



## **OPEN LETTER TO THE DIRECTOR GENERAL OF THE AFRICAN REGIONAL INTELLECTUAL PROPERTY ORGANIZATION (ARIPO)**

11th April 2017

Mr. F. A. Dos Santos  
The Director General  
The African Regional Intellectual Property Organisation (ARIPO)  
11 Natal Road, Belgravia  
Harare, Zimbabwe

Dear Sir,

### **Draft Regulations to the Arusha Protocol for the Protection of New Varieties of Plants**

We the undersigned organizations, representing civil society organizations (CSOs) and farmers of our networks call on you to urgently provide in writing, full information on the outcomes of the Administrative Council with regard to the Draft Regulations to the Arusha Protocol.

We have been made aware that the Administrative Council, which met in Harare, from 5<sup>th</sup> to 7<sup>th</sup> December 2016, did not adopt the Draft Regulations to the Arusha Protocol at the time in view of the concerns CSOs and farmers have raised and the need for wide consultations with stakeholders.

Noting this development, we once again call on you to establish a credible process that includes and engages CSOs and farmer representatives in discussions on the Arusha Protocol and the Draft Regulations.

CSOs and farmer representatives have always sought to engage meaningfully with your office to ensure that the design of the regional plant variety protection system is one that works for the ARIPO region and reflects its needs and realities. In this regard we have made numerous submissions and proposals on the Protocol as well as the Draft Regulations. Prior to the Administrative Council in December 2016, CSOs and farmer representatives submitted detailed comments on the Draft Regulations to be considered by the Council.<sup>1</sup>

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<sup>1</sup> [http://acbio.org.za/wp-content/uploads/2016/11/ARIPO\\_regs\\_comments.pdf](http://acbio.org.za/wp-content/uploads/2016/11/ARIPO_regs_comments.pdf)

However, it is deeply regrettable that the ARIPO Secretariat has ignored the submissions as well as denied the numerous requests for CSOs and farmer representatives to participate in the process and present their comments, despite the very valid concerns that exist with regard to the Draft Regulations.

It is well known that the process leading to the development of the Arusha Protocol was flawed. The ARIPO Secretariat facilitated participation of foreign entities, but at the same time refused to allow civil society and farmer representatives from the ARIPO region the right to engage in the process.<sup>2</sup>

On 5th December 2016, CSOs and farmer representatives were once again barred from attending the Administrative Council that discussed the Draft Regulations to the Arusha Protocol.<sup>3</sup>

Following the Administrative Council meeting, PELUM Association - on behalf of CSOs and farmer representatives, sent emails (i.e. on 14 December and on 11 January 2017) and made several telephone calls requesting information on the outcomes of the Administrative Council. However, to date we have not received any response from your office. On occasions when telephone calls were answered, we were informed that individuals who could give a response were out of the office, and we never received a call back from the responsible officers.

In addition, your office has not made any attempts to share the outcomes using the mainstream media or your official website. As such, ARIPO has imposed a communication black out.

The deliberate lack of communication on your part, and the exclusion and undermining of the role played by CSOs and farmer representatives in positively developing Africa demonstrates your organization's lack of commitment to practice good governance particularly concerning principles of participation, transparency, responsiveness, accountability, equality and inclusiveness.

We recall that in an open letter dated 24<sup>th</sup> November 2016, the Special Rapporteur on the right to food, Ms. Hilal Elver, expressed concerns with regard to the considerable negative impacts that the Protocol and its Draft Regulations may have in relation to fulfilling the right to food in ARIPO Member State countries. Ms. Elver also urged ARIPO Members to refrain from endorsing and/or ratifying the Arusha Protocol and adopting the Draft regulations for its implementation and to begin a new process that is transparent, evidence based and inclusive of civil society and smallholder farmer representatives to overhaul the Protocol and the draft Regulations and to develop a new legal framework that is appropriate for the agricultural system that prevails in the ARIPO region, and which reflects the needs and interests especially of farmer managed seeds systems in the ARIPO region.

**Thus, we would like to formally call on the ARIPO Secretariat:**

- 1. To immediately provide the undersigned organizations full information in writing on the outcomes of the Administrative Council with regard to the Draft Regulations to the Arusha Protocol. This includes a copy of the minutes and decisions taken on the matter at the Administrative Council.**

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<sup>2</sup> See Open Letter to the Members of the International Union For the Protection of New Varieties of Plants (UPOV) available at <http://afsafrica.org/open-letter-to-members-of-the-international-union-for-the-protection-of-new-varieties-of-plants-upov-2/>

<sup>3</sup> <http://acbio.org.za/african-civil-society-and-farmer-representatives-blocked-from-aripo-deliberations-on-regional-seed-pvp-law/>

2. **To immediately provide the undersigned organizations full information in writing on the next steps that will be undertaken with regard to the Arusha Protocol and its Draft Regulations.**
3. **To provide the undersigned organisations in a timely manner, copies of all relevant documents being developed including any further draft Regulations being developed by technical committees;**
4. **To ensure that henceforth all information (e.g. on process and substance) concerning the Arusha Protocol and its Draft Regulations be made available promptly on the front page of ARIPO's website.**
5. **To take immediate steps to establish a credible, transparent and participatory process that involves and engages with CSOs and farmer representatives in discussions on the Arusha Protocol and its Draft Regulations. In this regard we would request an urgent meeting with you.**

Given the importance of agriculture to the ARIPO region and the critical role of CSOs and farmers in the development of agriculture in the region, it is of utmost importance that ARIPO takes prompt steps to realize the above. We look forward to hearing from you urgently.

Yours sincerely



Ms. Mariam Mayet from ACB and on behalf of Ms. Gertrude Pswarayi-Jabson and Dr. Million Belay

The Alliance for Food Sovereignty in Africa (AFSA), African Centre for Biodiversity (ACB) and Participatory Ecological Land Use (PELUM) Association

Cc. Special Rapporteur on the Right to Food  
ARIPO Member States as well as the Permanent Missions of ARIPO Members in Geneva