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PRESS RELEASE

Brazil: ARTICLE 19 Launches Analysis on Draft Access to Information Bill

ARTICLE 19 has published its analysis on the long-awaited draft Access to Information Bill was sent by President Lula to Brazilian National Congress in May 2009. The Bill seeks to implement Article 5 of the Brazilian Constitution, which guarantees the right to information. It provides a clear definition of the right to access information, but still has many gaps that need to be addressed before approval of the final text, according to ARTICLE 19.

The draft Bill fulfils a commitment made by President Lula during his campaign for re-election in 2006, and responds to historical demands by a range of civil society actors that have been calling for legislation to give proper effect to the constitutional guarantee. A special temporary commission will be formed to accompany the Bill's processing within congress: this commission currently the appointment of party representatives, and will then be immediately operational to allow the continuity of analysis of the Bill by the other members of congress.

The includes a clear statement of the right of access to information, as well as tight timelines for responding to requests, strong notice provisions, absolute openness in relation to information concerning human rights protection and violations, a progressive system for classification of information, good rules on sanctions for obstructing access, and important extensions of protection for whistleblowers.

At the same time, ARTICLE 19 believes that the Bill could be improved. Our most serious concern is that it fails to provide for an independent administrative oversight body, such as an information commissioner. Other key concerns include the lack of any definition of the public bodies governed by it, the fact that the access law fails to override secrecy laws in case of conflict, the fact that decisions on access are made by reference to classification, rather than on the basis of the harm that release of the information would cause, and the absence of a public interest override in the law.

ARTICLE 19 calls on the Legislative to speed up the review process by immediately setting up the Special Commission, as well as to guarantee broad public participation in the process. We also urge Brazilian parliamentarians to ensure that the law which is adopted complies with international standards in this area.

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- Access the full analysis in English at: <http://www.article19.org/pdfs/analysis/brazil-memorandum-on-the-draft-bill-on-access-to-information-of-brazil.pdf> and in Portuguese at: <http://www.article19.org/pdfs/analysis/brasil-memorando-sobre-o-projeto-de-lei-de-acesso-a-informacao-do-brasil.pdf>
- ARTICLE 19 is an independent human rights organisation that works around the world to protect and promote the right to freedom of expression. It takes its name from Article 19 of the Universal Declaration of Human Rights, which guarantees free speech.