

OPEN LETTER

Brasilia, February 27, 2015.

INDIGENOUS PEOPLES, TRADITIONAL PEOPLES AND TRADITIONAL COMMUNITIES AND FAMILY FARMERS REPUDIATE LAW PROJECT THAT SELLS AND DESTROYS NATIONAL BIODIVERSITY

Indigenous Peoples, Traditional Peoples, Traditional Communities and Family Farmers in Brazil, represented by their entities and partner organizations below signed, come herein to expose their positioning on Law Project N. 7.735 /2014 (current PLC N. 02/2015, Brazilian legislative reference), which seeks to regulate the access and economic exploitation of biodiversity and agro-biodiversity as well as the associated traditional knowledge to genetic resources in this country.

First, we record that the Peoples and Communities mentioned above are fully aware of the context in which the Law Project N.7735/2014 was sent to the National Congress appraisal, that is, the current offensive verified in Brazil against their fundamental rights, as guaranteed in the Federal Constitution, by ordinary legislation and international treaties ratified by this country. This Law Project was submitted to the National Congress by the Federal Government as a matter of urgency. In this scenario of threat to the very existence of Indigenous and Tribal Peoples and Traditional Communities, the encompassing society and the Federal Government should be advised that Peoples and Communities' representative bodies are united and mobilized, determined to fight in defense of their historically acquired rights. These rights are also part of national sovereignty and constitutional democracy in the country.

Particularly, in what concerns the Law Project N. 7735 /2014, which intends to cancel and restrict our rights, we repudiate the deliberate decision of the Executive to exclude us of its preparation. There was not any debate or consultation on the matter, in violation of The International Labor Organization (ILO) Convention N.169, The Convention on Biological Diversity (CBD), The International Treaty on Plant Genetic Resources for Food and Agriculture/Food and Agriculture Organization (ITPGRFA) and the Brazilian Federal Constitution. Therefore, we denounce this Law Project as an instrument that broadly benefits the pharmaceutical, the cosmetic and the agribusiness sectors (mainly seeds) to the extent of

threatening biodiversity and associated traditional knowledge to genetic resources. The Law Project also jeopardized structural policy programmes on course to promote food security and food sovereignty as it is the example of the National Food Acquisition Programme (PAA, Brazilian acronym) and the National School Feeding Programme (PNAE, Brazilian acronym). We also believe such Law Project brings roles to the legislation to a point of creating a possibility for bio-piracy to be legal.

This threatening scenario, recognized as such by the Government itself, provoked a serious imbalance in the content of the Law Project in question. Besides giving amnesty to historical violations related to irregularities in the access to traditional knowledge and genetic resources and excluding any possibility of public overseeing of economic activities involving the matter, the Law Project N. 7735 /2014 violates rights already guaranteed by the Brazilian legislation, which can be clearly noticed along the following aspects:

(1) In relation to access to genetic patrimony and traditional knowledge:

- a) Prevents Peoples' and Traditional Communities' veto in Free, Prior, Informed Consent (hereafter FPIC) processes;
- b) Flexibilizes what constitutes a proof of FPIC to the detriment of the protection of collective knowledge;
- c) Waives the request of FPIC to have access to genetic patrimony and associated traditional knowledge to genetic resources related to food and agriculture; and
- d) Allows national and international companies to access and explore Brazilian genetic patrimony and associated traditional knowledge resources without any control or supervision, permitting, for example, the access of foreign corporations to seed banks.

(2) In terms of benefit sharing:

- a) Provides that only finished products will be subject to allocation of benefits and benefit sharing, excluding intermediate products;
- b) Restricts benefit sharing to cases in which the genetic patrimony or traditional knowledge is qualified as the main element in adding value to the product;
- c) Exempts of benefit sharing (royalty free) innumerable cases of accessing performed previously to the year 2000, and maintains economic holdings until today;

- d) Determines that benefit sharing should be applied just to products featured on a List of Classification to be drawn up collectively by six Ministries;
- e) Establish a limit, instead of a basis (minimum value), for the value to be paid in respect of benefit sharing;
- f) Leaves to the sole discretion of national and international corporations the method they will use for benefit sharing in cases of access to genetic patrimony or associated traditional knowledge for genetic resources that do not have an identifiable origin;
- g) Exempts micro-enterprises, small businesses and micro-entrepreneurs of benefit sharing; and
- h) Excludes from benefit sharing economic exploitation of the genetic patrimony and the associated traditional knowledge to genetic resources related to food and agriculture.

(3) Concerning definitions:

- a) Replaces the term "peoples" by "population" in dealing with Indigenous Peoples;
- b) Replaces the term "family farmer" by "traditional farmers", in affront to Law 11.326 / 2006;
- c) Declassify the definition of "landrace seeds" as featured in Law N 10.711/ 2003;
- d) Leaves the obligation of prior attesting the regularity of access under a participatory process as according to the conditions negotiated with the affected group at the very beginning of the economic activities; and
- e) Finally, adopts concepts in absentia of holders of traditional knowledge.

In view of the foregoing, Indigenous Peoples, Tribal Peoples, Traditional Communities and Family Farmers in Brazil require the involvement of the Federal Government, with the reversal of the denounced above scenario by the correction of serious mistakes contained in the Law Project N.7735 /2014 in order to ensure the respect for and the enforcement of their constitutionally guaranteed legal rights.

We declare that we will no longer tolerate the undemocratic attitude of the Federal Government as well as its political commitment with business interests toward the

expropriation of Brazilian biodiversity, agro-biodiversity and associated traditional knowledge to genetic resources.

We finally reaffirm our determination to continue united, mobilized and prepared to remain in constant struggle in defense of justice and of our rights.

Sign this letter:

1. Amigos da Terra Brasil
2. Articulação do Semiárido – ASA Brasil
3. Articulação do Seminário – ASA Paraíba
4. Articulação dos Povos e Organizações Indígenas do Nordeste, Minas Gerais e Espírito Santo - APOINME
5. Articulação dos Povos Indígenas do Brasil - APIB
6. Articulação dos Povos Indígenas do Sudeste - ARPINSUDESTE
7. Articulação dos Povos Indígenas do Sul - ARPINSUL
8. Articulação Mineira de Agroecologia – AMA
9. Articulação Nacional de Agroecologia – ANA
10. Articulação Pacari
11. Articulação Puxirão dos Povos Faxinalenses
12. Articulação Rosalino de Povos e Comunidades Tradicionais do Norte de Minas
13. AS-PTA – Agricultura Familiar e Agroecologia
14. Associação Agroecológica TIJUPÁ
15. Associação Brasileira de Agricultura Biodinâmica
16. Associação Brasileira de Agroecologia
17. Associação Brasileira de Estudantes de Engenharia Florestal - ABEEF
18. Associação Brasileira de Saúde Coletiva – ABRASCO
19. Associação Cedro - Centro de Estudos e Discussões Romani
20. Associação das Mulheres Organizadas do Vale do Jequitinhonha
21. Associação das Panhadoras de Flores
22. Associação de Agricultura Biodinâmica do Sul
23. Associação de Comunidades da Diáspora Africana por Direito à Alimentação - Rede Kodya
24. Associação de Mulheres Catadoras de Mangabas
25. Associação dos Agricultores Guardiões da Agrobiodiversidade de Tenente Portela - AGABIO
26. Associação dos Retireiros do Araguaia - ARA
27. Associação dos Trabalhadores Assalariados Rurais de Minas Gerais – ADERE/MG
28. Associação Floresta Protegida (Mebengôkre/Kayapó)
29. Associação Gaúcha de Proteção ao Ambiente Natural – AGAPAN
30. Associação Nacional Ciganas Calins
31. Associação Nacional da Agricultura Camponesa
32. Associação Nacional da Cultura Bantu – ACBANTU
33. Associação para a Pequena Agricultura no Tocantins – APA-TO
34. Associação para o Desenvolvimento da Agroecologia – AOPA;
35. Associação Paraibana dos Amigos da Natureza - APAN,
36. Bionatur
37. Campanha Permanente Contra os Agrotóxicos e pela Vida
38. Central de Associações de Produtores Orgânicos do Sul de Minas – Orgânicos Sul de Minas
39. Centro de Agricultura Alternativa do Norte de Minas – CAA-NM
40. Centro de Tecnologias Alternativas – CETAP
41. Centro dos Trabalhadores da Amazônia (CTA)
42. Centro Ecológico
43. Comissão Guarany Iyryrupa
44. Comissão Nacional das RESEX Costeiras e Marinhas - CONFREM

45. Comissão Nacional das RESEX Costeiras e Marinhas – CONFREM
46. Comitê Chico Mendes (CCN)
47. Conselho do Povo Terena
48. Conselho dos Povos Indígenas de Mato Grosso do Sul
49. Conselho Indigenista Missionário - CIMI
50. Conselho Nacional das Populações Extrativistas - CNS
51. Cooperativa Coppabacs – AL
52. Cooperativa Econativa
53. Cooperativa Grande Sertão
54. Coordenação das Organizações Indígenas da Amazônia Brasileira - COIAB
55. Coordenação Nacional das Comunidades Caiçaras (CNCC).
56. Coordenação Nacional Quilombola - CONAQ
57. ECOA – Ecologia & Ação
58. Entidade Nacional dos Estudantes de Biologia
59. FASE – Solidariedade e Educação
60. Fórum Brasileiro de Segurança e Soberania Alimentar e Nutricional
61. Fórum Mudanças Climáticas e Justiça Social
62. Fórum Nacional de Combate aos Impactos dos Agrotóxicos
63. Forum Nacional de Segurança Alimentar e Nutricional dos Povos de Matriz Africana-FONSANPOTMA.
64. Fundação Vida Para Todos - ABAI
65. Gambá - Grupo Ambientalista da Bahia
66. GERMEN-Grupo de Defesa e Promoção Socioambiental
67. Grande Assembleia do Povo Guarani – Aty Guasu
68. Grupo Carta de Belém
69. Grupo de Trabalho Amazônico – GTA
70. Grupo de Trabalho Biodiversidade / ANA
71. Grupo Pau-Campeche de Florianópolis - GPC
72. Ingá/RS
73. Instituto Búzios
74. Instituto de Estudos Socioeconômicos - INESC
75. Instituto Sociedade População e Natureza –ISPN
76. Instituto Socioambiental – ISA
77. Levante Popular da Juventude
78. MAJUP (Movimento de Assessoria Jurídica Universitária Popular)
79. Memorial Chico Mendes
80. Mobilização Fundação SOS Mata Atlântica
81. Movimento das Aprendizizes da Sabedoria (Benzedores e Benzedoiras, Parteiras, e Costureiras de Rendidura)
82. Movimento de Mulheres Camponesas - MMC
83. Movimento de Pescadores e Pescadoras Artesanais – MPP
84. Movimento dos Pequenos Agricultores - MPA
85. Movimento dos Pescadores e Pescadoras Artesanais do Paraná - MOPEAR
86. Movimento dos Trabalhadores Rurais Sem Terra - MST
87. Movimento Geraizero
88. Movimento Nacional dos Pescadores – MONAPE
89. Movimento Nacional dos Pescadores- MONAPE.
90. Movimento Urbano de Agroecologia - MUDA
91. Núcleo Amigos da Terra Brasil
92. Núcleo de Cultura e Extensão – PTECA/ESALQ-USP
93. ONG Vale Verde Associação de Defesa do Meio Ambiente
94. Rede caiçara de cultura União dos Moradores da Jureia,
95. Rede Cerrado
96. Rede de Agrobiodiversidade do Semiárido Mineiro
97. Rede de Comunidades Tradicionais Pantaneiras

98. Rede de Educação Cidadã – RECID
99. Rede Eco Vida de Agroecologia
100. Rede Puxirão de Povos e Comunidades Tradicionais
101. Serviço de Tecnologia Alternativa - SERTA
102. Sociedade Civil da Comissão Nacional de Povos e Comunidades Tradicionais – CNPCT
103. Terra de Direitos
104. União Agroecológica de Inconfidentes – UAI
105. Via Campesina
106. Via Campesina Sudamerica
107. WWF