

Public Letter of the Commission of Tupinikim and Guarani Chiefs and Leaders

Aracruz, 7th of August 2006

Ref.: Demarcation of Tupinikim and Guarani Lands in Espírito Santo

To: President of the Republic, Sr. Luiz Inácio Lula da Silva
Minister of Justice, Sr. Márcio Thomaz Bastos
President of FUNAI, Sr. Mércio Pereira Gomes

Dear Sirs,

On the 13 and 14 July 2006 we were in Brasília where we visited the FUNAI and the Ministry of Justice, in order to monitor the process of demarcation of our lands in the state of Espírito Santo.

In this letter, we want to express our concerns about what we heard from the responsible institutions and communicate our position about it.

Before, it is worth while to summarize our most recent struggle:

- We are aware of the fact that an unconstitutional act of the ex-Minister of Justice, Iris Rezende, in 1998, allowed Aracruz Cellulose to continue exploring 11,009 ha of our lands, as a result we decided during a general assembly, on 17th of February 2005, to take up the struggle again for our lands;
- On the 12th of May 2005, the Public Prosecution Service of Espírito Santo, after having verified irregularities in the demarcation procedure of 1998, recommended to the Minister of Justice and the President of the Republic to demarcate and formally register the 11,009 hectares as indigenous lands in dispute;
- On the 17th of May 2005, in full certainty that the lands in question belong to us, we initiated with more than 500 men and women of our peoples, the self-demarcation of our lands that, counting with the 7,061 hectares already demarcated, totaled 18,070 hectares. We reconstructed two of the more than 30 villages extinguished by the invasion of Aracruz Cellulose on our lands.
- During 2005, we traveled to the capital Brasília several times where we heard from the FUNAI and the Ministry of Justice that they had the firm intention of correcting the injustice committed in 1998 and would demarcate our entire land area. The FUNAI declared in a written document (letter 283 DAF/FUNAI from 12/05/2005) that the studies, carried out between 1994 and 1998, which prove that the indigenous lands in Espírito Santo are 18,070 ha, remain valid to this day.
- Despite this, on the 7th of October of 2005, we had to occupy the pulp mills of Aracruz Cellulose so that the process would move ahead; from this occupation resulted the creation by the FUNAI of a new Working Group (GT 1299/2005), to realize a complementary study to the ones already made. The summary of this report was published in the National State Gazette on the 20th of February 2006.
- However, before this publication happened, we were, in the 21st Century, humiliated and wounded during an illegal and coward action of the Federal Police, together with Aracruz Cellulose, that destroyed our two rebuilt villages. We will never forget this action and the fact that the FUNAI and the Ministry of Justice did not take up any action to prevent it.
- On the 31st of January 2006, we met with President Lula in Vitória, capital of Espírito Santo, and after that, on the 9th of February, with the Minister of Justice and the President of FUNAI. In this last meeting the time periods for the demarcation of our lands were agreed. From the publication of the report of the GT 1299/2005 on 20th February 2006, the defined periods, according to decree 1.775/96, are as follows:

- 1. By the 20th of May (90 days) any interested parties have to have presented to FUNAI any challenges (complaints) related to the demarcation;**
- 2. By the 20th of July (60 days) FUNAI will have to have written its position about any challenges presented, and send the full file to the Minister of Justice;**
- 3. By the 20th of August (30 days), the Minister has to issue the decree of demarcation of the lands.**

On the occasion of the 9th of February meeting, the Minister of Justice affirmed that “*we firmly want to do this thing correctly and quickly*”.

- However, the first delay happened in May 2006: FUNAI granted an extra 30-day period for Aracruz challenging the report of GT 1299/2006, because of mistakes committed by the FUNAI itself. Afterwards, on the 1st of June 2006, the Prosecutor of FUNAI, during the “1st Seminar on Indigenous Land Rights and the Advance of Agribusiness”, held in Vitória-ES, promised that the FUNAI would elaborate its position regarding the Aracruz challenge in a maximum period of 30 days, so that the Minister could receive the whole documentation on the 20th of July.

But, the 20th of July the Minister of Justice still has not got the documentation in his hands. During our visit in Brasília, on the 13th of July, we heard that:

- FUNAI will need the full period of 60 days to analyze each line of the challenge of Aracruz that contains no less than 36 volumes of 300 pages each. FUNAI expects to present its position on the 20th of August, together with the rest of the documentation, to the Minister of Justice;

- the assistants of the Minister of Justice affirmed that when they will receive the documentation from FUNAI, they need to re-analyze it and they will definitely need 30 days or even more for that task. This is not true because FUNAI, an institution linked with the Ministry of Justice, will make the necessary analysis of the Aracruz challenge. The Ministry of Justice will sign the demarcation decrees, considering the studies, the challenges and the documents already produced. Therefore, the decree 1.775/96 defines a period of 30 days only for this decision.

At this very moment, we are concerned with the possible delays announced by the representatives of the responsible institutions. In addition, we are in election campaigns time and we know that Aracruz Cellulose is a big contributor to these campaigns, including candidates of the Lula Government.

Considering this information, our position is the following:

- We understand that the FUNAI needs to make a well-based and fair opinion about the challenge of Aracruz. But we do not accept in any circumstances that FUNAI exceeds the legal period of 60 days, established for this.
- We do not accept that the Ministry of Justice makes a re-analysis of the whole file, something that the Minister of Justice did not discuss in any moment with us. On the contrary, the Minister guaranteed that his decision would be quick and that he had full confidence in the competence of FUNAI.

We want to believe in the words of President Lula and the Minister of Justice. However, we do not accept, under no circumstances, delays, postponements and illegal acts against our rights. No more humiliation.

LAND IS THE RIGHT OF INDIGENOUS PEOPLES!

Commission of Tupinikim and Guarani Chiefs and Leaders