

Brasília, March 9th 2015.

**INDIGENOUS PEOPLES, TRADITIONAL PEOPLES AND COMMUNITIES AND
FAMILY FARMERS' REPUDIATION MOTION TO THE CORPORATE SECTORS
INVOLVED IN ELABORATING AND LOBBYING FOR THE APPROVAL OF LAW
PROJECT COMPROMISING 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 *manifest their perplexity and formally repudiate the observed positions of corporate sectors interested in the approval of the Law Project 7.735/2014* (currently Project of Complementary Law n.º 02/2015), during the elaboration of the proposition for this law as well as during the legislative process in course to evaluate its merits for subsequent voting in the National Congress.

First, we record that we are fully aware that the *exclusion* of the abovementioned Peoples and Communities from the elaboration of the Law Project n.º 7.735/2014, which affects them directly, consisted on a conscious and deliberate decision of the Federal Government along with the so-called “Corporate Coalition for Biodiversity” (Coalisão Empresarial pela Biodiversidade). In fact, we are talking about a decision that configures the rupture of the relationship of trust between those who hold traditional knowledge and those who use them. Furthermore, this Law Project is 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.

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 access to them as well as their exploitation, the Law Project n. 7735 /2014 also violates rights already guaranteed by the Brazilian legislation. Such violation is clearly noticed throughout 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) Softens 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 exploit Brazilian genetic patrimony and associated traditional knowledge resources without any control or supervision, permitting, for example, the access of transnational 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, adopted concepts in absentia of traditional knowledge holders.

When the representative entities became aware of the content of this Law Project, after the document was already under the National Congress appraisal as a matter of constitutional urgency, they immediately began requesting alterations in the text in order to ensuring rights. It is important to highlight that these rights, already guaranteed by the Brazilian Federal Constitution, are now under threat. In spite of having support of the involved corporate sectors, insofar as they are traditional knowledge users, Peoples and Communities just faced unsurmountable obstacles set by the Corporate Coalition for Biodiversity. The Coalition launched a strong lobby strategy with legislators so that they could prevent the amendment of the legislation with modifications proposed by Indigenous Peoples, Tribal Peoples, Traditional Communities and Family Farmers. To complicate things further, representative entities recently learned that the coalition has already proposed three amendments to the Law Project. All of them intend to benefit the corporate sector to the detriment of those who hold and keep traditional knowledge.

This positioning blocks the construction of an agenda that could be positive by keeping the balance between holders and users. In addition, the corporate sector attitude casts shadow on their corporate social responsibility policies and practices inasmuch as if they are lobbying for the actual Law Project text without Peoples and Communities' participation, they will be actually working for the reduction of rights of those holding the traditional knowledge they aim to using. These people are the first link to these corporate actors value chain and,

apparently, the latter are not saving efforts to maximize their profits to the detriment of Brazilian biodiversity and the knowledge associated to it.

In view of the foregoing, Indigenous Peoples, Tribal Peoples, Traditional Communities and Family Farmers in Brazil demand a complete change in the referred corporate sectors' attitude by requiring their commitment in reversing the abovementioned scenario by involving themselves in the collective effort to correct serious mistakes contained in Law Project N.7735 /2014. This is the only way to ensure respect for constitutionally guaranteed rights and their enforcement.

This initiative is of uttermost importance to ensure the new legislation come to terms with the public and openly disseminated legislative objective of guaranteeing juridical security to the processes concerning access to genetic patrimony and associated knowledge. If the Law Project n.7.735 text remains as it is, those holding traditional knowledge will demand the parts involved judicially and will ask for their public clarification about the absolute lack of commitment with the corporate socio-environmental responsibility they allege to stand for.

In face of this situation, we 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. Articulação dos Povos e Organizações Indígenas do Nordeste, Minas Gerais e Espírito Santo - APOINME
2. Articulação dos Povos Indígenas do Brasil - APIB
3. Articulação dos Povos Indígenas do Sudeste - ARPINSUDESTE
4. Articulação dos Povos Indígenas do Sul - ARPINSUL
5. Articulação Pacari de Plantas medicinais do Cerrado
6. Articulação Puxirão dos Povos Faxinalenses
7. Articulação Rosalino de Povos e Comunidades Tradicionais do Norte de Minas
8. Associação das Mulheres Organizadas do Vale do Jequitinhonha
9. Associação das Panhadoras de Flores
10. Associação Cedro - Centro de Estudos e Discussões Romani
11. Associação de Comunidades da Diáspora Africana por Direito à Alimentação - Rede Kodya
12. Associação de Mulheres Catadoras de Mangabas
13. Associação dos Agricultores Guardiões da Agrobiodiversidade de Tenente Portela - AGABIO
14. Associação dos Retireiros do Araguaia - ARA
15. Associação Nacional Ciganas Calins
16. Associação Nacional da Agricultura Camponesa
17. Associação Nacional da Cultura Bantu – ACBANTU
18. Comissão Guarany Ivyrupa

19. Comitê Chico Mendes (CCN)
20. Conselho do Povo Terena
21. Conselho dos Povos Indígenas de Mato Grosso do Sul
22. Conselho Indigenista Missionário - CIMI
23. Conselho Nacional das Populações Extrativistas - CNS
24. Coordenação das Organizações Indígenas da Amazônia Brasileira - COIAB
25. Coordenação Nacional Quilombola - CONAQ
26. Grande Assembleia do Povo Guarani – Aty Guasu
27. Movimento das Aprendizizes da Sabedoria (Benzedores e Benzedeiras, Parteiras, e Costureiras de Rendidura)
28. Movimento de Mulheres Camponesas - MMC
29. Movimento de Pescadores e Pescadoras Artesanais – MPP
30. Movimento dos Pequenos Agricultores - MPA
31. Movimento dos Pescadores e Pescadoras Artesanais do Paraná - MOPEAR
32. Movimento dos Trabalhadores Rurais Sem Terra - MST
33. Movimento Geraizero
34. Rede de Comunidades Tradicionais Pantaneiras
35. . Rede Puxirão de Povos e Comunidades Tradicionais
36. Via Campesina

Organizações que apoiam:

1. AS-PTA – Agricultura Familiar e Agroecologia
2. Associação Agroecológica TIJUPÁ
3. Associação Brasileira de Agricultura Biodinâmica
4. Associação Brasileira de Agroecologia
5. Associação Brasileira de Estudantes de Engenharia Florestal - ABEEF
6. Associação Brasileira de Saúde Coletiva – ABRASCO
7. Associação de Agricultura Biodinâmica do Sul
8. Associação dos Trabalhadores Assalariados Rurais de Minas Gerais – ADERE/MG
9. Associação Gaúcha de Proteção ao Ambiente Natural – AGAPAN
10. Associação para a Pequena Agricultura no Tocantins – APA-TO
11. Associação para o Desenvolvimento da Agroecologia – AOPA;
12. Bionatur
13. Campanha Permanente Contra os Agrotóxicos e pela Vida
14. Centro de Agricultura Alternativa do Norte de Minas – CAA-NM
15. Centro dos Trabalhadores da Amazônia (CTA)
16. Centro Ecológico
17. Cooperativa Coppabacs – AL
18. Cooperativa Grande Sertão
19. Entidade Nacional dos Estudantes de Biologia
20. FASE – Solidariedade e Educação
21. Fórum Brasileiro de Segurança e Soberania Alimentar e Nutricional
22. Fórum Mudanças Climáticas e Justiça Social
23. Fórum Nacional de Combate aos Impactos dos Agrotóxicos
24. Grupo Carta de Belém
25. Grupo de Trabalho Amazônico – GTA
26. Grupo de Trabalho Biodiversidade / ANA
27. Ingá/RS

28. Instituto Socioambiental – ISA
29. Levante Popular da Juventude
30. Memorial Chico Mendes
31. Movimento Urbano de Agroecologia - MUDA
32. Núcleo Amigos da Terra Brasil
33. Núcleo de Cultura e Extensão – PTECA/ESALQ-USP
34. Rede de Agrobiodiversidade do Semiárido Mineiro
35. Rede Eco Vida de Agroecologia
36. Sociedade Civil da Comissão Nacional de Povos e Comunidades Tradicionais – CNPCT
37. Terra de Direitos
38. Via Campesina Sudamerica