

BLCC Notice to Brobon Finex

“A [South African] Company that should have been sensitive to minority rights and land issues has chosen to be complicit in the dispossession of the Bakweri people of their ancestral lands”

Ndive Kofele Kale

Southern Methodist University - Dallas, Texas

Graduate Legal Studies

Dedman School of Law

Chair and Professor of Law

December 11, 2002

Mr. Derrick C. Garvie, Executive Chairman

Brobon-Finex Pty. Ltd.

P.O. Box 7470

Roggebaai, 8012 SOUTH AFRICA

Tel: +27-4141-80707

Fax: +27-4141- 82000

Dear Mr. Garvie;

RE: The Status of Bakweri Lands Following the Purchase of the Tole Tea Estate

Enclosed, for your information is a letter Counsel for the Bakweri Land Claims Committee (“BLCC”) sent out last year to prospective buyers of the assets of the Cameroon Development Corporation (“CDC”) who may have been tempted to respond favorably to the Government of Cameroon’s Call for Tenders for CDC-owned plantations. When this letter went out Brobon-Finex’s interest in any of the CDC properties had not been made public. But now that your company has

jumped into the fray through its recent acquisition, for an undisclosed sum, of the former CDC tea estates in Djutitsa, Ndu and Tole we think it is time for it too to be put on notice of the quagmire it may have gotten itself in, Those are my instructions from BLCC, the only group accredited by, and to speak for, the Bakweri on this land issue.

Sir, BLCC believes that your company may have, perhaps with all the best intentions, agreed to this deal without the benefit of a full and complete disclosure on the status of the lands which these tea estates occupy. Our interest is, of course, in the Tole/Bwiyuku estate which is in Bakweri territory. The belief that disclosure may not have been as complete as this situation called for is supported by declarations made by Mr. Michel Meva'a MEBOUTOU, the Minister of Finance and Budget, immediately following the formal signing of the Brobon-Finex/Cameroon bilateral convention, in an interview he granted to the Government-owned **Cameroon Tribune**, there, the Minister boldly but wrongly stated that the land occupied by the tea estates is State property. While that may be true of Djutitsa and Ndu, however, with respect to the Tole/Bwiyuku tea estate that certainly is not the case. This estate has been developed on land that is and has always been the *private* property of the indigenous Bakweri people. That the Minister of Finance and Budget did not know this, after 8 years of petitioning the Government of which he is a plenipotentiary, is inexcusable ignorance. For him to have known and not acknowledge who the legal owners are is simply unconscionable,

To guide the BLCC struggle to restore expropriated Bakweri lands. Counsel has canvassed the jurisprudence of the highest courts of Australia, Canada, New Zealand, and Namibia, countries with native populations whose lands were subjected to the same kind of forcible and uncompensated expropriation by European settlers and colonizers, as was the case with Bakweri lands during German colonization. We note that these courts have uniformly rejected the *terra nullius* doctrine which was the basis for the expropriation of Bakweri lands in the 1880's. The courts have also reaffirmed the decision of the Privy Council in the 1921 landmark case of *Amodu Tijani vs. Secretary of Southern Nigeria* where their Lordships held that native title to land predates European colonization and survived the demise of the colonial state. With respect to Bakweri lands, parts of which are occupied by the Tole tea estate Brobon-Finex has just purchased, the United Nations had as far back as 1950 authoritatively declared that Government's assumption of supreme trusteeship over these former German-owned lands that were subsequently leased to the CDC did not imply a

transfer of ownership nor did it affect radical Bakweri title.

It is therefore a matter of deep consternation and dismay that the Government of Cameroon continues to hold on to this repugnant position that *lands* already declared to be *private* property by extant law can, by some unfathomable alchemy, be re-converted to State land subject to alienation by Government as it sees fit. This position not only contravenes Cameroon's own land tenure law but recklessly ignores all the international human rights instruments to which it is a party, *by choice*. Equally troubling is the fact that Brobon-Finex, a South African company that should have been sensitive to minority rights and to land issues as these relate to indigenous peoples, would accept to be a party to this subversion of the law and be complicit in the dispossession of the Bakweri people of their ancestral lands.

When the July 1994 presidential decree listed the CDC as one of the state-owned companies to be privatized, the Bakweri people through their accredited representatives, the BLCC, immediately petitioned their Government to remind it that the vast CDC estates were sitting on Bakweri lands. While they openly welcomed the privatization of CDC, the Bakweri were nevertheless concerned that decisions affecting their land were about to be taken without fully involving them. They reminded Government that when the original decision to create the CDC was taken in 1946, the British Government consulted the Bakweri who gave their consent before the company went operational. It is worthy of note that this time around the Bakweri were not even consulted let alone involved in the negotiations leading up to the sale and subsequent purchase of the Tole tea estate. Government has also decided to shroud in dense fog the terms governing Brobon-finex's use of Bakweri private property. Surely, this is no way to treat the legal owner of the richly fertile land which nurtures these tea plants!

Without prejudice to their legal rights, I think a meeting between BLCC and Brobon-Finex is necessary to thrash out the issues surrounding Brobon-Finex's future use of that portion of Bakweri ancestral lands occupied by Tole tea estate. It is in Brobon-Finex's long-term interest to arrange to meet face-to-face with one of the principal stakeholders in this privatization exercise, representatives of the Bakweri, and the sooner this is done the better. In the meanwhile, any contemplated legal action to reassert Bakweri title on the land Tole tea estate occupies and to enjoin this sale will be

held in abeyance until both parties have had an opportunity to talk.

Should you wish to get in touch with me or the Secretary General of BLCC, Mola Njoh Litumbe, we can be reached by telephone or fax at the numbers listed below. I shall look forward to hearing from you.

FOR AND ON BEHALF OF BLCC

Ndive Kofele KALE, Counsel

Motande Chambers, P.O. Box 125, **Buea**, Cameroon

cc: Mola Njoh LITUMBE, Secretary General BLCC