

**Declaration of Shamans on
intellectual property and the protection of
traditional knowledge and genetic resources**

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Intergovernmental Committee
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Declaration of São Luís do Maranhão

We, the indigenous representatives of the pluri-ethnic 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 *fora* 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.



Tikuna

Munduruku

Urubu-Kaapor

Tucano

Macuxi

Guajajara

Iauanauá

Gavião

Carajá

Apinajé

Krahô

Pankararú

Xavante

Pataxó

Kaiowa

Maxacali

Krenak

Terena

Guarany

Kaingang