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WIPO/GRTKF/IC/2/14

ORIGINAL: English

DATE: December 12, 2001

WORLD INTELLECTUAL PROPERTY ORGANIZATION GENEVA

INTERGOVERNMENTAL COMMITTEE ON INTELLECTUAL PROPERTY AND GENETIC RESOURCES, TRADITIONAL KNOWLEDGE AND FOLKLORE

**Second Session
Geneva, December 10 to 14, 2001**

DECLARATION OF SHAMANS ON INTELLECTUAL PROPERTY AND PROTECTION OF TRADITIONAL KNOWLEDGE AND GENETIC RESOURCES

Document submitted by the Delegation of Brazil

1. On December 12, 2001, the Delegation of Brazil submitted to the second session of the Intergovernmental Committee, for distribution, the document “Declaration of São Luís do Maranhão” (“Declaration of Shamans on intellectual property and the protection of traditional knowledge and genetic resources”).
2. This document is reproduced in the Annex.

[Annex follows]

Declaration of São Luís do Maranhão

We, the indigenous representatives of the pluri-ethnical Brazil, where 220 peoples live, speaking 180 distinct languages among themselves, with a population of 360 thousand indigenous, occupying 12% of the Brazilian territory, gathered in the city of São Luís do Maranhão from 4 to 6 December 2001 to discuss the issue of "*The Wisdom and the Science of the Indigenous and the Industrial Property*", invited by the National Institute of Industrial Property of Brazil (INPI), declare the following:

1. That our forests have been preserved thanks to our millennial knowledge;
2. As indigenous representatives, we are important in the process of discussion on access to biodiversity and the related traditional knowledge, given that our land and territories contain the greatest part of the biological diversity in the world – around 50% - and that they have great social, cultural, spiritual and economic value. As traditional indigenous peoples who inhabit diverse ecosystems, we possess knowledge on the sustainable management and use of this biological diversity. This knowledge is collective and is not a commodity that may be commercialized as any good in the market. Our knowledge on biodiversity is not separate from our identities, our laws, our institutions, our system of values and our cosmological view as indigenous peoples;
3. We recommend the Government of Brazil to allow space for representation of the indigenous communities to participate in the Brazilian Council for the Management of Genetic Patrimony;

4. We recommend the Government of Brazil to regulate the law on access to genetic resources and related traditional knowledge, with wide discussion with indigenous communities and organizations;
5. We the indigenous representatives firmly express to Governments and international organizations our right to full participation in the national and international decision-making *for a* on biodiversity and traditional knowledge such as the Convention on Biological Diversity (CBD); the World Intellectual Property Organization (WIPO); the United Nations Conference for Trade and Development (UNCTAD); the World Trade Organization (WTO); and the WIPO Intergovernmental Committee on Intellectual Property and Genetic Resources and Folklore, among other organisms;
6. We recommend that countries approve the UN Draft Declaration on Indigenous Rights;
7. As indigenous representatives, we affirm our opposition to all forms of patentability arising out of the use of traditional knowledge and we request the creation of mechanisms of punishment to prevent the theft of our biodiversity;
8. We recommend the creation of a Fund financed by Governments and managed by an indigenous organization that may have the purpose of funding research carried out by members of the communities;
9. We recommend the Federal Government of Brazil to create capacity-building courses for indigenous professionals in the area of traditional knowledge;
10. We recommend that a Second Meeting of Shamans on the Convention on Biological Diversity and Traditional Knowledge be carried out;

11. We recommend the creation of an Indigenous Committee to follow the process of discussion and planning of production of Traditional Knowledge;

12. We recommend that the Government of Brazil adopt a policy of protection of biodiversity and social diversity aimed at the sustainable economic development of indigenous peoples. It is imperative that the Government ensures resources for our communities to develop programmes of protection of traditional knowledge and the *in situ* preservation of species.

13. Until the National Congress of Brazil approves Bill 2057/91, aimed at the creation of the Statute of the Indigenous Societies – and which has been pending for vote for more than 10 years – and the ratification of Convention 169 of the ILO – which has been pending for vote for more than 8 years and has already been approved by the Chamber of Deputies -, we propose that the indigenous peoples discuss the necessity of establishing a moratorium on the commercial exploitation of traditional knowledge related to genetic resources;

14. We propose that Governments recognize traditional knowledge as knowledge and science, by conferring equitable treatment in relation to the Western scientific knowledge and by establishing a policy on science and technology that recognizes the importance of traditional knowledge;

15. We propose the adoption of a universal instrument of legal protection of traditional knowledge – an alternative, *sui generis* system distinct from the regimes of protection of intellectual property rights and that addresses, among other aspects: the recognition of indigenous lands and territories and consequently its demarcation; the recognition of the collective property of traditional knowledge as not subject to expiration in time and as non-negotiable and of the resources as

public interest goods; the right of local indigenous peoples and communities to deny access to traditional knowledge and to the existing genetic resources in their territories; the recognition of the traditional forms of organization of the indigenous peoples; the inclusion of the principle of prior informed consent and a clear disposition with respect to the participation of indigenous peoples in the fair and equitable distribution of benefits resulting from the use of these resources and knowledge; and the continuity of free exchange of resources and traditional knowledge among indigenous peoples.

16. We propose that the creation of a database of registry on traditional knowledge be widely discussed among indigenous communities and organizations and that its implementation be carried out after the rights mentioned in this document are ensured.

In this meeting, members of the indigenous communities with strong traditions, as well as expert leaders, are gathered to formulate these recommendations and proposals. While concerned with the advance of bio-prospection and the future of humankind, our children and our grandchildren, we reaffirm to the Governments that we are fully aware that we are right holders, and not mere interested parties. For this reason, we are confident that our recommendations and propositions will be accepted for a better humankind.

São Luis do Maranhão, 06 December 2001.

CARTA DE SÃO LUIS DO MARANHÃO

Nós representantes indígenas no Brasil pluriétnico onde vivem 220 povos, falando 180 línguas distintas entre si, com uma população de 360 mil indígenas, ocupando 12% do território brasileiro, reunidos na cidade de São Luis do Maranhão, de 04 a 06 de dezembro de 2001, para discutir o tema "A Sabedoria e a Ciência do Índio e a Propriedade Industrial", convidados pelo Instituto Nacional de Propriedade Industrial (INPI), declaramos:

1. Que nossas florestas têm se mantido preservadas graças aos nossos conhecimentos milenares;
2. Como representantes indígenas, somos importantes no processo da discussão sobre o acesso à biodiversidade e dos conhecimentos tradicionais conexos porque nossas terras e territórios contém a maior parte da diversidade biológica no mundo, cerca de 50%, e que têm um grande valor social, cultural, espiritual e econômico. Como povos indígenas tradicionais que habitam diversos ecossistemas, temos conhecimento sobre o manejo e o uso sustentável desta diversidade biológica. Este conhecimento é coletivo e não é uma mercadoria que se pode comercializar como qualquer objeto no mercado. Nossos conhecimentos da biodiversidade não se separam de nossas identidades, leis, instituições, sistemas de valores e da nossa visão cosmológica como povos indígenas;
3. Recomendamos ao Governo do Brasil que abra espaço para que representação das comunidades indígenas possam participar no Conselho de Gestão do Patrimônio Genético;
4. Recomendamos ao Governo Brasileiro que regulamente por lei o acesso a recursos genéticos e conhecimentos tradicionais e conexos, discutindo amplamente com as comunidades e organizações indígenas;
5. Nós representantes indígenas, expressamos firmemente aos governos e aos organismos internacionais nosso direito à participação plena nos espaços de decisões nacionais e internacionais sobre biodiversidade e conhecimentos tradicionais como na Convenção sobre a Diversidade Biológica (CDB), na Organização Mundial de Propriedade Intelectual (OMPI), na Comissão das Nações Unidas sobre Comércio e Desenvolvimento, na Organização Mundial do Comércio (OMC), no Comitê Intergovernamental de Propriedade Intelectual relativo a Recursos Genéticos, Conhecimentos Tradicionais e Folclore da OMPI, entre outros organismos;
6. Recomendamos que os países aprovem o Projeto de Declaração da ONU sobre Direitos Indígenas;
7. Como representantes indígenas, afirmamos nossa oposição a toda forma de patenteamento que provenha da utilização dos conhecimentos tradicionais e solicitamos a criação de mecanismos de punição para coibir o furto da nossa biodiversidade;
8. Recomendamos a criação de um fundo financiado pelos governos e gerido por uma organização indígena que tenha como objetivo subsidiar pesquisas realizadas por membros das comunidades;
9. Recomendamos ao Governo Federal a criação de cursos de capacitação e treinamento de profissionais indígenas na área dos direitos dos conhecimentos tradicionais;

The image shows four handwritten signatures in black ink. From left to right: 1) A signature that appears to be 'Mano Teiva'. 2) A signature that appears to be 'Matis Litorâneo Kariri'. 3) A signature that appears to be 'Daniel Munduruku'. 4) A signature that appears to be 'Henrique'.

Bem-vinda C. S. - geógrafa P. L. Kunkin

maluone

*Ademir
Ariwá SE*

*Antônio
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*Cândido
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Júlio Krenak

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Dina Moreira

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Yeruá



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