



FEDERAL PUBLIC DEFENDERS' GENERAL OFFICE
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Edifício Palácio da Agricultura

OFFICIAL LETTER - No. 327/2022 - DPU/GABDPGF DPGU

Brasília, 24 November 2022.

To Mr.
MARCELO ANTÔNIO CARTAXO QUEIROGA LOPES
Minister of State for Health
Esplanada dos Ministérios - Bloco G - Edifício Sede
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Subject: Request for information on the actions of the Ministry of Health in the identification, testing, and care of populations exposed to mercury contamination in the states that make up the Amazon.

Reference: In response to this Official Letter, please expressly indicate as follows:
Proceeding No. 08038.009108/2022-66.

Dear Minister,

Greeting you cordially, the Federal Public Defenders' Office, a permanent institution essential to the State's judicial function, constitutionally entrusted, as an expression and instrument of the democratic regime, with providing legal assistance, promoting human rights and defending individual and collective rights at all levels, in full and free of charge, to Brazilians and non-Brazilians in need, as stipulated by Article 5, Item LXXIV, and Article 134 of the 1988 Constitution of the Federative Republic of Brazil, hereby outlines the following and makes a subsequent request.

Firstly, we would like to inform you that a procedure has been initiated to *gather information regarding the efforts of the Ministry of Health in identifying, testing, and assisting populations exposed to mercury contamination in the Amazon states*, considering the population's right to health and an ecologically balanced environment.

As is well known, mercury is a naturally occurring element present and has been extensively used, particularly in the mining industry, to facilitate the separation of gold from other sediments. According to a survey carried out by the MapBiomass Project [\[1\]](#), 94 percent of Brazil's mining activity (spanning more than 100,000 hectares) is currently concentrated within Amazon states. Moreover, it is estimated that over 50 percent of the area where this mining activity happens may be illegal, as it occurs on indigenous lands and conservation units, without proper environmental permits and regulatory oversight.

This situation has contributed to the release of mercury-contaminated tailings into the environment, particularly into water bodies, causing water turbidity, contamination of both humans [2] and wildlife, and consequently, a range of health issues within the population [3].

The Oswaldo Cruz Foundation (FIOCRUZ) has presented a comprehensive set of documents detailing the results of studies carried out in the Amazon region. Additionally, they have informed us of proposals for collaboration and recommendations made to SESAI, which were presented at various events attended by Ministry of Health representatives.

The aforementioned documents presented to the Secretariat outlined the research procedures and findings, which indicates mercury contamination among members of the Mundurucu and Yanomami Peoples. They also introduced ***a Collaboration Proposal between Fiocruz and Sesai aimed at the development of diagnostic, research, and training initiatives for EMSI on the subject of mercury contamination. This collaboration proposal was submitted to the Secretariat in January 2020.***

In addition to specific recommendations for indigenous communities directly involved in the research, we have also formulated **recommendations to be implemented by the Ministry of Health. These recommendations aim to contribute to the establishment of a public health policy for Amazonian populations**, considering the diffuse nature of mercury contamination in both humans and fish, and its potential to cause health issues in the general population, as demonstrated by a study carried out by UFOPA in collaboration with the Oswaldo Cruz Foundation (Fiocruz) and WWF-Brazil.

Fiocruz presented the following recommendations [4]:

- 1) Immediately cease illegal mining activities on indigenous lands and remove squatters from lands owned by the Brazilian State.
- 2) Draw up a plan to discontinue the use of mercury in gold mining in Brazil to comply with the MINAMATA Convention (2013).
- 3) Prepare a Risk Management Plan (RMP) for populations chronically exposed to mercury, which should encompass a comprehensive set of guidelines and integrated actions:
 - 3.1) Expand monitoring of mercury levels in fish consumed in other areas of the Amazon.
 - 3.2) Formulate clear guidelines for the population in affected areas regarding safe fish consumption, including detailed information on health risks and restrictions on consuming highly contaminated species, respecting cultural aspects specific to each ethnic group. For example, for highly risky carnivorous fish (e.g., black piranha, peixe cachorro, pirinampu, and mandubé), consumption should be limited to once a month at most. For moderately risky carnivorous fish (e.g., peacock bass, surubim, and crovina), consumption should not exceed 200 grams per week. No restrictions should apply to non-carnivorous fish with medium to low risk (char, aracu, white pacu, curimatã, and branquina). Pregnant women should abstain from consuming carnivorous fish (black piranha, peixe cachorro, pirinampu, and mandubé) throughout their pregnancy.
 - 3.3) Include mercury level testing in hair samples as part of routine procedures in prenatal care programmes and in child growth and development monitoring programmes under the Brazilian Unified Healthcare System (SUS).
 - 3.4) Develop a Basic Care Protocol for the Contaminated, with the support

of specialists, to be incorporated into the SUS network.

3.5) Improve the reporting of cases of chronic mercury contamination, especially those from areas affected by illegal mining in the Amazon.

4) Promote a research and scientific development programme (in collaboration with universities, research institutes, and indigenous associations) to carry out in-depth studies aiming to increase knowledge about the health impacts on populations chronically exposed to mercury, ensuring continuous funding through regular investment.

5) Establish financial protection mechanisms for the fishing sector to prevent economic hardships for artisanal fishermen due to consumption restrictions on various contaminated fish species, as long as the contamination persists. Implement the Polluter Pays principle and impose economic penalties on individuals and companies responsible for river pollution.

6) Formulate public policies to create sustainable economic alternatives for indigenous and non-indigenous communities affected by mining, ensuring food security, sovereignty, and respect for ancestral traditions.

7) Enhance, reinforce, and support intersectoral actions to combat illegality throughout the gold supply chain, encompassing extraction, production, and commercialisation of ore extracted from Indigenous Lands, as well as combating mercury smuggling across the Brazilian territory.

Subsequently, Fiocruz reports that, as of 9 July 2022, they *"have not identified any direct action by SESAI or the municipal health departments (SMS) of the municipalities within the area covered by the DSEI Alto Tapajós and Yanomami to address the reported issue, either by notifying the cases identified in the surveys to the official health systems, by acting to implement the measures proposed by Fiocruz, or even by formulating strategies to provide attention and care for the affected populations."*

Considering that the State bears a legal responsibility to ensure universal, comprehensive, and free access to healthcare for the entire population, and in light of the information conveyed by Fiocruz to this Ministry, which underscores the severity of the mercury contamination situation, particularly the absence of specific protocols for reporting mercury poisoning, identifying and treating affected individuals, the Federal Public Defenders' Office, in accordance with Article 44, Item X, of Supplementary Law No. 80/94, hereby requests the following information:

1. What is the Ministry of Health's stance regarding the recommendations issued by Fiocruz?

1.1. If these recommendations were accepted, what actions have been taken?

1.1.1. Have new protocols been formulated and/or integrated regarding the contamination of populations exposed to mercury?

1.2. In case of rejection, what were the grounds for this decision?

1.3. Access to the administrative proceedings associated with the receipt and processing of Fiocruz's recommendations.

2. Is there any information on the existence of working groups mobilised within the structure of the Ministry of Health to develop/implement a protocol for health units aimed at identifying and treating individuals affected by mercury contamination?

3. Does an emergency protocol currently exist to provide assistance to affected populations

or are there plans in place to create one?

4. Has specific training been provided for local teams for the identification and treatment of cases related to mercury contamination?
5. Are there any initiatives led or supported by the Ministry of Health to conduct testing and identification of individuals affected by mercury contamination?
6. What measures have been taken by the Ministry of Health and its associated departments, particularly SESAI, concerning the situation reported?

A response is kindly requested within 15 working days via e-mail at: acgis@dpu.def.br and observatorio.garimpo@dpu.def.br.

DANIEL MACEDO ALVES PEREIRA

Federal Public Defender-General

[1] Diniz, [Nota Técnica sobre Garimpo Rio Madeira 01.12.2021 Available at: \(mapbiomas-br-site.s3.amazonaws.com\)](https://mapbiomas-br-site.s3.amazonaws.com)

[2] Meneses, H.d.N.d.M (et al). **Mercury Contamination: A Growing Threat to Riverine and Urban Communities in the Brazilian Amazon**. Int. J. Environ. Res. Public Health 2022, 19, 2816. <https://doi.org/10.3390/ijerph19052816>

[3] The effects of mercurial contamination that have already been identified in human beings indicate impairment of the nervous system (the main nervous system), the respiratory system and the cardiovascular system, leading to impaired concentration, visual disturbances, loss of hearing and vision, hallucinations, muscle weakness, depression, hypertension, pneumonia and death. In addition, intrauterine contamination should be highlighted, since mercury passes through the placenta and causes various ailments to fetuses, such as malformations, deficits in language, learning, attention and reduced fine motor development (UFOPA, 2021).

[4] The recommendations were presented on the following occasions: a) in the auditorium of the Public Prosecution Service of the State of Pará, in Santarém, on October 30, 2020; b) at a virtual meeting of the Yanomami and Ye'kwana Indigenous Health District Council - CONDISI-YY, on November 27, 2021 and on March 30, 2022; c) representatives of the Ministry of Health (Multidisciplinary Indigenous Health Team of the Alto Rio Tapajós DSEI, represented by District Coordinator Cleidiane Carvalho Ribeiro Santos), who took part in two courses on surveillance and monitoring of populations exposed to mercury, one virtual, in April 2021, and the other in-person, in Itaituba-PA, in October 2021; d) in an in-person meeting with the Special Secretary for Indigenous Health, Robson Santos da Silva and his support team from the Indigenous Health Care Division (DIASI), including the participation of the District Coordinator of the DSEI-Yanomami, Ramsés Silva, on 09 and 10 February, 2022, in room 410 of the Sergio Arouca National School of Public Health, of the Oswaldo Cruz Foundation, in Rio de Janeiro; e) at a Public Hearing in the Chamber of Deputies on the theme "The threats faced by indigenous peoples", on June 15, 2021; f) at a Public Hearing of the Human Rights Commission of the Federal Senate, on November 25, 2021; and g) at a meeting of the National Health Council (CNS), on March 18, 2022.



Document electronically signed by **Daniel de Macedo Alves Pereira, Federal Public Defender-General**, on 12 December 2022, at 16:16, in accordance with Paragraph 2 of Article 10 of Provisional Presidential Decree No. 2,200-2, dated 24 August 2001).



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