

We have borne our hardship with fortitude and equanimity in the hope that one day justice will prevail.

30 October, 2000

To:

His Excellency

The Honourable Peter Mafany Musonge,

Prime Minister, Head of Government

Through: His Excellency the Governor South West Province

Your Excellency,

BAKWERI LAND PROBLEM

We wish to thank you most sincerely for the audience you granted us on Wednesday 4 October in your office to discuss issues relating to the Privatization and Liquidation of the Cameroon Development Corporation and other related matters. This was a unique honour and privilege for which we are very grateful. According to our delegation the issues discussed could be grouped under the following main headings:-

- a) Privatization of the Cameroon Development Corporation
- b) Ownership of the Land on which CDC operates
- c) Payment of Ground Rent and other benefits to Land Owners

a) PRIVATIZATION OF THE CAMEROON DEVELOPMENT CORPORATION

Our delegation took note of the rationale behind government's initiative and reiterated that neither the Bakweri Land Claims Committee nor the Bakweri people as a whole had ever been opposed to privatization per se. Our stand had been made unequivocally clear in various memoranda presented to the Head of State dated 4 August 1994 and 3 March 1999. We therefore expressed the hope

that privatization will be carried out in a transparent and impeccable manner and that it would result in increased productivity, profitability, poverty alleviation and greater economic and social prosperity for the nation and its people.

Our delegation also noted with deep satisfaction that the government's strategy on privatization of the CDC did not involve the sale of land. We commend government on this laudable step because land the world over is a very precious commodity, a commercial asset with a high market value. It is an immutable possession, the source of wealth and investment. Our forefathers shed their blood to prevent its expropriation by German colonialists. To sell it would not only be an unmitigated disaster but a great betrayal of our ancestors who died fighting for it.

We also expressed deep misgivings with regard to the allocation of shares to potential investors and other parties. Maybe it was an oversight on the part of government or a subtle design to marginalize the Bakweris but as owners of the land we insist that a certain percentage of the shares should be allocated to the Bakweris who have an undeniable stake in the land and who should therefore be fully involved in the privatization exercise as partners.

We informed you that the Bakweri people were not happy about the way in which they appeared to have been side-lined on the issue of privatization. We reminded you that in colonial times when we were a subject people, the Bakweris were fully involved in the creation of the CDC. Because the creation of the CDC related directly to the petition of the Bakweri Land Claims Committee to the Trusteeship Council in 1946 the British government made sure that they were fully consulted and they gave their approval before the proposal to create the CDC was put into effect. This is recorded in UN Trusteeship Council document No 1/182 which reads:

The proposal to acquire the ex-enemy owned plantations by the Nigerian government from the Custodian of Enemy Property at a cost which will be in

the neighbourhood of £850,000 and their declaration to be Native Lands, was welcomed by the Bakweris.

A pertinent question one may ask at this stage is: if the land did not belong to the Bakweris why was it necessary to single them out for consultation; why were other Cameroonians not similarly consulted?

You pointed out that successful privatization called for a peaceful and congenial environment which will attract potential investors and which will not scare them away. We entirely agreed with you on this issue but pointed out that current protests by the Fako people stemmed from lack of response by government on petitions dated as far back as 1994, when the issue of privatization was first mooted. Instead Government had behaved like an imperial power There was little or no consultation with aggrieved parties and we suggest that the government should adopt a more open attitude on this matter. To the extent that pleas and representations from the Bakweris are either ignored or treated with disdain to that extent will there be protests until justice, equity and the legitimate rights of the Bakweris are met.

During our discussions we agreed that it was important to sensitize people on what was at stake. You requested that since privatization was already a fait accompli it should not be mixed up with the issue of the ownership of the land and the payment of ground rents, and that the latter issues should be pursued separately. In this regard we are happy to inform you that since our return we have already had an audience with the Governor and acquainted him with our plan of action on sensitization. We also had a general meeting of the Board of Trustees and the Chiefs Advisory Council of BLCC on 21st October in Buea. It was attended by forty-one persons representing a wide spectrum of the population of all four Sub-divisions of Fako. They expressed appreciation for the audience you granted us and agreed to embark on a sensitization campaign in their respective towns and villages. Plans are already under way to convene a general meeting of all the indigenous communities of Fako in the near future to up-date them on current developments.

(b) OWNERSHIP OF CDC LANDS

The issue of the ownership of the land on which the CDC is operating has spanned over fifty years and is well-documented in our publication entitled "BAKWERI LAND PROBLEM", copies of which were handed to you and Honourable Ephraim Inoni at our meeting. All we can do now is to highlight the major arguments.

The Bakweris have steadfastly maintained over the years that the land in question belongs to them. It was forcefully, arbitrarily and illegally expropriated from their fore fathers by the imperial German Government well over a century ago. This fact was acknowledged by the British government and the United Nations (Ref. UN Document 189 para. 16).

On taking occupation, the Germans contravened all the principles which governed land tenure among the indigenes of Fako Division. This state of affairs was strongly and succinctly highlighted in the report submitted to the Trusteeship Council of the United Nations Organization, by the Visiting Mission it sent out to the Cameroons in November 1949. That report which is registered and identifiable in the United Nations Organization's Secretariat as Document No. T/461 states *inter alia* at para 63 as follows:

That these customary principles in their strictest sense - particularly the prohibition against absolute alienation - were contravened at least in the early stages of German development of the Territory is apparent from events after 1884. During the German administration of Kamerun, some 460 square miles of land in the Victoria and Kumba Divisions were alienated by the German Government to plantation companies, missions, and individuals. Available records of the methods by which this was done are not complete, but on the whole, the evidence that is available suggests that during the first 12 years of the occupation, there was no regular procedure, and that

land was taken by whatever means seemed most convenient in each locality concerned -- whether by purchase at small sums from local chiefs, or by simple ex-propiation. The German Government in turn sold estates into private hands or in a minority of cases, granted leases. The United Kingdom Authorities have pointed out, however, that demarcation of Crown Land was never done systematically nor did a Land Commission ever deal generally with all unoccupied land in Kamerun. When land was required for plantation purposes, the Commissioner was convened; if any claims were established the owners would be compensated by the planter or plantation company, this compensation being set off against the purchase price paid to Government. If the owners were actually settled within the area, they would be required to move to reserves outside the area, on the basis, under an agreement of 1904, that 'apart from land built and farmed upon by natives each hut is to be given six hectares'.

At the end of the Second World War, and following a petition by the Bakweris to the United Nation the British government in spite of multifarious problems confronting it in the aftermath of the war, took immediate steps to regularize the CDC land situation and to ameliorate the injustice inflicted on the Bakweri people by the Imperial German government.

Acting through its government in Nigeria it enacted the following legislation:

- (i) The Ex-Enemy Lands (Cameroon) Ordinance No. 38 of 1 946
- (ii) The Cameroon Development Corporation Ordinance No. 39 of 1946
- (iii) The Ex-Enemy Lands (Likomba Estate) Ordinance No. 22 of 1947

The cumulative effect of the above ordinances was to enable the government to acquire by purchase the current CDC lands from the Custodian of Enemy Property and **to vest the lands in the Governor for the time being and for the Lands to be declared Native Lands within the meaning of the Lands and**

Native Rights Ordinance. That declaration was endorsed by the United Nations in 1950 vide U. N. document No. 1/461.

From the foregoing it will be observed that:

- (i) The CDC lands were declared **Native Lands** and not State Lands.
- (ii) The Governor **held the land in Trust** for the Bakweris since they were not in a position at the time to manage a vast agro-industrial complex.

It is also clear that title to the lands was never vested in the CDC and that the government at the time (Nigeria) and its successor (Cameroon) was merely acting as a Custodian and held them in Trust. This view is reinforced by a report prepared by the eminent British Scholar **Dr C. K. Meek** for the British Government published in 1957 by Her Majesty's Stationery Office in London as Colonial Research Studies No. 22. At page 370 he states:

And where the government had itself assumed the position of landlord, it had done so in order to protect native interests. The vesting of the land in the governor had not implied a transfer of ownership of the land to the Governor but had merely conferred on him a power of supreme trusteeship...

When confronted about the ownership of the CDC lands in 1971, the expatriate Director of Lands and Surveys advised the West Cameroon government as follows:

Records are not available to show that grants made by Puttkamer to German planters were covered by deeds. Even if they were, such deeds were not accompanied by survey plans delimiting the areas granted as the first known surveys of Cameroon were undertaken shortly before the arrival of the afore mentioned Commission. I have mentioned this point because it is now generally held that plans produced during these hurried surveys, and these are the only documents that have come down to us - are proof of title to land held by German planters. Consequently, the succeeding government inherited such lands as ex-

enemy property with power to deal without reference to the Local inhabitants.

From the foregoing it is clear that the method of acquisition of land by German planters was irregular. Furthermore, the grants did not receive the blessing of the Imperial government. Therefore, the titles could not have been unimpeachable. It seems reasonable to conclude that anybody inheriting such titles is inheriting defective titles. Consequently, the process of government claiming title to lands merely because they were ex-enemy property seems to me to be based on very weak foundation.

However for purely selfish motives, the West Cameroon government ignored this advice.

A report of the U.N. Visiting Mission in 1949 at page 9 categorically states that the lands were de- alienated in 1946 and that legal title reverted to the Bakweri people. This view is reinforced by Dr C.K. Meek at page 407 in his book referred above as follows:

Indeed, the United Nations at its 6th meeting of the Council in March 1950 states that increased efforts should be made to explain to the Bakweris that Ex-Enemy Lands had in fact reverted to them and that ownership was now legally vested in them.

It is significant that neither United Nations nor the British government stated that the land had reverted to the State (at that time the Nigerian government) as is being erroneously claimed today.

The 1974 Land Tenure Act No. 74 - 1 of 6 July 1974 is very explicit in its categorisation of land. Part II of the Law (Private Property) clearly states that the following categories of land shall be subject to the right of private property.

§ Registered lands

§ Free hold land

§ Lands acquired under the transcription system.

§ Lands covered by a final concession

§ Lands entered in the Grundbuch.

We submit that since all CDC lands are registered and entered in the Grundbuch the said lands are not State Lands but the private property of the E3akweris and other tribes in Meme and Kupe-Manenguba Divisions from whom they were illegally expropriated by German colonialists.

c) PAYMENT OF GROUND RENT

We pointed out that since its inception the CDC paid ground rent to government in respect of the land leased to it. We demanded that this rent should be paid to us as owners of the land; we further requested that this money should be paid to the Bakweri Land Trust Fund to be utilised for the benefit of the dispossessed indigenes. You pointed out that the payment of this rent had not been regular in the recent past due to poor performance. Indeed Honourable Inoni pleaded with us that "you cannot dead horse". Our response is that the payment of land rent is mandatory and not discretionary. Indeed Section 6 (b) of the Land and Native Rights Ordinance clearly states as follows:

6. It shall be lawful for the Governor

(b) to demand a rental for the use of any native lands granted to any native or non-native or local government Council;

As the newly privatised companies will hold the land on a lease basis they should be requested to pay ground rent to the Bakweri Land Trust Fund and not to government. The Bakweri Land Trust Fund has not yet been established but we will proceed to do so as soon as the issues raised in this memorandum are satisfactorily resolved. Like the Board trustees it will be composed of people of proven integrity who will ensure the proper utilization of funds.

As a result of the foregoing we respectfully submit that the CDC lands in Fako Division are Bakweri Lands. We accordingly pray your Excellency in the interests of peace, justice and equity to give favourable consideration to the following requests of a loyal and law abiding minority:

- I. Affirm that lands occupied by the CDC are Private Property as defined by Part II of the 1974 Land Tenure Act.
- II. Ground rents should be paid to a Bakweri Land Trust Fund For the benefit of the dispossessed indigenes.
- III. in respect of unpaid rents over the years, these should be paid to the Bakweri Land Trust Fund and the amount charged to the public exchequer or deducted from the proceeds of the sales of the plantations to private companies.
- IV. The Bakweris should be fully involved in the negotiations with private companies wishing to invest and grant them reasonable terms to make investment attractive.
- V. The Bakweris acting jointly or severally should be allocated a specific percentage of shares in each of the privatised companies.
- VI. The Bakweri Land Trust Fund should use its resources to purchase shares in the private companies among other things.
- VII. The Bakweri Land Claims Committee should be represented in the current and all future policy and management Boards as was the case in colonial times.

d) CONCLUSION

We have no doubt that the government of Cameroon espouses the universal concept to promote justice including social justice among all its citizens. Indeed the preamble to our Constitution expressly calls on the State to ensure the protection of minorities and to preserve the rights of indigenous populations in accordance with the law. One of the fundamental objectives of the CPDM is to

work for the advancement of a renovated Cameroon Nation founded on the principles of rigour and moral rectitude. Indeed a major concern of government in this regard is to eradicate all vestiges of colonialism and injustice and to establish an egalitarian society in which no section of the community is oppressed and exploited by its Fellow citizens. The Bakweri people have suffered in silence for long as a result of the large-scale alienation of their land which can only be compared to that in Zimbabwe, South Africa and Namibia. They have borne their hardship with fortitude and equanimity in the hope that one day justice will prevail. We now look forward to the dispensation of that justice.

Accept, Your Excellency, the assurances of our highest esteem.

Chief Peter Moky Efange, President

Mokake Elali, For Secretary General