This reflects a practice of disciplining (or scapegoating) low-level and minor players for minor infractions, giving an appearance of fighting corruption, while failing to tackle the much larger corruption at higher levels of the government. The US State Department’s 2015 Human Rights report on Cameroon states that “many powerful or political or business interests had virtual immunity from prosecution, and politically sensitive cases were occasionally settled through bribery.” 60 In fact, even those sanctions for corrupt behaviour which are applied are often minimal. The 2013 Report of CONAC, Cameroon’s anti-corruption body, noted nine “sanctions” imposed by MINFOF during the year (five of which were against staff located in the south region). Of those nine, three were merely asked to give a written explanation, four had a written warning placed on their file, four were transferred (as a “precautionary measure”). 61

The FLEG independent auditor’s report, finalised in 2014 but not published for more than 12 months, and only when it was leaked to the French press, made highly problematic findings. Not only did it find that there was a significant amount of information not available at MINFOF; it also considered compliance of permits granted, determining that not one UFA or vente de coupe could be considered in conformity with the VPA legality matrices. 62

The study did not even address the more significant question of whether official documentation purporting to

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52 Law No. 2006/012 of 29 December 2006, governing the organisation and functioning of administrative tribunals. Similar time limits apply to most other Francophone and indeed Anglophone legal systems for administrative challenges.

53 In theory, decisions, decrees and other legal instruments should be published in the Journal Officiel, the equivalent of the gazette in an English law system. In fact the Journal Officiel is not easy to obtain in Cameroon. It’s not clear that it is printed in large numbers for public reference or purchase, and it is certainly not available online. This underlines one of the fundamentals of the principle of the rule of law, namely that laws should be promulgated to the public before they take effect.


57 The acronym from French Commissioner Nationale Anti-Corruption.


authorised activities had in fact been properly provided.

Falsification of documentation, irregularities and corruption remain, therefore, a feature of forestry governance.

Issues of the nature described in the FLEG auditor’s report have plagued the department of Ocean in which our work has been carried out. A report prepared by Cameroon Ecology in 2012 analysed the respect for fiscal and social obligations by three forestry concessionaires, including MMG under UFA 00-003, the forestry concession which affects all four villages and is now being exploited again. That report highlighted serious deficiencies in information both held by local authorities, and made available to communities. Critical documents such as the cahier de charges (the company-community agreement in which the social commitments of the company are recorded) had never been made available to the communities in question, nor were they available in the local offices of MINFOF. The company, when requested, said it had a copy but that it had “not been made public.” Similarly, minutes of the (obligatory) consultation and restitution meetings for the environmental and social impact assessment prior to the concession being granted were not held by local authorities. Communities denied that any such meetings had taken place, and authorities expressed uncertainty. The report of the socio-economic study itself had never been made available to the communities, nor was it held in the local government offices.

Consultations with local populations suggest that the process of obtaining the concessions to have a management plan, the development of which was supported by Canadian international aid. Despite its auspicious start, some reports and investigations have suggested MMG has been involved in illegal forestry activities both in the area of UFA 00-003 and elsewhere.

UFA 00-003

UFA 00-003 is a classified forestry concession area that is owned by Mba Mba Grégoire SARL (MMG). MMG is owned by the previous mayor of Kribi, now HPCD Senator, Grégoire Mba Mba. MMG also owns a sawmill in Kribi, where the timber from UFA 00-003 (among other sources) is processed.

UFA 00-003 was created to protect the Lokoundjé-Nyong reserved forest, an area of 71,793,548 hectares located in the south, littoral and central regions. It was one of the first forest concessions to have a management plan, the development of which was supported by Canadian international aid. Despite its auspicious start, some reports and investigations have suggested MMG has been involved in illegal forestry activities both in the area of UFA 00-003 and elsewhere.

UFA 00-003 is a classified production forest (a forest where sustainable forestry activities may take place). It was first included in the indicative forest land zoning in the meridional forest zone, created in December 1995, as part of the permanent forest domain. Forest areas which were shown as part of the permanent forest domain were intended to be individually classified as being part of it after being divided up following consultation with local populations. Despite this, many of the areas shown on the indicative zoning have never been formally classified. However, the Lokoundjé-Nyong forest (where UFA 00-003 is located) was classified, and thereby incorporated in the national estate, in which only ventes de coupes and other smaller forestry permits are allowed; however, we are not aware of whether the non-classified UFAs in the Meridian Zone. FPP understands that there are many cases where the indicative zoning of an area as a permanent forest estate was completed, and a concession issued, but because of the lack of information, the area of UFA 00-003 is not complete, in part because of the lack of information, there are some serious questions about whether procedures were followed, and some instances which, in FPP’s view, show prima facie illegality.

How far is this just an information problem, and how far does it reflect underlying non-compliance? As part of our work with the communities, we have investigated several of the permits and concessions that have been authorised in the zone.

On the basis of the information we have been able to obtain (which is obviously not complete, in part because of the lack of information), there are some serious questions about whether procedures were followed, and some instances which, in FPP’s view, show prima facie illegality.

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IMPERFECT INFORMATION OR IMPERFECT TITLE?

How far is this just an information problem, and how far does it reflect underlying non-compliance? As part of our work with the communities, we have investigated several of the permits and concessions that have been authorised in the zone.

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into the private domain of the state, as the “pilot forest of Lokoundjé-Nyong”, in 1997. As discussed below, since that time it appears that the state has sought to declassify part of the UFA for the purposes of granting this portion to Biopalm, and (as we recently discovered) has joined part of another UFA 09-028A as compensation for the loss of the demarcated area. As noted below, the 2012 declassification of part of 00-003 appears highly questionable.

MMG has been a long-time player involved in the zone. However, the level of its respect for obligations has been called into question on occasion. As noted in the Camero report referred to above, there are multiple documents pertinent to MMG’s creation which remain unavailable. An audit of MMG by Rainforest Alliance conducted in 2012 recommended that MMG should not be accepted as compliant with the Rainforest Alliance’s certification standards.73 Among other non-conformities, the audit noted that the management plan, due for updating since 2009, had not been revised, and that the sawmill operations at Kribi were not formally declared to the Ministry of Industries.74 Despite that recommendation, it appears that MMG obtained Rainforest Alliance Verification of Legal Compliance (VLC).75 FPP has also been informed that a community member employed by MMG died in a workplace accident during MMG’s previous exploitation (several years ago), although we have no further details of this.76

As noted above, MMG has now entered into an agreement with Wijma and CFK for the exploitation of further areas of the UFA, and intends to seek FSC certification. Membership to the FSC is voluntary, but certification allows companies to sell timber products as “FSC-certified”. In return, to obtain FSC certification, companies are required to comply with the FSC’s principles and criteria, which include both national legal requirements, environmental sustainability and social rights criteria. There is a set of international principles and criteria, and individual countries can then develop national standards.

Cameroon has a national standard which was adopted in 2012.77

• A requirement to document (including by maps) any customary rights applicable to the forest under evaluation (indicator 2.1.4), and an obligation to ensure that communities are aware of and understand the use of these documents, acknowledge having prepared them with the forest manager, and understand their rights and duties in respect of the resources identified (indicator 2.1.5).

• A requirement that local communities with legal or customary tenure retain control, to the extent necessary to protect their rights and resources, over forest management operations (unless they delegate control on the basis of FPCI (criterion 2.2).78

• Legal and customary rights of indigenous peoples to own, use and manage their lands, territories and resources should be recognized and respected (principle 3), which includes a variety of more stringent requirements (Indicators 3.1.1 to 3.1.4).

A preliminary measure, therefore, in obtaining FSC certification should involve the documentation (including mapping) of customary rights of both Bantu and Bagyell communities in the area. It does not appear, however, that this has taken place (or certainly not in a participatory manner, as no communities have been involved in mapping with the company at this time). Despite this, it has been reported to us that Wijma and CFK are already marking trees for felling.82

Indeed, rather than mapping of customary lands and ensuring that communities retain control of forestry activities in these areas, it appears from reports of Wijma’s principal activity is the (re)constitution of comités paysan-forêt (literally “peasant-forest committees”, or CPFs) in the four communities. CPFs are bodies which are described in a ministerial decision on the procedures for classification of forests.84 They are anticipated to be elected bodies of eight members,85 which must compulsorily include representatives of different social groups, and which, when constituted, become “privilegiated interlocutors” with the administration and the forestry company in relation to the UFA.86

The ministerial decision regarding CPFs states that their members should be elected by the whole village. This does not however appear to have been the approach adopted in the creation of CPFs by ONED. At the time of our visit villagers reported that one CPF, at Bella, had already been constituted. One member of this CPF said that he had volunteered when ONED had asked for members, that he had no idea what the role entailed, but that ONED had said they would provide training in due course. It is obviously problematic that the CPF was formed without community members knowing its role or purpose. Moreover, members of the CPF were selected from those in attendance at Bella Haut during ONED’s one brief visit, most community members (even at Bella Haut) had not attended the meeting, and the population at Bella Haut had no knowledge of the meeting or of ONED. These reports are concerning, and raise questions about the degree of compliance by Wijma, CFK and ONED with the obligations under national law (in relation to the CPFs) and under principles 2 and 3 of the FSC Standard.

The Cameroon national standard is in fact less exacting in respect of local communities and indigenous peoples than the new international standard (v5) adopted in 2012. A new Cameroon national standard which complies with the updated international standard must be adopted by the end of this year, failing which the national standard will lapse and the international standard will apply directly.


74 Decree No. 97/073/PM of 5 February 1997 incorporating into the private domain of the State a portion of the forest of 125 688 ha, called the « Pêt Forest of Lokoundjé-Nyong ». This has not yet been able to obtain a copy of this decree.


78 Legal and customary rights of indigenous peoples to own, use and manage their lands, territories and resources should be recognized and respected (principle 3), which includes a variety of more stringent requirements (Indicators 3.1.1 to 3.1.4).

82 The indicators or this in the national standard are, very weak, however, requiring only that the legal provisions of management plans and access to natural resources are “defined and made known and respected by all stakeholders” and that communities monitor the impact of forestry operations on their rights (Indicators 2.1.1 and 2.1.2). There is no clarity or clear requirement that communities exercise control in this process. This becomes even more concerning when it is noted that the means of verification is the minutes of an “information meeting” signed by all stakeholders – which is clearly insufficient to demonstrate community control of resources. It is equally problematic that disputes over tenure rights (covered by criterion 2.3) require only a procedure for dealing with potential conflict relating to tenure and use rights “on the basis of the legal framework of the country” (Indicator 2.3.1), which is highly problematic given the lack of sufficient recognition of customary ownership in national legal frameworks.

83 This report was to be by several communities during the course of visits in March 2016. It was never reported that, in order to avoid having to deal with the communities, the companies were entering the forest discretely and only alerting the clash to their presence or completion of their marking activities.


85 A CPF is composed of the following members: the chief of the village; a member of the village development committee; one representative of the internal elites; one representative of external elites (those living outside the village); two- representatives of women’s associations; one representative of cultivators; one representative of youth. Notably, and problematically for villages of mixed Bantu-Bagyell ethnicity as exist in the area, there is no obligation to include any representative of indigenous peoples in the CPF.

86 The Cameroon national standard is in fact less exacting in respect of local communities and indigenous peoples than the new international standard (v5) adopted in 2012. A new Cameroon national standard which complies with the updated international standard must be adopted by the end of this year, failing which the national standard will lapse and the international standard will apply directly.
The project of greatest concern to the communities remains the proposed palm oil concession to Biopalm, which has the potential to influence much more significantly the livelihoods of community members. As Colchester notes:

“Natural forest logging, at least in many tropical forests and where done in accordance with forestry laws, only results in the selective extraction of timbers from forests. Although seriously disruptive of local livelihoods and welfare, some indigenous peoples find they can accommodate these impacts without major adjustments to their ways of life. By contrast, oil palm estates, like timber plantations, require large-scale conversion of lands and forests to industrial monocrops and accord long term tenures or permanent ownership to the operators. Such dramatic transformations of land use require major changes in communities’ ways of making a living and imply permanent cultural changes.”

As mentioned, Biopalm was first granted a provisional concession for 3,348 ha by a decree issued on 28 March 2012. As far as FPP is aware – and as documented above we have made numerous attempts to obtain this information from state authorities – that is the only decree which has ever authorised any concession to Biopalm. Pursuant to that decree the provisional concession expired after three years, on 28 March 2015, and therefore the current position appears to be that the concession no longer exists.

Despite this, sometime around September 2015 a concession to Biopalm, which affected the lands of Bella, Nikkola and Gwap, appeared on the WRI Interactive Forest Atlas (see map 3). The concession shown on the map is substantially greater than the 3,348 hectares included in the 2012 decree, and approximates rather the figure of 21,700 hectares mentioned by officials during meetings in October 2014. There is, however, no information on the WRI website about the date on which that concession was granted or its duration, and there is still no clarity over the basis on which this concession has been authorised.

In fact, there are a number of other questions about the project. As mentioned, the area granted by the decree in March 2012 created a provisional concession on land which overlapped with UFA 00-003 (a classified forest and part of the state’s private estate). Under the law, concessions may only be granted in the national estate, land that is considered unallocated, and moreover only on land within the national estate which is not occupied and not under exploitation. Outside the national estate, it is possible for concessions to be granted on unallocated state private land. Given that the land within UFA 00-003 was classified as a state forest, the grant of a concession would have been possible only after the declassification of the forest. In March 2012, no such declassification had taken place.

It is therefore FPP’s view that the grant of the March 2012 concession was unlawful.

Beyond that, however, our view is that this rezoning is not compliant with the legal requirements for declassification of a state forest, for the reasons which follow.

There are several conditions for declassification. Firstly, classification indicates that the area is supposed to be retained permanently as a forest (30 per cent of Cameroon’s total surface area is legislated to remain permanently forested92), and accordingly for each area declassified an area of equal size and category, in the same ecological zone, must be classified elsewhere.93 We have not seen details of an alternative classification, although the most recent information is that an area of UFA 09-028A was joined to UFA 00-003 to compensate for the loss of

86 Colchester, 2016, supra.
87 This can be viewed on the WRI Interactive Forest Atlas site at http://cmr.forest-atlas.org/map/#v=atlas&l=en. This was accessed most recently on 30 March 2016.
88 Section 1, National Estate Decree 1976.
92 Section 22, Forestry Law 1994.
the declassified area.94 Whether and when this has been classified, and whether it is equal in size and quality to the area declassified as required by the law, remains unknown.

There are other requirements that must also be complied with for declassification. While a forest remains classified, clearing (as opposed to sustainable forestry activities) within the forest is prohibited.95 Where an area is proposed to be declassified to enable clearing (défrichement) to take place, such declassification may only take place after an environmental and social impact study takes place, and cannot take place if clearing would harm the ability of local populations to satisfy their needs for forest products, compromise the survival of forest populations whose way of life is linked to the forest involved, or jeopardise the ecological equilibrium.96 Moreover, if an area is proposed to be declassified to enable clearing (défrichement) to take place, such declassification may only take place after an environmental and social impact assessment and lack of harm to local communities would be required for any declassification for the purposes of clearing (under Article 9, Forestry Decree).

In the present case, the state alleges that a part of the UFA has been declassified, apparently for the purposes of the Biopalm concession. Declassification for the purposes of a palm oil concession involves (at least97) clearing of the land, which under article 9 of the 1995 Forestry Decree, can only proceed if there is a favourable environmental and social impact assessment, and if clearing will not negatively affect the subsistence use of local populations.

Moreover, in our view, any argument that the clearing, which would affect a very large proportion of customary lands used by both Bantu and Bagyeli communities in Bella, would not have significant negative effects upon them is simply untenable. Given that, we consider that any decision to declassify this zone is likely to be unlawful.

Indications are that the administration may be seeking to resort to legal sophistry and smokescreens in their attempts to “declassify” and “dealocate” this portion of the state’s private property estate in order to (seek to) permit it to be allocated under concession.

It is difficult to determine precisely what the state has done (or sought to do) in order to permit a concession of lands in the state private property estate. As noted above, concessions may also be granted in the state private property estate from “unallocated State private lands”.99 However, for the portion of the UFA to be declassified but remain within the state’s private property estate – which seems to be what the state alleges has happened, and failing which a declaration of public purpose would also have been required on declassification – another state entity (such as the Ministry for Agriculture, MINADER) would have needed to request the allocation of that portion of land for a particular purpose.100

However, if only unallocated land may be granted in concession to private bodies, then for a ministry to request the allocation of land to them simply in order for it to be treated as “unallocated” so that it can be concessioned to a private entity – if that is indeed how the administration has proceeded – would in FPP’s view arguably be an ultra vires misuse of the states powers to request transfer of land to a ministry.

In another meeting, a representative from MINOF suggested that the rezoned portion of UFA 00-003 granted to Biopalm for an oil palm plantation was now an “agricultural production forest”.101 Nonsensical descriptions of this type, which mask the real legal mechanisms behind what has occurred or explain the rights to which communities were entitled in such processes, do not inspire confidence that the correct procedures have been followed.

94 Personal communication from the Chief of Mountigui, based on information he received during a meeting held on 23 March 2016 concerning the new environmental and social impact statement for UFA 00-003.
95 Article 9, Forestry Decree 1995.
96 Article 9, Forestry Decree 1995.
97 Article 22, Forestry Decree 1995. Legally speaking, it is not entirely clear whether it is possible to declassify a forest from the permanent forest estate without also removing it from the state’s private property estate (and returning it to the national estate). FPP’s view is that upon declassification, the area should automatically return to the national estate (and therefore that all declassifications remove land from the private property estate and invoke the provisions of Article 22). However it also appears arguable that incorporation to the state private property estate survives declassification, such that upon declassification the land remains as state private property, unless and until allocated to another category (in accordance with the rules governing the state private estate, set out primarily in Ordonnance No. 74-2 du 6 juillet 1974 fixant le régime domaniale du patrimoine, and the State Private Property Decree 1978). That would suggest that a declaration of utilité publique and an environmental impact statement would not be required where land was not being removed from the state’s private estate (although classification of alternative lands would always still be required (Article 22(1), Forestry Decree 1995)), and an environmental impact statement and lack of harm to local communities would be required for any declassification for the purposes of clearing (under Article 9, Forestry Decree 1995).
98 There is also an argument that declassification of a state forest necessarily requires classification “out of the private property of the state”, although FPP considers this is legally unclear.
100 Under article 2 of the State Private Property Decree 1976, any ministry who wishes to have a portion of the State private property estate allocated to it may submit a request to the prefect of the relevant department.
101 Minutes of community meetings regarding the Biopalm project, October 2014.
VENTES DE COUPE

FPP's investigations into the ventes de coupe were based upon community concerns raised with us before and during our field visits in June 2015, and were therefore focussed on SBAC. However, during the course of our researches, it became apparent (from the WRI site) that additional VCs had also been granted in Bella to a company called Boducam.

In fact, the community of Bella at large became aware of this exploitation on 30 January 2015, when community members discovered that several members of local authorities based in Kribi (including both judicial and administrative authorities), unbeknownst to them and allegedly with the agreement of their chief, had been granted lands within the forested areas of Bella. Moreover, the community found out that several additional VCs (for which the chief had allegedly received payment) had commenced work in some more distant areas of the community’s forest lands.

We understand that the community of Bella has now commenced a procedure to depose its chief.103

In March, the communities’ discoveries were confirmed by maps provided to communities by FPP (based on new information available on the WRI Interactive Web Atlas, added around September 2015), which showed VCs granted to Boducam in border areas of the communities’ forests. However, because the communities only became aware of Boducam’s activities relatively recently, our requests for information and researches to date have focussed primarily on SBAC.

According to the data on the website, SBAC’s VCs, 0903344 and 0903345, were granted on 27 and 29 April 2015 respectively. Boducam’s three VCs, 0903340, 0903341 and 0903342, were granted on 24 October 2014 (very shortly before FPP and Okan visited the area, and around the time of the Biopalm meetings in the communities). Given these recent grants, there are obvious questions about the lack of information known to the communities, and broader concerns about the manner in which all of these VCs were granted under national law, a VC may be granted either within the permanent forest estate104 or within the national estate.105

The key constraining factors are the surface area over which a VC can be granted (2500 hectares106) and the period of time for which they may be granted (up to three years107).

The process for the grant of VC in Cameroon requires a number of stages. A VC must obliatory become the subject of a tender process which specifies its limits, the surface area and the proposed local social benefits (agreed with the local communities concerned)108.

Moreover, pursuant to section 37 of the Forestry Law 1994, and in accordance with Arrêté No. 318 on the right of pre-emption,109 communities must be given the opportunity to apply for a community forest in any of the areas proposed to be the subject of VCs in the national estate (non-permanent forest). In practice, this requires that:

- MINFO draws up a list of proposed VCs in areas eligible for community forests;110
- It publishes the list in various locations, and specifically ensures that such a list is provided to the chiefs of affected villages (who must sign to indicate they have received it);111
- An affected community has three months from the date of receipt of that list to write a letter to MINFO stating its intention to create a community forest in the area;112
- Any forest which is subject to a tender procedure to depose its chief.103

Communities then have a period of three years to introduce a completed application dossier for a community forest (which requires a number of documents / steps in order to complete).113

COCAN’s 2011 report considered the process of attribution of VCs, and found (inter alia) that the inter-ministerial commission responsible tasked with determining the companies to which VCs would be attributed was riddled with “numerous and serious irregularities”,114 including widespread lack of respect of communities’ right to pre-emption in respect of proposed VCs. It appears similarly highly unlikely that the pre-emption procedure was followed in this case. Based on the accounts (corroborated by several attendees) given during the meetings,115 the communities were not given notice of the grant of the SBAC VCs, but rather the chiefs and two notables were made aware of them after (or possibly immediately before) they were granted.116 In the case of the Boducam VCs, because the forest area was not directly adjoining the village, activities were underway for some time before the communities (save for a few individuals) became aware even that the company was there. The failure to notify communities was not insignificant. As became clear during the consultation visits in June and August, the communities were very interested in creating community forests and would certainly have taken advantage of the opportunity to do so had they been aware of it.

102. This information has been relayed to us by members of the community and has not been independently investigated or verified by FPP or Okan. We understand however it was covered by the television media on or around 30 January 2015.
103. Personal communications from community members (sources confidential). The latest information we had at the time of writing was that the chief had been summoned for questioning by his superior, the second degree chief, at a community meeting on Saturday 9 April 2016, during which he refused to answer questions. The meeting was based upon community researches (agreed with the local communities concerned).
111. Article 6(2), Pre-emption Arrêté 2001.
116. This history was recounted by several members of the community who attended the meeting with the chief, during FPP’s visit to the community in June 2015. It was reiterated during meetings in August and September 2015.
117. This report was commissioned by several members of the community who attended the meeting with the chief, during FPP’s visit to the community in June 2015. It was referred to during meetings in August and September 2015.
118. This appears to have been confirmed by subsequent information, obtained in late 2015, indicating that the VCs in question were issued in April 2015.
120. This view was expressed to the author by a staff member from a Cameroonian NGO during a meeting in June 2015.

There are further questions about VC0903345, reportedly granted as a coupe de sauvetage (salvage VC) on land adjoining a concession granted to Hévécam. VCs were originally conceived with in mind selective logging in production forests.121 They are being increasingly adopted, however, in cases involving (or alleged to involve) conversion timber – that is, where the land has been allocated for another purpose which will require it to be cleared.122 In these cases, the procedures required for the attribution of VCs appear to have been ignored, and there is a legal lacuna around the appropriate procedure.123 If true that such VCs have been granted on land merely adjoining concessions, this is an even greater stretch (we note that the remaining VCs granted to SBAC and Boducam adjoin the alleged Biopalm concession, raising similar questions).
MINING EXPLORATION PERMIT NO. 222

Superimposed across all the villages, and dwarfing all the other concessions, is a mining exploration permit (permis de recherche) No. 222, known as the “Bipindi” permit, allocated to G-Stones Resources SA (G-Stones).

G-Stones is a Cameroonian mining company. 70 per cent ultimately owned by Canadian company Mississauga Mining and Exploration Inc (MME). MME has a local partnership with the Cameroonian Group BOCOM, which is heavily involved in the exploration activities on the ground.

We have not conducted extensive investigations into G-Stones, but the preliminary research we have completed has exposed what appears to be prima facie illegality in relation to the size of the exploratory concession (we have not however at this stage asked either the government or the company for its response on this point). That conclusion is based on article 39 of the Mining Code, which provides that (a) an exploratory mining permit must not exceed 1000 km²; and (b) where a permit holder seeks renewal of an exploratory permit, the surface area of the permit must be reduced by at least 50 per cent for each renewal (except where the total surface area is less than 625 km²). By consequence, a permit renewed once can be no greater than 500 km²; twice no greater than 250 km²; and so on.

FPP obtained a copy of the current exploration permit of G-Stones, which was renewed (a first renewal) in 2014 by Arrêté No. 004145/MINMIDT/SG/DM/SDCM of 26 June 2014. The total surface area of this permit is 986 km², i.e. a surface area greater than the total permitted area for a renewed permit. We also compared the current boundary coordinates for the permit shown on the WRI Interactive Forest Atlas of Cameroon in 2013 (see Map 6), and it appears that the renewal has not only not reduced, but has in fact expanded the total surface area of the permit.

There seems to be some sensitivity around discussing this permit. During FPP’s visit to the communities in March 2016, we discussed the rights and obligations of G-Stones and BOCOM (and mining companies in general), at the request of communities affected by exploration activities. During the course of a meeting in Gwap, we were interrupted by the site manager from BOCOM asking to speak to FPP. The site manager then insisted on being informed about what was being discussed, stating that FPP was obliged to inform BOCOM before discussing anything which touched upon their mining permit. When we refused to disclose details of the discussions and requested the basis for any such obligation, the site manager resorted to intimidating tactics, giving menace to the BOCOM, as the State, had a right to know what was being discussed (BOCOM is partly State-owned), that any Cameroonian person had the right to demand this information from a foreigner. The meeting nonetheless continued after community members intervened, but the site manager’s parting shot was that would “inform his superiors in Douala”. We recount this episode solely to give an example of the resistance to communities obtaining access to information.

Earlier this year, it was announced that G-Stones and BOCOM would be seeking an exploitation permit to extract iron from Akom II (a village in the same vicinity). BOCOM is now planning to construct a steel factory at Fifinda. During our most recent visit in March, part of the 200 hectares factory site (which adjoins the main road from Edoca to Knibi) had already been cleared and levelled.


122 According to MME’s website, MME has partnered with BOCOM in respect of mining permits held by a company MMEC (which are different from those owned by G-Stones). It is not clear what direct link or ownership BOCOM has in relation to the G-Stones permits; however, community members in the area (including some who are employed by the company) refer to the company active in the area as BOCOM, so it is clear that BOCOM has at least an operational role in relation to the exploration activities being carried out.
Pressure on land resources, and openings for both legitimate and shadier projects, are increasing at a particularly rapid pace in the South region because of the construction of the new deep sea port at Kribi.

A glance at the region on the WRI Interactive Atlas shows the extent of land allocations already made, as well as the paucity of vacant land remaining. To date, the consequences of these land allocations for local populations have not been fully felt, because most are still only in their early stages. However, the cumulative consequences will potentially be significant and may lead not only to impoverishment but also risk generating civil unrest, as communities’ capacity to survive is increasingly squeezed by external parties who profit from their resources with little or no benefit to the community. A recent report by Samuel Ngiffu and Michelle Sonkaoue Waïta of CED on agro-industrial concessions – but equally valid for other types of concession – states:

“A land allocation is theoretically positive in terms of local development, as they create jobs and improve food security, infrastructure and the national balance of payments. In reality, however, cohabitation between agro-industrial enterprises and local communities has proved problematic, and it is debatable whether local people derive any real benefit from it. While contracts state that agro-industrial projects should take account of the environment and respect environmental standards, experience has shown that agro-industries have many negative effects on the environment, including loss of biodiversity, soil degradation and multiple forms of pollution. And because these land allocation contracts make very little mention of the companies’ social responsibilities, local expectations in this respect are rarely fulfilled.”127

Pressure on land resources means that agro-industrial projects should be of concern to all parties. Nevertheless, the cumulative consequences will potentially be significant and may lead not only to impoverishment but also risk generating civil unrest, as communities’ capacity to survive is increasingly squeezed by external parties who profit from their resources with little or no benefit to the community. In this context, the lack of transparency contributes to and is maintained by the lack of community rights. Communities are deprived of even their limited rights under national law by unaccountable officials, and at the same time, the lack of any real and protected community interest in good land management – because of the lack of recognised rights – prevents them from becoming an ally in good land management and anti-corruption.

The lack of transparency contributes to and is maintained by the lack of community rights. Communities are deprived of even their limited rights under national law by unaccountable officials, and at the same time, the lack of any real and protected community interest in good land management – because of the lack of recognised rights – prevents them from becoming an ally in good land management and anti-corruption. Communities who see no benefit even from “legal” forest governance, which deprives them of their lands and rights, have little incentive to report or take any interest in illegality by third parties. Indeed, when they see so many third parties profiting from their own natural resources with little or no benefit to themselves, the lack of community rights give communities every incentive to be involved in illegality themselves. To paraphrase the comments of one participant at the recent Forest Governance Forum in Yaoundé128, when it comes to conservation of forest resources and combatting illegality, it is everyone’s responsibility, but when it comes to benefits from forest resources, it is only the state and the companies who have rights.