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THE WHITE HOUSE

WASHINGTON

February 24, 1998

MEMORANDUM FOR THE PRESIDENT

FROM: Larry Stein *LS*
Martha Foley *MCF*

SUBJECT: Update on the Mexico City Issue

Sylvia Mathews asked that we provide you with a very brief update on the international family planning ("Mexico City") issue.

As you know, last fall the House Republican leadership said that IMF funding and UN arrears would not move in the absence of a resolution of the Mexico City issue.

In all contacts with the leadership this year, they have indicated no movement away from that position.

As you may recall, Reps. Gilman and Pelosi offered an amendment on the Mexico City issue last year that would have allowed groups that, with their own funds, lobby on abortion and perform abortion to continue receiving USAID funds if they do not promote abortion as a method of family planning and if they utilize the federal funds to prevent abortion as a method of family planning. This measure was defeated by a vote of 210-218.

We believe that we should continue to explore possible resolutions of the issue that might gain at least 218 votes in the House. (Reps. Pelosi and Obey have long argued that they think this is achievable.)

An interagency group developed some proposals to make slight modifications in Gilman-Pelosi that might help to secure additional votes. Last week, administration staff met with Rep. Pelosi's staff to review those options, and her staff seemed pleased with the new proposals and indicated that Rep. Pelosi wants to begin meeting soon with Members who voted against Gilman-Pelosi but who might be open to supporting it with modifications.

It is important to note, however, that any resolution modeled on Gilman-Pelosi would not be supported by Rep. Chris Smith (R-NJ), the leading proponent of legislating Mexico City policy, or by the Republican leadership. Thus, such a resolution would not automatically break the current deadlock over UN arrears and IMF funding.

THE WHITE HOUSE
WASHINGTON

Date 10/17

To: Mardne Foley

From: The Staff Secretary

As discussed, attached is the
info on World Population Awareness
Week.

Given what you said, I wouldn't
do a Proclamation... I think the
choice is between a Message or
nothing. Let me know

Phil

TO: TODD STERN
JOHN PODESTA

FROM: DAN BURKHARDT

DATE: October 17, 1997

COMMEMORATIVE PROCLAMATION REQUEST

Commemoration Title: WORLD POPULATION AWARENESS WEEK

Commemoration Date(s): October 26, 1997 - November 1, 1997

Requestor Name(s): Mr. Werner Fornos, President

Organization: The Population Institute

Request Date: September 2, 1997

Congressional Support: Yes. Representative Jim Leach and 37 other members (request made 10/9/97 and received 10/16/97)

Contact Telephone Number: (202) 544-3300

History: At the request of Congress, by joint resolution, President Bush issued such a proclamation in 1990, 1991, and 1992. The Population Institute requested a proclamation in 1995, and we issued a message.

I recommend that we issue a **MESSAGE**.

NOTES:

Please indicate approval or disapproval of, or another recommendation:

JDP _____

TDS _____

Congress of the United States

Washington, DC 20515

October 9, 1997

Message

Lana Dickey

The Honorable William J. Clinton
President of the United States of America
The White House
Washington, DC 20500

OCT 14 PM 5:18

Dear Mr. President:

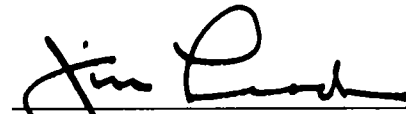
We are writing to respectfully request that you proclaim the week of October 26 through November 1, 1997 as World Population Awareness Week in the United States.

A Presidential proclamation is the crucial next step in educating our citizenry about the interrelationships between overpopulation and health, environment, and economics. World Population Awareness Week would be an ideal time to reinvigorate America's commitment to help all the nations in the world achieve the goal of population stabilization at the earliest possible time through voluntary, rational, and humane means.

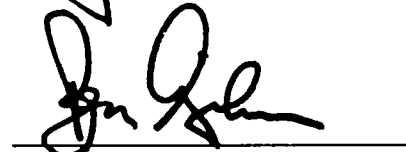
Please find the text of a sample proclamation enclosed. Thank you for your consideration of our request.

Sincerely,


Elizabeth Furse, M.C.

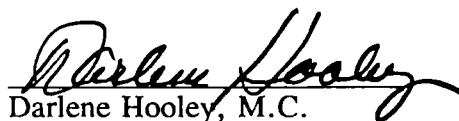

James A. Leach, M.C.

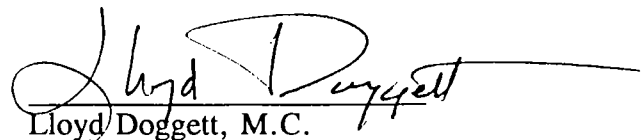

Luis V. Gutierrez, M.C.

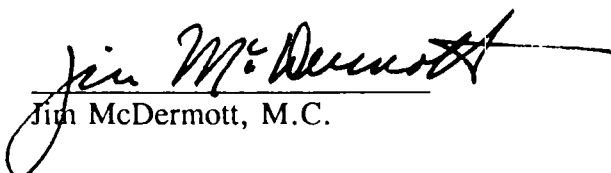

Benjamin A. Gilman, M.C.


Thomas H. Allen, M.C.


Constance A. Morolla, M.C.

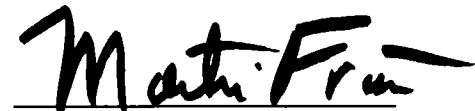

Darlene Hooley, M.C.


Lloyd Doggett, M.C.


Jim McDermott, M.C.


Sam Gejdenson, M.C.

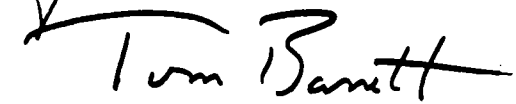

Tom Campbell, M.C.

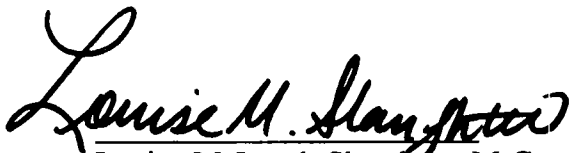

Martin Frost, M.C.

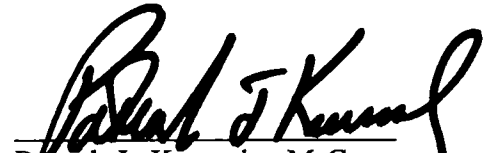

Bob Filner, M.C.


James P. Moran, M.C.


Walter H. Capps, M.C.

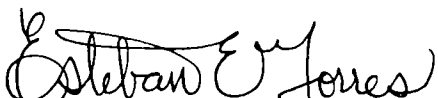

Thomas M. Barrett, M.C.

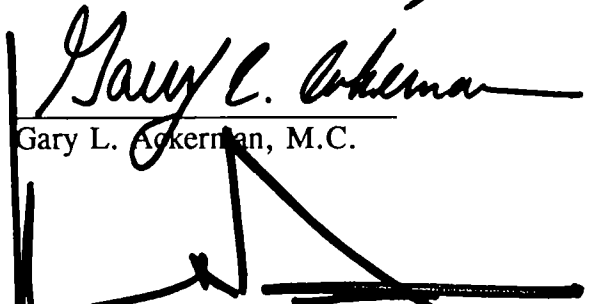

Louise McIntosh Slaughter, M.C.


Patrick J. Kennedy, M.C.


James P. McGovern, M.C.

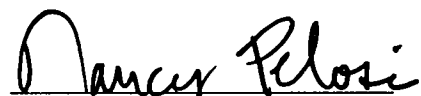

Gary L. Ackerman, M.C.

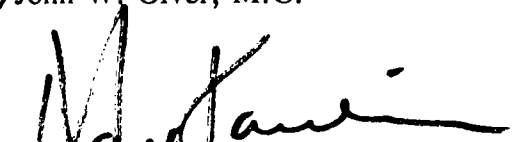

Esteban Edward Torres, M.C.


John Edward Porter, M.C.


Melvin L. Watt, M.C.

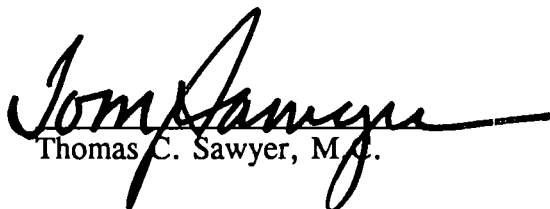

John W. Olver, M.C.

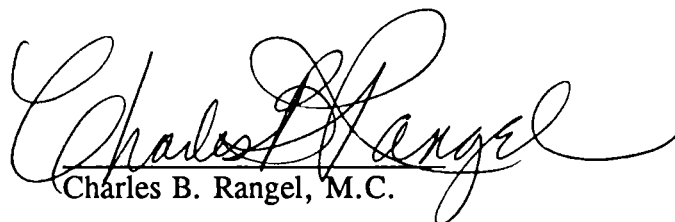

Nancy Pelosi, M.C.


Max Sandlin, M.C.


David E. Price, M.C.


Sam Farr, M.C.


Thomas C. Sawyer, M.C.

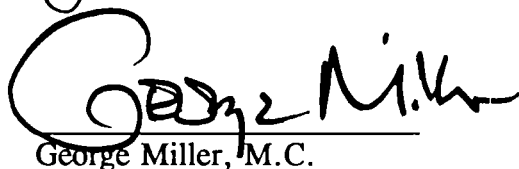

Charles B. Rangel, M.C.

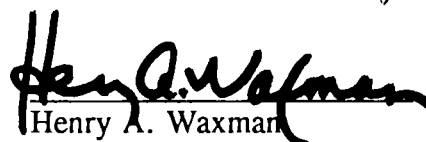

Jerrold Nadler, M.C.

Lynn C. Woolsey, M.C.


Zoe Lofgren, M.C.

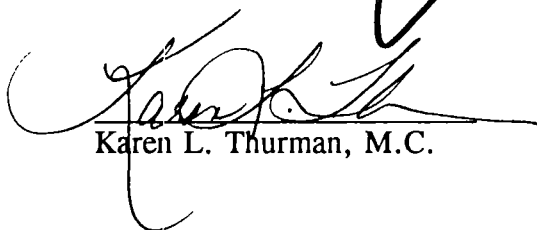

Donald M. Payne, M.C.


George Miller, M.C.


Henry A. Waxman


Brad Sherman, M.C.


James C. Greenwood, M.C.


Karen L. Thurman, M.C.

WORLD POPULATION AWARENESS WEEK PROCLAMATION

WHEREAS, the 21st Century offers enormous environmental and societal challenges for State and Local Governments that include diminishing farmland, urbanization, traffic congestion, inner city decay, and climate change;

WHEREAS, these challenges call for innovative leadership to ensure resource conservation, protection of open space, waste prevention, sanitation management and a higher quality of life;

WHEREAS, these challenges are inextricably linked to patterns of considerable demographic change, such as areas west of the Mississippi River doubling in population size as rapidly as Africa, the world's fastest growing continent;

WHEREAS, the United States Bureau of the Census has stated that the current United States population of 267 million is on course to reach 400 million by the year 2050;

WHEREAS, world population is projected to reach 6 billion before the end of this century and could reach between 8-12 billion, or even higher, before leveling off, with 98 percent of population growth now and through the foreseeable future projected to occur in the least developed countries of the world;

WHEREAS, demographic problems are not limited to the least developed nations and, indeed, concern the United States and the industrialized world, with our consumptive lifestyle, as well;

NOW, THEREFORE I, William Jefferson Clinton, President of the United States of America, do hereby proclaim the week beginning October 26, 1997, as World Population Awareness Week. I invite all Americans to observe this week with appropriate programs and activities.



THE POPULATION INSTITUTE

107 Second Street, N.E.
Washington, DC 20002
(202) 544-3300
Fax (202) 544-0068

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233783

September 2, 1997

The Honorable William Jefferson Clinton
The White House
1600 Pennsylvania Avenue, NW
Washington, DC 20500

Dear Mr. President:

The efforts of your administration to restore U.S. leadership in the quest to stabilize world population have been greatly appreciated by those of us dedicated to the achievement of this goal. We especially applaud your overturning the "Mexico City policy" during your first week in office; resumption of the annual U.S. government appropriation to the United Nations Population Fund; the influential and instrumental U.S. role at the 1994 International Conference on Population and Development in Cairo, and your recent pledge to veto the 1998 foreign assistance bill if it seeks to reinstate the "Mexico City policy."

To promote greater awareness of the consequences of rapid world population growth, the Population Institute has been the lead sponsor of World Population Awareness Week for the past 12 years. Last year, 73 countries participated in the observance of the week, cosponsored by 365 U.S. and international organizations; proclamations were issued by 10 Heads of State, 28 U.S. Governors (as you did when you were Governor of Arkansas) and more than 100 Mayors of U.S. cities. In past years, Congress has voted overwhelmingly for the passage of resolutions to recognize World Population Awareness Week.

I now respectfully request that you proclaim October 26 – November 1, 1997 as World Population Awareness Week in the United States. A U.S. Presidential Proclamation would reaffirm the Clinton Administration commitment to world population stabilization, as well as provide a substantial contribution to the success of this important week by placing the prestige of a U.S. Presidential Proclamation behind it. "Resource Conservation and Population" has been selected as the theme of the week this year. I am enclosing material relevant to World Population Awareness Week for your perusal and await a response at your earliest convenience.

Sincerely,

Werner Fornos
President
The Population Institute

ENCLOSURES: Governors' and
Mayors' Proclamations, National
Cosponsors, International Cosponsors,
Sample Proclamation

SEP - 4 1997

October 19, 1995

138592
H/O

Greetings to all those who are observing World Population Awareness Week, October 22-29, 1995.

The theme of this year's observance, gender equality and its relation to the world's population crisis, is particularly timely, since the recent United Nations Fourth World Conference on Women in Beijing, China, focused on the need to resolve gender inequities and the population dilemma. Women in developing countries today are still plagued by inadequate medical care, lack of sanitation, poor nutrition, domestic abuse, and poverty -- hardships that are due in large part to overpopulation. With the world's people increasing by nearly 100 million per year -- virtually all of them in the poorest countries and regions -- it is vitally important that we redouble our efforts to curb such disturbing trends so that women in developing nations are given the chance to enjoy basic legal and human rights.

The problems of overpopulation are not limited to the developing world, however; the environmental and economic problems it causes will increasingly affect all nations of the world. Without a concerted reduction of current growth rates, we will be subject to unprecedented economic and social hardship. To respond wisely to this challenge, we must work to educate people around the globe, mobilizing them to help stabilize the earth's population.

We can take heart that, after the 1994 International Conference on Population and Development in Egypt, many nations endorsed its comprehensive new strategy for addressing population and development issues. The United States is strongly committed to implementing the objectives of the Cairo Program of Action, including quality family planning and reproductive health services, the empowerment of women, expanded access to education and health care services, and reduction of wasteful resource consumption.

During this World Population Awareness Week, I encourage governments, private organizations, and individual citizens to focus on the impact on our resources of the world's growing population and to rededicate themselves to eliminating poverty, illiteracy, unemployment, social disintegration, and gender discrimination around the globe. Only then can we meet the challenges of the twenty-first century and build for ourselves a more peaceful, prosperous world.

Hillary joins me in sending best wishes for an educational and successful World Population Awareness Week.

BC/KB/JB/MAH/ckb (Corres. #2517724)

(10.wpaw.msg) (Event: 10/22/95)

cc: Presidential Messages, 91 OEOB/Kyle Baker, 93 OEOB

SENT TO:

Mr. Werner Formos

President

The Population Institute

107 Second Street, N.E.

Washington, D.C. 20002

BILL CLINTON

DO NOT MAIL -- RETURN TO CARMEN FOWLER, 91 OEOB, FOR DISPATCH

S S P Y
from CRM

Proclamation 6214 of October 24, 1990

World Population Awareness Week, 1990

by the President of the United States of America

A Proclamation

If current projections prove accurate, the present global population of more than 5 billion will likely double by the year 2025. It may reach 14 billion by the end of the next century. In many areas of the world, particularly in less developed countries, populations are increasing without concomitant economic growth. In other, more developed nations, however, birthrates are so low that populations are not replacing themselves. The implications of both trends merit careful study and consideration—as experience has clearly shown us, there is a significant relationship between demographic change, economic development, the use of resources, and environmental management.

The United States has long recognized that population growth, in and of itself, is a neutral phenomenon. As we noted during the 1984 International Conference on Population, because human beings are producers as well as consumers, population growth may be an asset or a liability depending on such factors as government economic policies, agricultural practices, and a nation's ability to put men and women to work. Demographic change can become problematic when a nation fails to anticipate or to accommodate growth. Increases in population can pose difficulties when the creation of housing and health facilities does not keep pace or when valuable resources such as arable land, forests, and water are used without regard to future needs. Population growth may also be viewed as a threat in countries where centralized economic planning and government price controls eliminate incentives for farmers and other workers to produce.

Many governments, private organizations, and concerned individuals around the world have been studying population trends and working to meet the challenges and opportunities those trends create. Over the years, the United States has been a leader in efforts to focus attention on population issues; to promote international cooperation; and to develop and implement population programs that are consistent with individual dignity and human rights. For example, in addition to supporting voluntary family planning activities, we have strived to promote environmental conservation and sustainable economic development in poor countries. We have also steadfastly advocated the political and economic freedom that is vital to the advancement of individuals and nations.

The United States believes that population programs must be truly voluntary, that they must not only recognize the rights and responsibilities of individuals and families but also respect their religious and cultural values. When population programs are conducted in accordance with this view, when they affirm and enhance the dignity and potential of the individual, they can and do promote the health of mothers and children, the stability of families, and, subsequently, the strength and well-being of entire nations.

The Congress, by Senate Joint Resolution 158, has designated the week of October 21 through October 27, 1990, as "World Population Awareness

Proc. 6214

Title 3—The President

Week" and has authorized and requested the President to issue a proclamation in observance of this week.

NOW, THEREFORE, I, GEORGE BUSH, President of the United States of America, do hereby proclaim the week of October 21 through October 27, 1990, as World Population Awareness Week. I invite all Americans to observe this week with appropriate programs and activities.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-fourth day of October, in the year of our Lord nineteen hundred and ninety, and of the Independence of the United States of America the two hundred and fifteenth.

GEORGE BUSH

Proclamation 6366 of October 25, 1991

World Population Awareness Week, 1991

By the President of the United States of America

A Proclamation

Demographic trends among the world's population, which now surpasses 5.4 billion, cannot be overlooked as a factor when we examine important global issues such as economic development and environmental degradation. That is why we do well to observe World Population Awareness Week.

The United States has long recognized that population growth, in and of itself, is a neutral phenomenon. Indeed, as we stated during the 1984 International Conference on Population, because every human being represents hands to work, and not just "another mouth to feed," population growth may be an asset or a liability depending on such factors as government economic policies, agricultural practices, and a nation's ability to put men and women to work. Rapid population growth is often occurring in those nations where economic stagnation, attributable in large part to the failure to adopt market-oriented policies, makes them less able to cope with economic and environmental challenges. For example, population growth may be viewed as a threat in countries where excessive government controls eliminate incentives for farmers and other workers to produce, where housing and health care facilities do not keep pace, or where precious natural resources are used without regard to future needs. Demographic change can also become problematic when a nation fails to anticipate or to respond to such trends as massive urban migration. However, because people are producers as well as consumers, population growth can also be a sign and a source of strength.

The United States has been a leader in efforts to focus attention on population issues—particularly in less developed nations where population growth and related demands for land, public services, and other resources have exceeded their availability. At the Houston Economic Summit, the G-7 leaders stated that "In a number of countries, sustainable development requires that population growth remain in some reasonable balance with expanding resources Improved educational opportunities for women and their greater integration into the economy can make important contributions to population stabilization programs." Currently, the United States, cognizant of the rights and responsibilities of individuals and families and respectful of religious and cultural values, provides nearly half of all international assistance that supports effective, safe, and voluntary family planning programs. This aid is but one part of a comprehensive economic development assistance program. We have also taken a strong position in the global community to address problems such as illiteracy, poverty, and environmental degradation. Indeed, recognizing the need to use precious natural resources wisely, we have worked to promote sustainable development. We have also consistently advocated the political and economic freedom vital to the advancement of individuals and nations.

Of course, no nation can achieve acceptable levels of productivity and progress without a *healthy* population. Thus, the United States will continue to support and to promote programs that are designed to improve maternal and child health. We will continue to support education and disease prevention, as well as programs that target the specific health problems of the poor—problems that are often aggravated by such factors as poor sanitation and the lack of safe drinking water.

During World Population Awareness Week, we reflect on the importance of every one of these efforts and reaffirm our commitment to them. After all, by promoting the health of individuals and the strength and stability of families, we can enhance the well-being of entire nations.

The Congress, by Senate Joint Resolution 160, has designated the week beginning October 20, 1991, as "World Population Awareness Week" and has authorized and requested the President to issue a proclamation in observance of this week.

NOW, THEREFORE, I, GEORGE BUSH, President of the United States of America, do hereby proclaim the week of October 20 through October 26, 1991, as World Population Awareness Week. I invite all Americans to observe this week with appropriate programs and activities.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-fifth day of October, in the year of our Lord nineteen hundred and ninety-one, and of the Independence of the United States of America the two hundred and sixteenth.

GEORGE BUSH

Proclamation 6501 of October 31, 1992

World Population Awareness Week, 1992

By the President of the United States of America

A Proclamation

In the post-Cold War world, one of the key issues that must be addressed is population growth and its impact on resources, environment, and development. Recognizing that population goals and policies should be part of more comprehensive efforts to improve the standards of living of all peoples, to promote social and economic development, human rights, and individual freedom, we focus this week on the links between economic development, environmental degradation, and demographic trends among the world's population.

As the G-7 leaders stated during the 1990 Houston Economic Summit, "sustainable development requires that population growth remain in some reasonable balance with expanding resources." Supporting the efforts of developing countries to maintain this balance is a priority.

As part of a comprehensive economic development assistance program, the United States continues to take a strong position in the global community to address, cooperatively and effectively, issues of poverty, illiteracy, population pressures, environmental degradation, and human health. Recognizing the sovereign right of each nation to respond to its specific needs, and respecting the fundamental rights and cultural and religious beliefs of parents, the United States supplies nearly half of all international assistance provided to support safe, effective, and voluntary family planning programs. In light of worldwide demand for such assistance, we now look to each nation to do its fair share in aiding voluntary population programs, not as ends in themselves, but as measures in support of sustainable development.

Massive urban migration poses a special challenge to the international community today, as urbanization leads to increased demands for infrastructure and services while exacerbating problems such as crime, inadequate health care and pollution. Ensuring environmental sustainability and slowing population growth where it threatens the economic progress that all of us seek are among the commitments that the United States has made together with other members of the international community.

Sustainability is impossible, however, without a healthy, well-educated population—hence the United States supports programs to improve maternal and child health; to expand education, skills training, and disease prevention; to integrate women more fully into the political and economic life of nations; and to target the specific health problems of the poor, which are often aggravated by conditions such as poor sanitation and lack of safe drinking water.

DRAFT DRAFT DRAFT - USAID Internal Briefing Note
11/23/99, 4:00 p.m.

Changes in Requirements for USAID Family Planning Assistance

An appropriations law enacted by the Congress in November, 1999, establishes new requirements for U.S. international family planning assistance for FY 2000, with provision for a limited Presidential waiver of the requirements.

Specifically, the requirements prohibit U.S. family planning assistance to foreign private, nongovernmental organizations (NGOs) or multilateral organizations that -- *with their own funds* -- perform abortions or "engage in activities or efforts to alter the laws or governmental policies of any foreign country concerning the circumstances under which abortion is permitted, regulated, or prohibited." Unless the President exercises a waiver provision (see below), organizations that fail to certify that they do not engage in prohibited activities would not be eligible for U.S. funding. The new requirements (if not waived), go beyond existing longstanding prohibitions on use of USAID funds for performing or lobbying for or against abortions.

Presidential waiver. The law allows for a limited Presidential waiver of the requirements. If the waiver is exercised, as is expected, the total funding for family planning is to be reduced from \$385 million to \$372.5 million, with \$12.5 million added to the "Child Survival and Disease Programs Fund." In addition, the waiver caps at \$15 million the total amount of FY 2000 assistance that can go to foreign nongovernmental or multilateral organizations that engage in the proscribed activities.

Q: How much of USAID's program is affected by these requirements?

A: USAID currently funds hundreds of foreign private and nongovernmental organizations through direct grants and contracts as well as through subgrants and subcontracts of U.S.-based cooperating agencies. In addition, USAID funds the World Health Organization, a multilateral agency that would be affected by the requirements, to carry out contraceptive research and other family planning activities. The new law does not apply to foreign governments, U.S.-based cooperating agencies, or pharmaceutical companies.

The number of non-governmental organizations that receive USAID funds and use non-USAID funds to perform or lobby on abortion is not known. Also unknown is the number of organizations which would risk foregoing FY 2000 funding or may even end existing agreements with USAID rather than provide the certification described in the statute. USAID believes the total amount of funding for organizations that would be unable or unwilling to certify is below the \$15 million cap. However, the Agency cannot be certain this is the case until it determines which of the foreign NGOs receiving USAID funding will complete the certification.

Q: How will USAID implement its programs under a Presidential waiver and the \$15 million cap to organizations benefiting from the waiver?

A: FY 2000 obligations to foreign governments, other U.S. government organizations, and pharmaceutical companies will be able to proceed normally. USAID also anticipates that U.S.-based cooperating agencies will receive their allotments as planned. However, before FY 2000 USAID funds are made available to foreign private, nongovernmental and multilateral organizations, the organizations will be requested to provide the certification described in the statute. The certification will indicate whether or not the organization will be using its own resources either to perform abortions or lobby for or against abortion during the two-year period from October 1, 1999 to September 30, 2001 (the period during which FY2000 funds can be obligated), or during the period in which USAID funds would be expended, whichever comes first.

The certifications, together with the planned USAID funding levels for each organization, will be reviewed by USAID. This information will be used to determine whether planned funding for organizations engaged in abortion activities (or unwilling or unable to provide certification that they are not so engaged), when totaled, is within the \$15 million cap. The information would also be used to inform decisions on distribution of the \$15 million if necessary. *USAID will do everything possible to minimize the burden of the certification process for recipient organizations, to ensure timely obligation of funds, and to avoid disruptions in family planning services.*

Q: What will be the impact of reduced funding for family planning activities?

A: *USAID will review allocations carefully in order to minimize the impact of the reduced funding on family planning programs. Funds transferred to the Child Survival and Disease Programs Fund will be used to reduce infant and child mortality through immunization and Vitamin A programs. The Administration is also committed to seeking a significant funding increase for FY 2001.*

November 23, 1999
\\fy00brf.doc



U.S. Agency for International Development
Bureau for Legislative and Public Affairs
1300 Pennsylvania Ave., NW, Room 6.10A
Washington, D.C. 20523

FAX TRANSMITTAL	DATE: 4-15
TO: Martha Foley	FROM: Bob Boyer
ORG:	ORG: USAID
PHONE:	PHONE: 712-4300
FAX:	FAX: (202) 216-3237
NUMBER OF PAGES SENT INCLUDING COVER SHEET: 2	
MESSAGE:	

FORMING SEPARATE ORGANIZATIONS FOR ABORTION ACTIVITIES

Issue: To deal with the restrictions in the Smith amendment, should the U.S. require that foreign nongovernmental organizations (NGOs) establish separate NGOs through which they use their own funds to perform lawful abortions or engage in lobbying?

Comment: During the Reagan and Bush administrations, HHS adopted regulations for programs in the U.S. that required NGOs which received federal funds to conduct any abortion activities through separate NGOs. U.S. NGOs, which have more institutional capability and resources than foreign NGOs, found that these requirements created serious financial, administrative and operational problems. Shortly after taking office, President Clinton ordered HHS to suspend these requirements. Forcing foreign NGOs to establish separate NGOs would cause serious operational and implementation problems for them and would expose the Administration to criticism in the U.S. and overseas.

- Many recipients of U.S. assistance are small NGOs which do not have the administrative or financial resources or numbers of trained personnel to create separate, effective NGOs with different boards, officers, employees, facilities and books and records.
- Foreign NGOs often receive small amounts of U.S. funds, and the cost of creating and operating separate organizations in many cases would be more than the assistance USAID provides them.
- NGOs often receive assistance from other donors as well as USAID, and a U.S. requirement for separate NGOs could interfere in an artificial way with the programs of other donors.
- Women who resort to abortion are the very people who need family planning information and services to avoid future abortions, and providing this information to them at facilities where NGOs perform legal abortions is an important way to reduce the incidence of repeat abortions.
- The requirement to operate through separate organizations and the difficulties involved with doing that would have a chilling effect on many organizations which would forego lawful abortion activity and the opportunity to participate in the country's democratic process rather than chance the loss of U.S. funding.
- The restriction on activity to alter the laws of a country with respect to the circumstances under which abortion is permitted, regulated or prohibited, is so broad that establishing a separate organization probably would not satisfy the requirement.
- Creating a separate NGO would not always avoid the restrictions in the Smith amendment because it attributes to a foreign NGO the abortion activity of the NGO's subgrantees and subcontractors.



United States Department of State

Washington, D.C. 20520

BUREAU OF LEGISLATIVE AFFAIRS (H)
OFFICE OF LEGISLATIVE OPERATIONS

FAX

TO: _____ Martha Foley

FROM: _____ Wendy Sherman

DATE: 10/6/95 **TIME:**

TIME: _____

NUMBER OF PAGES (including cover sheet): 4

URGENT _____

FOR CLEARANCE _____

FYI

PER YOUR REQUEST

MESSAGE: _____

You might find this summary helpful.

FAX # OF SENDER (202) 647-2762

TRANSMISSION PROBLEMS CALL (202) 647-1714

MEXICO CITY POLICY

What was the Mexico City policy?

Under the Reagan and Bush administrations a "policy" -- not a statute -- was adopted that made a non-governmental organization (NGO) ineligible for USG family planning assistance if the NGO used funds from any source to perform or actively promote abortion as a method of family planning in foreign countries. The policy was announced at an international population conference in Mexico City in 1984.

How did the Reagan/Bush administrations implement it?

The Mexico City policy was applied to foreign NGOs only. US organizations were excepted because both the Reagan and Bush administrations recognized that if the US penalized US NGOs for their privately-funded speech in foreign countries it would have been a violation of their constitutional rights of speech and association. Although US NGOs remained eligible for assistance irrespective of their privately-funded abortion activity, grant agreements prevented US NGOs from transferring federal funds to foreign NGOs that performed or promoted abortion with any funds. Some of the most experienced, qualified international family planning providers did not accept USG funding during this period.

This restriction did not apply to foreign governments.

How is Sec. 564 of the House bill more extreme than the Mexico City policy?

Section 564 of the House bill has three sections:

Section (a) prohibits funding to any organization, US or foreign, that uses private funds to perform legal abortions in foreign countries. The provision makes US organizations ineligible for assistance, by law, on the basis of what they choose to do with private funds. This is much broader than the Mexico City policy that was implemented during the Reagan and Bush administrations.

Section (b) prohibits funding to any organization that uses private funds to engage in any activity to alter laws relating to abortion in foreign countries. This provision is likely to be found unconstitutional because it prevents US NGOs from exercising their right to free speech. This language is so ambiguous that it could be used to defund an organization for publishing factual information regarding maternal deaths associated with illegal abortions. It also has the effect of preventing foreign NGOs from engaging in the democratic, political process in their own country.

Section (c) bars any funding to the UN Population Fund (UNFPA) unless the President certifies that UNFPA has terminated all its activities in China or that there have been no forced abortions in China. This provision has no direct correlation to the Mexico City policy.

-2-

What impact will this legislation have?

US NGOs are likely to challenge this section as unconstitutional on its face. This litigation could result in a total halt to the United States international family planning program, or a restraining order permitting the program to proceed without applying the restriction in Section 564 until the courts resolve the constitutional issue.

This provision would make the US foreign assistance program less efficient and effective because it could prohibit funds from going to the most experienced and qualified family planning providers and force the programs to be implemented less effectively by foreign governments.

The provision also may have another unintended negative effect. During the eight years the Mexico City policy was implemented, there was no decrease in abortions worldwide. This provision could increase the number of women who resort to abortion because they have become pregnant due to inadequate voluntary family planning information and services.

This provision is not necessary to prevent US funds from being used for abortion. US taxpayer funding already is clearly and unequivocally separated from abortion in international population programs. The US does not support abortion as a method of family planning and existing law and practice prohibit US government funds from being used to provide abortions, except where the life of the mother is endangered or in cases of rape or incest.

What is the Clinton Administration position?

One of the earliest actions taken by President Clinton in January 1993 was to reverse the Mexico City policy. Since that time, the United States has regained its leadership position within the international community in the effort to provide voluntary family planning services to men and women worldwide -- 120 million of whom would otherwise lack these services. The Administration believes that access to voluntary family planning services diminishes the need to resort to abortion. In addition, the Administration has serious constitutional concerns about Section 564 of the House-passed bill. If Section 564 is retained in the conference report on the Foreign Operations Appropriations bill, the Secretary of State will recommend that the President veto the bill.

What is the issue about funding for UNFPA?

The Administration supports the language in the Senate bill which ensures that no US government funds are used to support UNFPA's small program in China. No US money currently provided to UNFPA is used to support its program in China.

-3-

The United Nations Population Fund (UNFPA) is the leading multilateral organization providing vitally-needed voluntary family planning services to over 140 countries throughout the world. UNFPA funds programs for a wide range of activities including maternal health, child survival, and education.

The existing five-year UNFPA program in China ends December 31, 1995. China has not made a formal request to UNFPA for a new program. Any new program request would have to come before the UNFPA Executive Board for approval by consensus. Should this situation arise, the US will vigorously oppose a new UNFPA program in China.



FAX FAX FAX

NUMBER OF PAGES
INCLUDING THIS ONE:

2

DATE:

10/9/97

TO:

Martha Foley

FROM:

Stephen Triso
GC/Acting Deputy General Counsel
ROOM 6896 WNS
U.S. AGENCY FOR INTERNATIONAL
DEVELOPMENT
OFFICE OF GENERAL COUNSEL
WASHINGTON, D.C. 20523

PHONE:

456-2230

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(202) 647-8557

6384

COMMENTS:

4

October 9, 1997

Note to Martha Foley

From: USAID/GC, Stephen Tisa

Subject: Implementation of Discrimination Laws

Yesterday we talked about whether USAID already imposes penalties on foreign nongovernmental organizations based on what the organizations do with their own funds, and you mentioned specifically enforcement of U.S. discrimination laws in the assistance program. I told you I was confident that the Agency does not apply U.S. discrimination laws in foreign countries. You asked for more information or confirmation in case the questions are raised again.

USAID has regulations that implement U.S. discrimination laws. They apply to programs and activities in the United States receiving Federal financial assistance. USAID regulations are published in 22 CFR Chapter II.

- Part 209 implements Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d) which prohibits discrimination on the basis of race, color or national origin.
- Part 217 implements section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) which prohibits discrimination on the basis of handicap.
- Part 218 implements the Age Discrimination Act of 1975, as amended (Pub. Law 95-478).

The Agency also has regulations that implement Government-wide debarment and suspension and requirements for drug-free workplace. This part 208 applies to activity in foreign countries as well as the United States.

THE WHITE HOUSE

WASHINGTON

October 8, 1997

MEMORANDUM FOR THE PRESIDENT

FROM: JOHN HILLEY *John Hilley*
MARTHA FOLEY *MF*

SUBJECT: Mexico City Policy Issues in Conferences on FY 1998
Foreign Operations Appropriations Act and Foreign
Relations Authorization Act

From 1984 to 1993, the Reagan and Bush Administrations implemented the "Mexico City policy," which prohibited USAID assistance to foreign non-governmental organizations that performed or promoted abortions even if only non-USAID funds were used for the abortion-related activities.

On January 22, 1993, you overturned the policy by issuance of a memorandum to USAID.

Mexico City policy is again an issue in the FY 1998 Foreign Operations appropriations conference and in the conference on the foreign relations authorization bill, H.R. 1757, which includes authorization for U.N. arrears and reorganization authority.

This memo reviews the status of the legislation and the policy considerations involved.

Current Law -- FY 1997 Foreign Operations Act

The FY 1997 Foreign Operations Appropriations Act did not include Mexico City language and provided a slight increase in funding over the FY 1996 level. However, it "metered" the funds at a rate of eight percent per month and imposed an obligation delay until July 1, 1997. The bill provided that if you found that the July starting date harmed the program and if Congress enacted a joint resolution of approval by February 28, the funds could be made available on March 1, 1997 (subject to the eight percent metering). You made the finding of harm to the program and the Congress enacted the joint resolution, releasing the funds on March 1. (The FY 1996 bill had more restrictive metering, imposed an obligation delay until July 1, 1996, and did not include a special process for advancing the obligation date.)

FY 1998 Foreign Operations Bill and H.R. 1757

The FY 1998 Foreign Operations appropriations conferees are currently struggling with the issue of Mexico City policy. In early September, the House voted 234-191 to include in the bill

Mexico City language authored by Rep. Chris Smith (R-NJ). By a vote of 210-218, it defeated an effort by Reps. Ben Gilman (R-NY) and Nancy Pelosi (D-CA) to modify the Smith amendment. The Senate bill contains no Mexico City language. The funding level for international family planning is \$385 million in the House bill (a freeze at the FY 1997 level) and \$435 million in the Senate bill.

Yesterday, by a vote of 233-194-1, the House approved a non-binding motion to instruct its conferees on the Foreign Operations bill to insist on the House position on the Mexico City issue (the Smith amendment). However, House Appropriations Committee Chairman Livingston voted present. In remarks on the House floor, he indicated that he voted that way because he believed the House position had no chance of being accepted by the Senate or by you, and the stalemate was delaying action on the appropriations bill.

The conferees on H.R. 1757 are also deadlocked on the issue of Mexico City policy, and resolution of critical issues related to U.N. arrears has been delayed as a result. The House-passed bill includes Mexico City language authored by Rep. Smith that is identical to that in the appropriations bill (adopted by a vote of 234-193). The Senate bill does not include such language.

Today, the House adopted a non-binding motion by a vote of 236-190 to insist on the Smith language in conference on H.R. 1757.

To further complicate matters, the House- and Senate-passed FY 1998 Commerce-Justice-State appropriations bills both include \$100 million in FY 1998 U.N. arrears; the conference report on that bill would be the appropriate vehicle to carry the outyear advance appropriations for the arrears. If, because of the Mexico City deadlock, the conference on H.R. 1757 cannot reach resolution on the arrears question before the appropriations process is concluded, it is possible that outyear funding for U.N. arrears may not be provided this fiscal year.

Smith Amendment Mexico City Provisions

The first part of the Mexico City provisions in the Smith amendment provides that no population assistance funds may be made available to any foreign, private nongovernmental or multilateral organization until the organization certifies that it will not perform abortions in any foreign country except where the life of the mother would be endangered or in cases of "forcible" rape or incest. The prohibition does not extend to assistance provided directly to a government or to treatment of injuries resulting from abortions.

The second part provides that no population assistance funds in the bill may be made available to any foreign private nongovernmental or multilateral organization until the organization certifies that it will not violate the laws of any

country with respect to abortion or engage in any effort to alter the laws or policies of any country on abortion. The prohibition does not extend to activities in opposition to coercive abortion or involuntary sterilization.

The language on Mexico City in both bills is identical and both versions are drafted as changes to permanent law.

Gilman-Pelosi Mexico City Foreign Operations Provisions

The Gilman-Pelosi amendment to the Smith amendment on the Foreign Operations appropriations bill provided that "organizations that do not promote abortion as a method of family planning and that utilize [appropriated international family planning funds] to prevent abortion as a method of family planning" would not be subject to the restrictions on performing abortions with their own funds or on lobbying with their own funds. It left in place the Smith amendment requirement that grantees comply with the abortion laws of a country. Provisions in permanent law preclude the use of U.S. funds for performing abortions, and provisions included in past years in the Foreign Operations bill preclude the use of U.S. funds for lobbying for or against abortion.

Administration Positions

The Statement of Administration Policy on the Foreign Operations bill indicated that you would veto the bill if it included the Mexico City language passed by the House. John Hilley recently wrote the chairs and ranking members of the Senate Foreign Relations Committee and the House International Affairs Committee to advise them that you would veto H.R. 1757 if it contained the House-passed Mexico City language. The Administration has taken no formal position on the Gilman-Pelosi amendment.

Policy Considerations About the Gilman-Pelosi Amendment

Although the State Department and USAID initially supported the Gilman-Pelosi amendment as a constructive alternative to the Smith amendment, they have expressed reservations about it as a final conference outcome. Their primary concern was that grantees might be reluctant to engage in permissible activities for fear of losing U.S. funding. In addition, they are concerned that OMB requirements that all federal grantees be audited by independent audit firms could result in intrusive scrutiny of organizations' activities financed with non-federal funds. They are also concerned about the possibility of an unduly restrictive judicial interpretation of the phrase "promote abortion as a method of family planning." At the same time, however, the agencies also expressed grave reservations about the effect on the program of continuing the current funding restrictions. The key groups involved in international family planning issues have also expressed similar concerns.

Alternatives

It is the view of the State Department and USAID that several other options are preferable to the Gilman-Pelosi language. They are: (1) a clean bill with no Mexico City language; (2) quarterly metering with no obligation delay and no Mexico City language; (3) monthly metering with no obligation delay and no Mexico City language; (4) modifications to Gilman-Pelosi to clarify the language; (5) current law; (6) "stand-alone" Gilman-Pelosi language (keeping the prohibitions in Gilman-Pelosi without the underlying Smith language); and (7) Gilman-Pelosi with the Smith language, as offered in the House. We believe that the key groups agree with the first several options, but would favor the last two options over current law.

There are a number of views on the Hill as to how this issue should be resolved. There is some support among key Democrats for trying to find a few more Members to support Gilman-Pelosi, in view of the fact that it originally got 210 votes. On the other hand, some key Republicans view either current law or provisions more restrictive than current law (including provisions that restrict grantees' use of their own funds, as opposed to further metering restrictions) as their preferred approach. Another option that has been discussed is to tie the release of family planning funds in the Foreign Operations bill to some resolution of the issue in the conference on H.R. 1757. As in the past, Senators tend to view this as an issue that must be resolved on the House side.

8th Congressional District

San Francisco, California

Fax Transmission
from
The Washington Office of
Congresswoman Nancy Pelosi

Phone #: 202/225-4965



Fax #: 202/225-8259

ATTENTION: _____

*Martha Foley**Shelli Peterson*

FROM: _____

Carol

DATE: _____

8/9# of Pages: 6
(Including cover sheet)Message/Instructions: _____

_____Action Required: _____

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H.L.C.

**SUBSTITUTE OFFERED BY MS. PELOSI OF
CALIFORNIA
TO THE AMENDMENT OFFERED BY MR. SMITH OF
NEW JERSEY**

At the end of the bill, insert after the last section
(preceding the short title) the following new section:

- 1 PROHIBITION ON FUNDING FOR ABORTION AND LOBBY-
2 ING FOR OR AGAINST ABORTION; RESTRICTIONS ON
3 ASSISTANCE TO FOREIGN ORGANIZATIONS; LIMITA-
4 TION RELATING TO FORCED ABORTIONS IN THE
5 PEOPLE'S REPUBLIC OF CHINA
- 6 SEC. _____. (a) PROHIBITION ON FUNDING FOR
7 ABORTION AND LOBBYING FOR OR AGAINST ABORTION.—
8 (1) None of the funds made available to carry out part
9 I of the Foreign Assistance Act of 1961 may be used—
10 (A) to pay for the performance of abortions, ex-
11 cept where the life of the mother would be endan-
12 gered if the pregnancy were carried to term, or in
13 the cases of forcible rape or incest; or
14 (B) to motivate or coerce any person to practice
15 abortions.
- 16 (2) None of the funds made available to carry out
17 part I of the Foreign Assistance Act of 1961 may be used
18 to lobby for or against abortion.

H.L.C.

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1 (b) RESTRICTIONS ON ASSISTANCE TO FOREIGN OR-
2 GANIZATIONS.—(1) None of the funds appropriated for
3 population planning activities or other population assist-
4 ance under part I of the Foreign Assistance Act of 1961
5 may be made available during fiscal year 1998 and fiscal
6 year 1999 for any foreign private, nongovernmental, or
7 multilateral organization until the organization certifies
8 that it (A) will prevent, avert, or discourage abortion as
9 a method of family planning, (B) will not advance or en-
10 courage abortion as a method of family planning, and (C)
11 will not violate the laws or governmental policies of any
12 foreign country concerning the circumstances under which
13 abortion is permitted, regulated, or prohibited. This prohi-
14 bition may not be construed to apply to the treatment of
15 injuries or illnesses caused by legal or illegal abortions or
16 to assistance provided directly to the government of a
17 country.

18 (2) None of the funds appropriated for population
19 planning activities or other population assistance under
20 part I of the Foreign Assistance Act of 1961 may be made
21 available during fiscal year 1998 and fiscal year 1999 for
22 any foreign private, nongovernmental, or multilateral or-
23 ganization until the organization certifies that it (A) will
24 prevent, avert, or discourage abortion as a method of fam-
25 ily planning, (B) will not advance or encourage abortion

H.L.C.

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1 as a method of family planning, (C) will not spend a sub-
2 stantial portion of its funds on activities or efforts to alter
3 the laws or governmental policies of any foreign country
4 concerning the circumstances under which abortion is per-
5 mitted, regulated, or prohibited, and (D) will not engage
6 in any activity or effort in violation of applicable national
7 law to alter the laws or governmental policies of any for-
8 eign country concerning the circumstances under which
9 abortion is permitted, regulated, or prohibited. These re-
10 strictions do not apply to activities in opposition to coer-
11 cive abortion or involuntary sterilization.

12 (3) The prohibitions contained in paragraphs (1) and
13 (2) apply to funds made available to a foreign organization
14 either directly or as a subcontractor or subgrantee, and
15 the certifications required by paragraphs (1) and (2) apply
16 to activities in which the organization engages either di-
17 rectly or through a subcontractor or subgrantee.

18 (4) If any foreign private, nongovernmental, or multi-
19 lateral organization receiving funds appropriated for popu-
20 lation planning activities or other population assistance
21 fails to comply with the restrictions of paragraphs (1) and
22 (2) then all such assistance to such organization shall be
23 terminated and such organization shall be ineligible for as-
24 sistance under this Act for a period of two years.

H.L.C.

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1 (5) Not later than November 30, 1999, the President
2 shall submit to the Congress a report certifying the extent
3 to which organizations receiving funds for population plan-
4 ning activities or other population assistance have or have
5 not complied with the restrictions of paragraphs (1) and
6 (2).

7 (c) LIMITATION RELATING TO FORCED ABORTIONS
8 IN THE PEOPLE'S REPUBLIC OF CHINA.—Section 301 of
9 the Foreign Assistance Act of 1961 is amended by adding
10 at the end the following:

11 “(i) LIMITATION RELATING TO FORCED ABORTIONS
12 IN THE PEOPLE'S REPUBLIC OF CHINA.—Notwithstand-
13 ing section 614 of this Act or any other provision of law,
14 no funds may be made available for the United Nations
15 Population Fund (UNFPA) in any fiscal year unless the
16 President certifies that—

17 “(1) UNFPA has terminated all activities in
18 the People's Republic of China, and the United
19 States has received assurances that UNFPA will
20 conduct no such activities during the fiscal year for
21 which the funds are to be made available; or

22 “(2) during the 12 months preceding such cer-
23 tification there have been no abortions as the result
24 of coercion associated with the family planning poli-

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H.L.C.

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1 cies of the national government or other government
2 entities within the People's Republic of China.
3 As used in this section, the term 'coercion' includes phys-
4 ical duress or abuse, destruction or confiscation of prop-
5 erty, loss of means of livelihood, or severe psychological
6 pressure. If the President is unable to make the certifi-
7 cation required by paragraph (1) or (2) with respect to
8 a fiscal year, funds allocated or otherwise made available
9 for UNFPA for such fiscal year shall be transferred to
10 the United States Agency for International Development
11 for population planning activities or other population as-
12 sistance."



U.S. Agency For International Development
Washington, D.C. 20523

FACSIMILE TRANSMITTAL COVER SHEET

DATE: 9/30/98

TO:

ATTENTION: Martha Foley

ORGANIZATION: White House, Legislative Affairs

FAX PHONE: 456-2271

OFFICE PHONE: 456-2230

FROM:

ORIGINATOR: Bob Boyer

ORGANIZATION: Bureau for Legislative and Public Affairs

FAX PHONE: 216-3237

OFFICE PHONE: 712-4300

SUBJECT: Tiahrt Amendment

NUMBER OF PAGES (including this cover sheet): 7

COMMENTS:

Martha,

As you heard from Carolyn Bartholemew, the bipartisan HACFO staff want to meet tomorrow at 9:30 to discuss the Tiahrt Amendment. Attached is the USAID analysis which we gave all parties last week preparatory to a meeting requested by John Shank. The analysis is basically Steve Tisa's interpretation of the amendment, combined with input from the Office of Population. Clearly, we would prefer that the House agreed to delete the provision. However, if the HACFO staff have to take something back to Tiahrt et al., the proposed language included in the analysis would fix the problems that the amendment in its current form would cause the program.

Population: TIAHRT AMENDMENT: REQUIREMENTS FOR VOLUNTARY
FAMILY PLANNING PROJECTS

DESCRIPTION OF AMENDMENT:

The amendment requires that voluntary family planning projects shall not (1) use numerical quotas, goals, or targets on any level other than estimates for planning and budgeting; (2) pay any form of incentive or monetary or nonmonetary compensation to clients or to providers for achieving a numerical goal or quota; (3) deny any right or benefit to a welfare program or health care to individuals who do not accept family planning. Further, projects shall (4) inform each client about the method chosen, its contraindications and health risks, and alternatives; (5) provide a reasonable range of methods including natural family planning; and (6) ensure that experimental methods of family planning are administered only in a scientifically controlled study in which participants are advised of potential risks and benefits. Finally, within 30 days of determining a violation of any of these provisions, the USAID Administrator must write a report on each violation to the relevant House and Senate Committees.

USAID ANALYSIS AND PROPOSED ALTERNATIVE LANGUAGE

- The amendment is unnecessary because USAID already implements the amendment's objectives either as a matter of policy or in conformity with more broadly stated requirements in the foreign assistance authorizing legislation. USAID contracts, grants, and cooperative agreements specifically require recipients:
 - "to take any steps necessary to ensure that funds...not be used to coerce any individual,"
 - "to conduct activities in a manner which safeguards the rights, health and welfare of all individuals who take part in the program," and
 - "to provide a broad range of family planning methods and services" or information regarding where such methods and services may be obtained.
- These programmatic and contractual requirements are monitored and enforced through ongoing staff monitoring, periodic program evaluations and independent project audits, and constant dialogue with host country recipient institutions.
- The difficulties of interpreting and applying, as a matter of law, requirements as specific as those in the amendment could paralyze implementation of USAID's family planning assistance program and, by effectively denying services to many women, have the opposite effect of that which is intended. The monitoring and reporting systems that would be needed to comply with its provisions and report to Congress on any violation would be so elaborate, costly and

burdensome for both USAID and host country partners that program efficiency and ability to serve clients would be seriously compromised, and many such partners are likely to refuse assistance rather than endure such intrusive oversight. In its thirty-year history, the Agency has fully addressed problems covered by the amendment without the burdensome systems that would be needed to identify and report on every violation as envisioned by the amendment.

Even with good intentions, what constitutes a legal "violation" would be nearly impossible to define and measure objectively in the wide variety of situations covered by the amendment, as is discussed further below. USAID assistance supports programs of sovereign governments as well as programs of thousands of non-governmental organizations in over 60 countries. Where USAID assistance is provided in conjunction with other bilateral and multilateral donors, as in Bangladesh, Bolivia, Ghana, and many other countries, it is unlikely with the proposed amendment that USAID could continue its support. Neither governments nor other donors would be likely to tolerate the cumbersome processes that would be necessary to monitor and report to Congress on both administrative and service-related violations throughout a national program receiving USAID assistance.

- Provision (5) of the amendment concerning methods to be made available is inconsistent with current law and should be deleted. See discussion of (5) below.
- Two other provisions of the amendment (1) and (4) also raise particular issues, and alternative language is proposed, as discussed below.
- Three provisions of the amendment (2), (3), and (6), would codify principles and policies that already govern USAID family planning assistance, and are acceptable on their own merits although unnecessary. These provisions become problematic, moreover, in the context of this amendment as they are coupled with the amendment's extremely burdensome reporting requirements to Congress for any violation within a very short time period.
- The amendment would require notification within 30 days of any violation, even for rare events. It takes no account of the significance of the violation or the corrective action taken, which would make the reporting requirement unnecessary and extremely onerous. For example, one health service provider not informing one family planning client of potential health risks is a violation. Even if corrected by the project manager, a report must still be prepared and filed with the Committees.

Proposed alternative text of the Tiahrt Amendment to Foreign Operations, Export Financing, and Related Programs Appropriations Bill, 1999, H.R. 4569: (USAID proposed deletions indicated by ~~xxxx~~; insertions indicated by xxxx.)

Page 8, line 10, after "services" insert the following:
; and that any such voluntary family planning project shall meet the following requirements:

(1) ~~service providers or referral agents in the project shall not be subject to requirements to achieve the project shall not make use of quotas, goals, or other numerical targets, on an individual, local, regional, or national basis, of total number of births, the number of family planning acceptors, or acceptors of a particular method of family planning, or any other performance standard (this provision shall not be construed to include the use of quantitative estimates or indicators for budgeting and planning purposes);~~

Comment: USAID policy, as reaffirmed last May by the Administrator, is to oppose performance-based quotas or targets and "work with host country partners to change these policies or activities." At the same time, the language of the amendment is so broad that neither USAID nor host country managers would find it practical to comply. USAID is working in sovereign countries, with increasingly decentralized decision-making, and where policies often change. Since all programs work with numerical indicators of expected achievements, it would be extremely difficult if not impossible to make an objective distinction between "numerical goals" (not permitted under the amendment) and "quantitative estimates for budgeting and planning purposes" (permitted) as a test for violation of this amendment or, by implication, for eligibility for USAID assistance. Countries which have quantitative goals or indicators for their family planning program achievements, such as Bolivia, Zambia, the Philippines, and many others, would be at risk of losing USAID assistance, despite the fact that their programs are fully voluntary.

The changes proposed here put the focus where it belongs, on the service providers or referral agents -- the individuals or facilities which directly serve clients or those who refer them. Under the alternative, countries which have numerical goals in their national, regional, or local-level family planning strategies would be able to retain these goals as well as performance standards which relate to the quality of services provided. Reference to "any other performance standards" should be deleted, as that is so broad as to preclude, for example, "percentage of clients who receive their choice of method at service sites with trained providers." Reference to "indicators" is included,

as programs at all levels regularly measure progress in increasing use of family planning, often through national sample surveys, as well as progress on many other dimensions of service access and quality. These measures are essential for budget and planning purposes, including forecasting contraceptive purchasing needs.

(2) the project shall not include payment of incentives, bribes, ~~or gratuities, or any other form of compensation or reward, monetary or nonmonetary,~~ to (A) an individual in exchange for becoming a family acceptor, or (B) program personnel for achieving any ~~a numerical goal target or quota of total number of births, number of family planning acceptors, or acceptors of a particular method of family planning.~~

Comment: Reference to "any other form of compensation or reward, monetary or nonmonetary" is deleted, as it is simply too broad. Monetary rewards would be covered by reference to incentives, bribes, and gratuities, as would some nonmonetary rewards such as job offers. However, precluding all forms of recognition for progress achieved -- certificates, ceremonies, letters of congratulations, and the like -- seems unnecessary as well as impossible to monitor. Phrasing is modified in (B) to make it consistent with (1) above.

This provision as modified is consistent with existing USAID policy (in force since 1982 and reiterated by the USAID Administrator in a special message on informed choice and informed consent to all staff last May), which states that "An individual's consent is considered voluntary if it is based upon the exercise of free choice and is not obtained by any special inducements or element of force, fraud, deceit, duress or other forms of coercion or misrepresentation." The same policy states in the case of voluntary sterilization (VS), that no USAID funds "can be used to pay potential acceptors of sterilization to induce their acceptance of VS" and that payments to providers must be made in such a way that "no financial incentive is created for the providers to carry out VS procedures compared to provision of other methods of family planning."

(3) the project shall not deny any right or benefit, including the right of access to participate in any program of general welfare or the right of access to health care, as a consequence of any individual's decision not to accept family planning services;

Comment: This provision can be supported. It is consistent with the 1982 policy stating that USAID "does not support programs in which there is any element of coercion of individuals to practice family planning or to accept any

particular method of contraception."

(4) the project shall ~~inform family planning acceptors, in comprehensible terms, of the nature of the family planning method chosen, its contraindications and potential health risks, and available alternatives, conduct activities in a manner which safeguards the rights, health and welfare of all individuals who take part in the project.~~

Comment: The language originally in the amendment should be deleted and replaced by language proposed here that is currently in USAID contracts and agreements. In effect, it calls on all concerned to carry out programs in such a manner as to put clients first and to keep this key objective in mind when exercising managerial and medical judgement. Counselling clients on both risks and benefits so that they can make an informed and voluntary choice is a central objective of USAID policies and programmatic guidelines. Just in the last five years, USAID cooperating agencies have worked with over thirty countries to develop or revise guidelines for providing contraceptives and has supported distribution of hundreds of thousands of manuals and other materials to help providers provide up to date technical information. However, it would be impossible and unprecedented to codify universal specific regulations for the wide range of service providers, clients with different needs and characteristics, and different family planning methods, -- as the amendment would require -- and then hold programs, including those of sovereign governments, responsible for every departure from such regulations.

For example, programs that work with commercial distributors to market condoms subsidized by USAID would be precluded by the amendment as written, as they cannot as a practical matter provide comprehensive counselling as the amendment would require. Natural family planning providers would also have particular difficulty complying with this requirement. A doctor or nurse counselling a young married woman desiring a temporary method to delay her first pregnancy would be required to spend time counselling her on sterilization, contraceptive implants, and IUDs. Medical counselling on family planning or other health procedures in the United States is not governed by the kind of legal regulations implied by this amendment as written.

~~(5) the project shall provide a reasonable range of options of methods of family planning, including natural methods,~~

Comment: This provision should be deleted. Under current law (the DeConcini amendment), voluntary family planning projects must offer, either directly or through referral or information, a broad range of methods. However, the Tiahrt

amendment states that each project itself, on a given site, must actually offer a range of methods -- a requirement which is currently not made, for example, of natural family planning providers. Such a requirement would also be impossible for programs which work through village-based health workers to provide temporary methods such as pills and condoms.

~~(6) (5) the project shall ensure that experimental contraceptive drugs and devices are provided only in the context of a scientific methods of family planning are administered only in a scientifically controlled study in which participants are advised of potential risks and benefits.~~

Comment: This provision can be supported as modified, as it affirms existing USAID policy. "Methods of family planning" is changed to "contraceptive drugs and devices," so as not to apply to a service provide who is trying a different approach to a method such as the lactational amenorrhea method (LAM). USAID has adopted and complies with the government-wide common rule on protection of human subjects in all research. USAID research contracts, cooperative agreements and grants already require that this rule be followed, including provisions on review and approval by human subjects committees and on informed consent, with information to study participants on risks and benefits.

~~and, not later than 30 days after the date on which the Administrator of the United States Agency for International Development determines that there has been a violation of any provision contained in the preceding 6 paragraphs, or a violation of any other provision contained in this heading, the Administrator shall submit to the Committee on International Relations and the Committee on Appropriations of the House of Representatives and to the Committee on Foreign Relations and the Committee on Appropriations of the Senate a report containing a description of such violation.~~

Comment: Even with the above suggested changes in the amendment, this provision should be deleted. Determining the kinds of events which would trigger a report would still be extremely difficult. Rather than putting a reporting requirement into law, it would be more practical to expect the Administrator to inform Congressional committees in a timely manner when substantial evidence comes to his or her attention indicating a significant violation of the amendment's provisions, i.e., where a pattern or practice violating the provisions is officially documented. Information should also be provided on corrective actions taken.

USAID

U.S. AGENCY FOR
INTERNATIONAL
DEVELOPMENT

Population: SMITH AMENDMENT: 'RESTRICTIONS ON ASSISTANCE TO FOREIGN ORGANIZATIONS INVOLVED IN CERTAIN ABORTION-RELATED ACTIVITIES UTILIZING THEIR OWN FUNDS; with appended statement of position on second degree amendment sponsored by Reps. Gilman and Pelosi and others.

DESCRIPTION OF AMENDMENT:

The Smith amendment would prohibit population assistance for any foreign private, nongovernmental or multilateral organization involved in abortion-related activities, even though these activities are carried out with non-USG funds. The Smith amendment also would terminate funding to UNFPA if UNFPA has a program in China or if China does not change its policy.

DEPARTMENT POSITION:

Strongly oppose. Should this language be included in the final bill presented to the President, the President would veto the bill.

TALKING POINTS:

- This amendment is unnecessary, since longstanding law and policy of this and previous Administrations prohibit use of USAID funds to pay for abortions as a method of family planning, to motivate or coerce any person to have an abortion, or to lobby for or against abortion. Strict procedures assure that no U.S. funds are used for abortion, including legally binding agreements with organizations receiving funds, staff monitoring, and regular audits by nationally recognized accounting firms.
- By prohibiting USAID funding of foreign private organizations which engage in certain abortion-related activities with non-USAID funds, the amendment would preclude USAID from working with organizations that provide effective voluntary family planning and women's health services, often in places where women have few alternatives. The result would be increases in unintended pregnancies, maternal and infant deaths, and unsafe abortions.
- Applying these new restrictions would impose a different standard for foreign organizations in developing countries than for United States organizations, whose rights are protected by the Constitution.
- The amendment would create conflicting U.S. foreign policy messages. Proponents of the Smith amendment argue that, by

providing support for family planning services, the U.S. may unwittingly enable organizations to use private funds to provide legal abortion services. Carried to its logical conclusion, of course, the U.S. would not provide any foreign assistance in countries where legal abortion services are supported by national health systems, such as Israel and South Africa.

- The Statement of Administration Position on the bill states that "Should this language be included in the final bill presented to the President, the President would veto the bill."

GILMAN-PELOSI-CAMPBELL-LOWEY-GREENWOOD-DELAURO-SLAUGHTER: Second Degree Amendment to Smith

DESCRIPTION OF AMENDMENT:

This second degree amendment would restrict the impact of the Smith amendment by allowing organizations to be eligible for USAID population funding if they do not promote abortion as a method of family planning and utilize USAID population funds to prevent abortion as a method of family planning. The amendment also provides that if funding for UNFPA were terminated under the terms of the Smith amendment, it would be transferred to the USAID population program.

DEPARTMENT POSITION:

Support, as an alternative to the current language of the Smith amendment.

TALKING POINTS:

- This second degree amendment would preserve current legal prohibitions on the use of U.S. funds for abortion.
- This amendment would emphasize U.S. commitment to prevention of abortion. Organizations could continue their current uses of USAID population funds -- to increase family planning information and services, along with supportive investments in related health and population activities -- which together result in more couples using contraceptive methods and therefore in prevention of unintended pregnancies and abortions.
- Further, under this amendment, funding would be prohibited to any organizations that "promote abortion as a method of family planning."
- While putting UNFPA funding at risk -- at great cost to the lives and health of women and children in non-USAID assisted countries who benefit from UNFPA-funded programs -- this amendment would nevertheless protect the U.S. bilateral family planning program administered by USAID.

July 29, 1997

USAID

U.S. AGENCY FOR
INTERNATIONAL
DEVELOPMENT

Population: PAUL AMENDMENT: ELIMINATING INTERNATIONAL
POPULATION ASSISTANCE

DESCRIPTION OF AMENDMENT:

This amendment would eliminate USAID support for voluntary family planning programs.

ADMINISTRATION POSITION:

Strongly oppose.

TALKING POINTS:

- If enacted, the Paul amendment would cause deaths and suffering for millions of women and children whose lives and well-being depend on the availability of family planning and health services supported under USAID's population assistance program. Over 580,000 women die annually -- one woman every minute -- of causes related to pregnancy and childbirth. Family planning can prevent 25 percent of all maternal and infant deaths by avoiding unintended pregnancies and spacing births.
- The amendment would close the most effective avenue to prevent abortions and the 75,000 deaths of women that occur each year as a result of the complications of unsafe abortion. The World Health Organization estimates that 40 percent of unintended pregnancies end in abortion. Family planning enables couples to prevent unintended pregnancies. Large declines in the number of abortions have occurred due to the expansion of family planning services in many countries across the globe, including: South Korea, Chile, Hungary, Russia, Kazakhstan, Ukraine, Colombia and Mexico.
- The amendment would end a thirty-year program that is recognized as one of the most successful components of U.S. foreign assistance. More than 50 million couples in the developing world use family planning as a direct result of this program, and the average number of children per family has declined more than one-third since the 1960s. Three out of four Americans surveyed in 1995 wanted to increase or maintain spending on family planning for poor countries.
- The amendment would be contrary to the interests and values of the vast majority of the American people and their leaders. Last February, both the House and the Senate showed their commitment to the USAID international family planning

program by voting for the early release of funds specifically for this program.

- President Clinton and members of his administration are unequivocal in their support for the USAID program. In speaking about family planning, the President has said, "The work we have funded in developing countries has been supportive of families, helping them to flourish. It has improved women's health and women's station in life. It has allowed generations of children to grow and be educated.... And, make no mistake: it has prevented untold numbers of abortions and maternal deaths."
- Secretary of State Madeleine Albright has also stated her strong endorsement: "Our voluntary family planning programs serve our broader interests by elevating the status of women, reducing the flow of refugees, protecting the environment, and promoting economic growth."

July 30, 1997

USAID

U.S. AGENCY FOR
INTERNATIONAL
DEVELOPMENT

Population: PITTS AMENDMENT: REDUCING POPULATION ASSISTANCE
AND INCREASING CHILD SURVIVAL AND INFECTIOUS
DISEASE PROGRAMS

DESCRIPTION OF AMENDMENT:

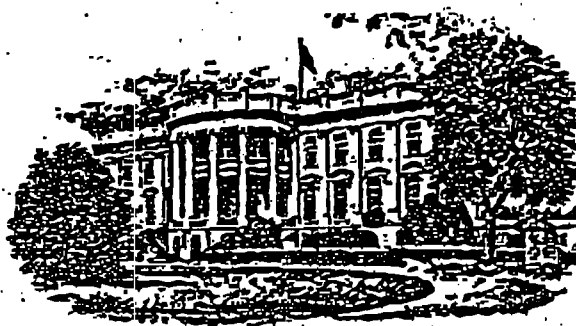
The amendment would shift \$100 million from FY 1998 population funds into the account supporting child survival and infectious disease programs.

ADMINISTRATION POSITION:

Strongly oppose.

TALKING POINTS:

- U.S. assistance in the areas of both family planning and child survival is extremely important and demonstrably effective. This amendment would abruptly shift the allocation of resources between these two programs, undermining progress toward the common goal to which both efforts contribute: the health and well-being of children and families.
- Ironically, a reduction of \$100 million in the population account would significantly damage not only family planning objectives, but child survival objectives. Infant and child deaths would increase if family planning services are curtailed. Family planning can prevent an average of one in four infant deaths by increasing the interval between births and preventing other high-risk pregnancies.
- Great care is taken by USAID in tracking how population and child survival funds are used in accordance with the intent of Congress. While funding streams are separate, programs in family planning, child health, maternal health, and HIV/AIDS prevention represent a continuum; disruption in one area has a ripple effect in others. For example, the Agency social marketing effort designed for family planning now incorporates child survival and HIV/AIDS prevention through the provision of oral rehydration salts, condoms, and other essential health commodities in addition to contraceptive pills. The social marketing infrastructure would be decimated by cutting family planning as proposed in this amendment, with significant and unavoidable damage to other Agency health efforts in child survival and HIV/AIDS.



THE WHITE HOUSE
WASHINGTON

FACSIMILE / MEMO FROM AMANDA HANLIN
OFFICE OF PRESIDENTIAL LETTERS AND MESSAGES
OLD EXECUTIVE OFFICE BUILDING, ROOM 97

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TO: Martha Foley
FAX #: 6-2271

DATE: 10/20/00

PAGES: 2 (INCLUDING THIS COVER SHEET)

FROM: AMANDA HANLIN EXT: 5492

SUBJECT: Global Gag Rule

COMMENTS:

Per my email, Thanks for
your help.

Amanda

JANE FONDA

5229775



September 14, 2000

The President
The White House
Washington, DC 20500

Dear Mr. President:

~~A matter of critical importance to democracy and women's health and rights is being negotiated in Congress, and I would appreciate the opportunity to discuss with you how we can ensure a positive outcome.~~

During my recent trip to Nigeria I saw how proud women were to be part of the democratic movement in their country. I imagine you saw something similar when you were there. ~~The global gag rule forced onto them by our Congress last year flies in the face of this democratic movement - and puts women's health and lives at risk.~~

Your leadership - starting when you first came into office - against these harmful anti-family planning and anti-democratic provisions has been instrumental. ~~I would very much appreciate the opportunity to meet or speak with you about how we can work together to ensure that no global gag rule provision is enacted this year.~~

Should there be an opportunity to meet or speak together Steven Bennett in my office can assist with scheduling (404/524-5808).

Sincerely,

Jane Fonda

P.S. Thanks for
your commitment
on Second Chance
Homes + your radio talk

SEP 15 2000

TOTAL P.02

B-42F114