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Dear Gloria:

Thank you for your letter regarding international family planning and the recent budget negotiations.

As you know, the Republican Congressional budget would have caused the United States to lose its vote in the U.N. General Assembly. This is due to the fact that the proposed bill linked the payment of our U.N. arrears to restrictions on our support of international family planning. We were able to reach an agreement with Congress that will enable the United States to avoid losing our vote, to encourage needed reforms at the U.N., and to repay the \$926 million owed to the organization.

As you know, it was very important that we paid our United Nations arrears, and as part of the negotiations with Republican members of

Congress, we agreed to legislation that restricts the amount of money that can go to foreign NGOs that can or will not certify that they do not perform abortions, or lobby to change the laws of their country on abortion. As you know, I have long opposed any such limitations. I insisted that the legislation include a provision allowing me to waive the restriction with respect to most of the family planning money. On November 30, shortly after signing the final budget bill paying our U.N. dues, I signed that waiver. As a result, \$12.5 million will be cut from the overall bill of \$385 million in funding for international family planning groups. I felt that we achieved the best settlement possible, as our negotiators attempted to minimize the negative impacts of the language that was approved.

I have declared my intention to request a return to the 1995 levels of funding for international family planning -- an appropriation of \$541.6 million -- in my fiscal 2001 budget. Moreover, I was pleased that in the Fiscal 2000 budget negotiations, we secured an increase of almost \$25 million increase for Title X family planning -- the largest percentage increase since 1993 -- for a total of almost \$239 million. The Fiscal 2001 budget will include a proposal for \$274 million for Title X, the largest dollar increase since 1973.

As we continue our work to ensure the health and safety of women across the country, I will keep your concerns in mind. Best wishes.



FACSIMILE TRANSMITTAL COVER SHEET

DATE: 1/21/00TO: Shelley Peterson, White HouseFAX PHONE: 456-7024 OFFICE PHONE: 456-7804FROM: Emily Collings, Office of PopulationFAX PHONE: 246-3046 OFFICE PHONE: 712-0523SUBJECT: latest USAID new restrictions brieferNUMBER OF PAGES (including this cover sheet): 3

COMMENTS:

Barbara Crane asked me to fax our latest briefer on the new population restrictions. This version incorporates the changes which were recommended by Ann Lewis.

International Family Planning: New Restrictions and Budget Cut

In November 1999, the Clinton Administration reluctantly accepted a law imposing new restrictions on aid to overseas family planning groups. ~~Despite limited authority in the law for a Presidential waiver, the law's restrictions and other provisions limit the rights of private groups to free speech in their own countries and reduce funding for programs that are vital to women's health.~~

advocate changes
in abortion laws
and policies

In a compromise on the fiscal year 2000 budget, the Administration accepted ~~the~~ restrictions in exchange for lawmakers' support for payment of U.S. debts to the United Nations. Non-payment of U.N. debts would have resulted in the loss of the U.S. vote in the U.N. General Assembly. As Secretary Albright described it, it was a "no-win choice between protecting our national security interests at the U.N. and maintaining full support for programs that helped save women's lives."

on the

The restrictions place in law the "Mexico City policy" previously implemented by the Reagan and Bush Administrations. The policy prohibited family planning funding for nongovernmental organizations (NGOs) if they provided -- ~~using their private funds~~ -- legal abortion services or advocated for women's access to legal abortion. President Clinton reversed the policy when he took office in early 1993.

delete

Specifically, the budget accord for fiscal year 2000 does the following:

- Writes into law for the first time new restrictions that go beyond longstanding laws that no USAID funds can be used to perform or lobby for abortion.

delete

- Restricts foreign NGOs and multilateral organizations (such as the World Health Organization) from receiving USAID family planning funds unless they go through a certification process and state that they will not provide abortion services or advocate for changes in abortion laws or policies, even using their private funds.

- Gives ~~limited~~ authority to the President to waive implementation of that policy, but allowing only a total of \$15 million in funding worldwide for organizations that do not certify.

- Reduces USAID's family planning funds by \$12.5 million should the Presidential waiver be exercised, redirecting these funds to child survival activities.

The same day he signed the law, President Clinton also signed the waiver, which under the law triggered the budget cut of \$12.5 million. Upon signing the waiver, the President stated: "I have instructed USAID to implement the new restrictions on family planning money in such a way as to minimize to the extent possible the impact on international family planning efforts and to respect the rights of citizens to speak freely on issues of importance in their countries, such as the rights of women to make their own reproductive decisions. As I have stated before, I do not believe it is appropriate to limit foreign NGOs' use of their own money, or their ability to participate in the democratic process in their own countries. Thus, I will oppose inclusion of this restriction in any future appropriations bill."

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→ Family planning assistance promotes women's and children's health

- Access to family planning is one of the most effective ways to promote good health for women and children and reduce the nearly 600,000 maternal deaths and millions of infant deaths that occur *each year* as a result of complications from pregnancy and childbirth. Research demonstrates that offering family planning enables women to choose the number and spacing of their children, by preventing unintended pregnancy and thus avoiding recourse to abortion.
- Family planning programs are also a critical weapon in the global effort to reduce the transmission of HIV/AIDS and other sexually-transmitted diseases.
- When access to family planning services is reduced, unintended pregnancies, maternal and infant deaths, and abortions have been shown to increase.

→ Waiver limitations jeopardize NGO programs and funding

- Implementation of the \$15 million cap requires a burdensome certification process to determine which USAID-funded organizations are or plan to be involved in abortion-related activities in their own countries with non-U.S. funds. These same activities -- performing abortions and participation in the policymaking process -- are legal in the United States. However, organizations that certify will be prohibited from undertaking these activities in their own or other foreign countries, even when it is legal to do so.
- The cap also may require USAID to reduce funding for non-certifying organizations that have proven to be effective providers of family planning information and services to poor women and their families.

→ International family planning is ~~already~~ underfunded

For the past three years (fiscal years 1997-99), USAID international family planning assistance has been set at \$385 million, a level 30% lower than it was in fiscal year 1995. For fiscal year 2000, this level is reduced even further, to \$372.5 million.

Though family planning services are more widely available than ever, unmet need for such services is high and continues to increase. At least 150 million couples in the developing world want to limit or space their children, but do not have access to modern methods of contraception. At the same time, the largest youth generation in history -- over 1 billion young men and women between the ages of 15-24 -- are entering their reproductive years.

→ The Administration supports international family planning

On January 8, 2000, President Clinton stated: "My budget for 2001 will increase funding for international family planning by almost \$170 million [to the fiscal year 1995 level of \$541.6 million]. I am asking Congress to support these funds, and to provide them without restrictions that hamper the work of family planning organizations, and even bar them from discussing or debating reproductive health policies.

We all agree that we want to save lives, help women and children stay healthy and empower families to take responsibility for their own choices. Supporting reproductive health and family planning is one of the very best ways to do that. We know it works. At home and abroad, we don't have a woman's life -- or a child's healthy start -- to waste."

Prepared January 2000.

The Impact of USAID Programs on Reducing Abortion

By making family planning services more widely available, USAID has played a major role in preventing abortion. Over the long term, increasing contraceptive use can and does reduce abortion. This trend has been consistently demonstrated at different times in many countries and cultures.

■ In countries throughout the former Soviet Union, USAID is providing training and much-needed contraceptives to health systems to help women avoid abortion. These programs have already had a measurable impact. USAID assistance, in cooperation with other donors, has contributed to significant declines in abortions in Russia and the Central Asian Republics (*see chart*).

■ In more than 30 countries, including Egypt, Nepal, Kenya and Peru, USAID has funded pilot research-demonstration programs to improve treatment for the complications of unsafe abortions. These programs are showing success not only in saving the lives of women, but also in providing women with the family planning information and services they need to prevent repeat abortions.

■ The relationships between increased contraceptive use, reductions in unintended pregnancies and reductions in abortions have been well-documented in many countries -- including the United States and other industrialized countries, South Korea, Hungary, Chile, and parts of Mexico and Colombia. In several of these countries -- including South Korea, Mexico and Colombia -- USAID was a leading external donor to national family planning efforts. In Bogota, Colombia, a one-third increase in the use of all forms of contraception between 1976 and 1990 was accompanied by a 40% drop in the abortion rate. For Mexico City and the surrounding region, contraceptive use increased 24% between 1987 and 1992, and the abortion rate fell 39% from 41 to 25 per 1000 (7).

Note: Since 1973, USAID has been prohibited by law from using funds to support abortion as a method of family planning.

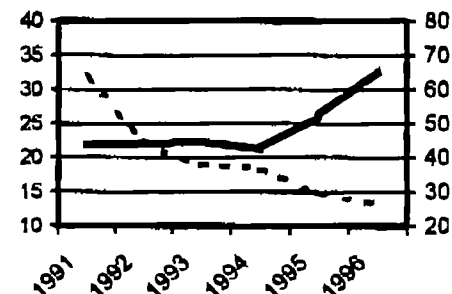
Abortion and Contraception

— Percent of women age 15-49 using contraception

- - - Abortions per 1000 women age 15-49

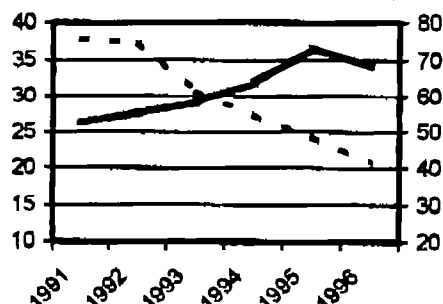
Kyrgyz Republic

Percent of women age 15-49 using contraception Abortions per 1000 women age 15-49



Kazakhstan

Percent of women age 15-49 using contraception Abortions per 1000 women age 15-49



A 1998 study of the replacement of abortion by contraception in Kazakhstan, Uzbekistan and the Kyrgyz Republic indicated that, since the early 1990s, contraceptive use has increased by one-third to one-half. During the same period, abortion rates have declined by as much as one-half (8).

Sources: (1) The Alan Guttmacher Institute, *Sharing Responsibility: Women, Society & Abortion Worldwide*, 1999; (2) UN Development Program, *The State of World Population 1997*; (3) International Women's Health Coalition, *Expanding Access to Safe Abortion: Strategies for Action*, 1998; (4) World Health Organization, *A tabulation of available data on the frequency and mortality of unsafe abortions*, 1994; (5) World Health Organization, *Abortion in the Developing World*, 1999; (6) *The New York Times*, "Russian Women Turning to Abortion Less Often," by Celestine Bohlen, March 29, 1999; (7) USAID, "The Role of Family Planning in Preventing Abortion," 1996; (8) Population Resource Center, *The Replacement of Abortion by Contraception in Three Central Asian Republics*, 1998.

Prepared August 1999



POP *Briefs*

Family Planning Prevents Abortions

By increasing access to contraception information and services, family planning programs play an essential role in preventing unwanted pregnancies, reducing the incidence of abortion, and saving women's lives.

In the developing world, an estimated 60% of all pregnancies (75 million a year) are unintended, and nearly 46 million end in abortion (1). Of these, 20 million are unsafe, because they are performed outside health care systems, or by unskilled providers under unsanitary conditions, or both (2).

As a result of unsafe abortion, over 75,000 women die each year, and many hundreds of thousands more suffer serious infections and other health complications (3).

Better access to and more effective use of contraceptives are necessary to reduce the incidence of abortion. Women who use an effective method of contraception simply are much less likely to face an unintended pregnancy and the decision to have an abortion than women who do not.

Similarly, the advent of high-quality contraceptive services has been shown over time to be associated with lower levels of abortion. In fact, no serious effort to reduce unintended pregnancies and abortion can succeed without contraception. Desired family size in virtually every developing country has declined. Few developing countries, however, have reached the point where contraceptive use is widespread enough to meet the needs of all women who want to avoid pregnancy.

Facts and Figures:

■ Each year, 35 of every 1,000 women of childbearing age worldwide have an induced abortion, but the rates range from 10 in some countries to 80 in others. A 1999 study found that the difference was due largely to the availability and use of effective contraceptives (1).

■ Most unsafe abortions in the world today (90%) occur in developing countries. African women undergoing unsafe abortion face the greatest risk of death (4).

■ The risk of dying from an unsafe abortion is highest in the developing world: 1 in 250 procedures compared with 1 in 3,700 procedures in developed nations (5).

■ Unsafe abortion is a leading cause of maternal deaths. About 13% of maternal mortality is attributable to illegal or unsafe abortions (3).

■ In countries where abortions are common and contraceptives scarce, maternal deaths attributable to abortion drop dramatically with increased contraceptive use. In Russia, where pills and other contraceptives have become more widely available, maternal deaths caused by abortion declined 56% between 1989 and 1997 (6).

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This Gag Rule is not a "compromise."

- The so-called "compromise" would allow the President to waive the ban on the performance of abortions, but should he do so, overall funding for family planning assistance would be cut from \$385 million to below \$356 million, taking it to its lowest level in eight years.
- This funding cut would further erode USAID's family planning program, which reaches an estimated 60 million families throughout the developing world, Eastern Europe and the former Soviet Union. The cut, on top of previous cuts, delays, and Congressionally imposed "metering" for the past four years, would further risk the health and well-being of women and children served by the program.
- The expanded "lobby" ban could not be waived. The threat of withholding federal funds would prevent NGOs from engaging in advocacy with their private funds, undermining free speech and the right to participate in the democratic process.

The Gag Rule's "lobby" ban could cause a foreign NGO to lose its U.S. family planning support if, with non-US funds:

- A physician at a private medical center in India advises the government on laws to make abortion safer, where abortion is legal.
- The head of an NGO delivers a speech either supporting or opposing laws affecting access to abortion.
- A women's health organization in Tanzania produces a report stating that a significant portion of maternal deaths are due to unsafe, illegal abortion, thereby calling attention to the "defects" in abortion laws.

The Gag Rule's "lobby" ban could also cause international organizations to risk losing U.S. family planning support if, with non-U.S. funds:

- An international agency such as the World Health Organization (WHO) sponsors a meeting of doctors and health experts to discuss medical regulations and other measures necessary to prevent deaths due to unsafe abortion. With U.S. support, WHO plays a leading role internationally in organizing and supporting contraceptive research and development.

Prepared July 1999



POP Briefs

Mexico City "Gag Rule" Restricts Free Speech, Cuts Needed Family Planning Assistance for Women and Children

In July 1999, the House of Representatives adopted an amendment introduced by Rep. Chris Smith (R-NJ) to the Foreign Operations Appropriations bill. Smith's amendment, also known as the "Mexico City Gag Rule," would prohibit U.S. family planning assistance to foreign nongovernmental organizations (NGOs) or international organizations that -- *with their own funds* -- perform legal abortions or "engage in any activity or effort to alter laws or government policies of any foreign country concerning the circumstances under which abortion is permitted, regulated or prohibited." The Senate version of the bill does not contain this amendment.

- These restrictions are unnecessary, since longstanding U.S. law prohibits the use of USAID funds for abortion as a method of family planning, or abortion-related lobbying.
- The Mexico City Gag Rule would cripple the work of many private organizations doing the most effective work in family planning and maternal and child health. The consequences would include an increased number of unintended pregnancies, unsafe abortions, and maternal and child deaths.

The current version of the Mexico City Gag Rule is more restrictive than ever:

- **Imposes sweeping restrictions on free speech.** Proponents of this amendment have supported a broad "lobby" ban that would penalize not only overt lobbying for changes in abortion laws, but also other activities such as sponsoring conferences and workshops "on the alleged defects in the abortion laws, as well as the drafting and distribution of materials or public statements calling attention to such alleged defects."
- **Unconstitutional if applied in the United States.** In the words of Secretary of State Madeleine Albright, the "lobby" ban "is basically a gag rule that would punish organizations for engaging in legal activities that would be protected by the First Amendment if carried out in the United States."
- **Contrary to basic principles of U.S. foreign policy.** The gag rule restrictions undermine U.S. credibility in our efforts to build democracies and encourage broad public access and participation in the political process, especially through NGOs.



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FACSIMILE TRANSMITTAL COVER SHEET

DATE: 11/22/99TO: Shelly Peterson or Martha Foley URGENTTel: 202-456-7804Fax: 202-456-7024 (not working) → 456-2271

FROM: Barbara Crane / Duff Gillespie
Senior Policy Adviser
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Tel: 202-712-5839Fax: 202-216-3046Email: bcrane@usaid.govNumber of pages (including cover sheet) 2Subject: Edits to Presidential statement

Attached are some possible additional phrasing to include in the statement, discussed by Duff + me. Please call if you'd like to discuss further. Thanks for sharing this with us!

Barbara Crane

5. What are the elements of the certification provision on violating the laws of a foreign country concerning abortion?

The certifying organization certifies that it will comply with the laws of the foreign countries in which it operates, with respect to the circumstances under which abortion is permitted, regulated or prohibited. Organizations should seek the advice of local counsel with respect to the application of such laws to their activities.

6. What does it mean to “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”?

The statutory language quoted here refers to activities or efforts by the organization which are intended to alter the laws or policies of foreign governments (or governmental agencies) with respect to the circumstances under which abortion is permitted, regulated, or prohibited. It includes an organization’s intentional efforts or activities to alter abortion laws or policies, whether the objective is more restrictive or less restrictive laws or policies.

The quoted language covers the following types of activities and efforts undertaken by an organization:

- Oral or written communications directed to a country's legislators and government officials, which support proposals or recommendations to alter laws or governmental policies of a foreign country concerning the circumstances under which abortion is permitted, regulated, or prohibited;
- Public outreach activities or efforts (for example, as reflected in newsletters, editorials or other mass media communications) intended to alter laws or governmental policies; or
- Organizing ^{intended to} meetings, mass demonstrations (e.g., rallies or marches), or media events aimed at altering laws or governmental policies concerning abortion.

The above quoted language does not include activities in opposition to coercive abortion or involuntary sterilization. Because the restriction applies to efforts to alter laws and policies “concerning the circumstances under which abortion is permitted, regulated or prohibited”, it does not include activities or efforts intended to alter legal penalties applied to women who obtain abortions (e.g., “decriminalization”.) Similarly, given the language “engage in activities and efforts”, the definition would not include an activity or effort of a *de minimis* (that is, minimal or negligible) or incidental nature. It does not

include activities or efforts which are not intended to alter abortion laws or policies, but which may have that effect.

The quoted language does not include the following types of activities and efforts, which may be undertaken within the terms of the certification provisions:

- a) Research and dissemination of information on the incidence, causes, or consequences of abortion or the status of abortion laws or policies;
- b) Incidental statements in publications, meetings, workshops or communications to the mass media that are not part of activities or efforts (see above) by the organization intended to alter the abortion laws or policies of foreign countries;
- c) Statements or actions by an individual employee or officer of an organization which are clearly undertaken in a personal capacity and not on behalf of or under the auspices of the organization;
- d) Provision of information on existing laws or policies, engaging in efforts to maintain existing laws or policies or to ensure implementation of existing laws or policies;
- e) Interactions with legislators or government officials in which the organization is responding to a request for factual information or contacting a legislator or government official to obtain factual information, provided that such interactions are not part of activities or efforts intended to alter abortion laws or policies;
- f) Activities and efforts related to laws or policies specifically affecting treatment of injuries or illnesses caused by legal or illegal abortions;
- g) Attendance by an organization's representatives at meetings where altering abortion laws and policies may be discussed, provided the organization is not engaged in activities or efforts intended to alter abortion laws or policies;
- h) Sponsorship of meetings where altering abortion laws or policies may be discussed, provided that such discussions are de minimus;
- i) The organization's membership in a network of organizations, provided such membership does not involve any active participation by the organization in activities or efforts of the network to alter the abortion laws or government policies of a foreign country; or
- i) A multilateral organization's response to a request from a member state for assistance relative to its abortion laws or policies.

7. What if my organization cannot or does not certify?

Organizations which are covered by the certification procedure (see Question 1 above), but which cannot or do not certify, will be considered for FY 2000 population funding, but subject to the availability of funds capped in the aggregate for all such organizations worldwide at \$15 million.

8. What if my organization certifies, but does not comply with the terms of the certification?

The Certification Form states that the certification is a material fact upon which USAID and its intermediary organizations rely in providing FY 2000 population assistance funds. This means that USAID, and the intermediaries, must rely on the truth and accuracy of the certification statement, which is an essential or "material" piece of information in the decision to provide funds outside the limited \$15 million cap. USAID will require that agreements, subagreements and related amendments which provide FY 2000 population assistance funds to certifying organizations include standard remedies available when a certifying organization fails to comply with the terms of a certification. Such remedies are necessary to ensure that the \$15 million funding cap is observed. This is consistent with the way USAID and other federal agencies ensure compliance by grantees, contractors and recipients with certification requirements.

Text of House Resolution Showing Deleted Sections

Following is the original text of a bipartisan Congressional resolution encouraging tolerance toward Muslims. The paragraphs in italics were deleted by House Republicans last week; wording changes were made in other paragraphs but are not reflected here. A copy of the original resolution and last week's revisions were provided to The New York Times by the Arab American Institute of Washington, which helped draft the original measure.

WHEREAS the American Muslim community, comprised of approximately five million people, is a vital part of our nation, with more than 1,500 mosques, Islamic schools and Islamic centers in neighborhoods across the United States;

WHEREAS Islam is one of the great Abrahamic faiths, whose significant contributions throughout history have advanced the fields of math, science, medicine, law, philosophy, art and literature;

WHEREAS the United States is a secular nation, with an unprecedented commitment to religious tolerance and pluralism, where the rights, liberties and freedoms guaranteed by the Constitution are guaranteed to all citizens regardless of religious affiliation;

WHEREAS Muslims have been subjected, simply because of their faith, to acts of discrimination and harassment that all too often have led to hate-inspired violence, as was the case during the rush to judgment in the aftermath of the tragic Oklahoma City bombing;

WHEREAS discrimination against Muslims intimidates American Muslims and may prevent Muslims from freely expressing their opinions and exer-

cising their religious beliefs as guaranteed by the First Amendment to the Constitution;

WHEREAS American Muslims have regrettably been portrayed in a negative light in some discussions of policy issues, such as issues relating to religious persecution abroad or fighting terrorism in the United States;

WHEREAS stereotypes and anti-Muslim rhetoric have contributed to a backlash against Muslims in some neighborhoods across the United States; and

WHEREAS all persons in the United States who espouse and adhere to the values of the founders of our nation should help in the fight against bias, bigotry and intolerance in all their forms and from all their sources: Now, therefore, be it resolved by the House of Representatives (the Senate concurring), that:

1) CONGRESS condemns anti-Muslim intolerance and discrimination as wholly inconsistent with the American values of religious tolerance and pluralism;

2) WHILE CONGRESS respects and upholds the right of individuals to free speech, Congress acknowledges that individuals and organizations that foster such intolerance create an atmosphere of hatred and fear that divides the nation;

3) CONGRESS resolves to uphold a level of political discourse that does not involve making a scapegoat of an entire religion or drawing political conclusions on the basis of religious doctrine; and

4) CONGRESS recognizes the contributions of American Muslims, who are followers of one of the three major monotheistic religions of the world and one of the fastest-growing faiths in the United States.

Definition of Abortion Is Found to Vary Abroad

Some Procedures Escape U.S. Aid Limits

By PETER T. KILBORN

WASHINGTON, Nov. 23 — The recipient of the largest amount of American birth control aid is Bangladesh, a Muslim country that languishes among the world's sickest, poorest and most populous. Despite a decision by Congress last week to limit federal spending on groups that promote abortion rights abroad, the way the United States' contribution is spent in Bangladesh depends much more on local laws and practices than on anything done half a world away on Capitol Hill.

Officially, Bangladesh prohibits abortion except to save a mother's life. But the government of Bangladesh, an emphatic proponent of birth control, and the nongovernment Family Planning Association of Bangladesh, an affiliate of International Planned Parenthood Federation in London, do condone a practice that amounts to the same thing in the first 10 weeks of pregnancy.

In the procedure, which the government and the federation call "menstrual regulation," a woman who complains of having missed a period, rather than being given a pregnancy test, can be treated by a health care worker who suctions away the lining of the uterine wall, including any fertilized egg.

The government defines this as "an interim method of establishing nonpregnancy," according to a study by the Alan Guttmacher Institute, a women's research organization in New York. It does not consider the procedure an abortion, because the woman does not take a pregnancy test and therefore is never officially deemed to be pregnant.

In the legislation Congress passed to restore American financing of the United Nations, Representative Christopher H. Smith, Republican of New Jersey, won inclusion of a clause restricting the United States Agency for International Development from using its money for family planning — \$385 million for a fourth consecutive year, down from \$547 million in 1995 — to perform or promote abortions.

Once it was negotiated with the White House, however, the provision left family planning groups with many ways around the restrictions. It prohibits agency financing for organizations that perform or promote abortions, whether with United States money or with their own. But it applies only to foreign, nongovernment organizations. Foreign governments and American organizations that operate abroad can still get the aid.

In a country where abortions are already illegal, like Bangladesh, if the organizations continue to promote contraception but agree not to lobby for looser regulation of abortion, they are operating within the boundaries established by Congress and can continue to receive money.

And the definition of terms is left to the Agency for International Development and the foreign governments. So what Bangladesh calls "menstrual regulation" is not considered abortion under the law.

Grover Joseph Rees, chief counsel of the House subcommittee that wrote the provision, said it also leaves the Clinton administration free to define abortion. The administration can decide whether it applies to aspiration, or suctioning of the uterine lining, for example, or heavy doses of mifepristone, the pill a woman takes to abort an embryo soon after she suspects she might have become pregnant.

"If this is an abortion," Mr. Rees said, "some agency has to say it is an abortion." In the case of vaginal aspiration or heavy doses of mifepristone, he said, "A.I.D. ought to say it is. Smith would regard that as abortion." If the agency agrees, the organization would have to stop the practice or lose its subsidy. Officials at the agency declined repeated requests for comment for this article.

The legislation also provides that if the president waives the provision, a penalty of \$12.5 million will be deducted from the \$385 million allotted to the agency for family planning and will be diverted to children's health programs.

The restriction has a long history. In 1973, Congress prohibited subsi-

dies to foreign nongovernment organizations that used them for abortion, and that law remains in effect.

In 1984, President Ronald Reagan signed an executive order prohibiting the organizations that received American financing from using other money — their own or foundations' or other countries' contributions — to promote abortion. President Clinton revoked the Reagan order upon taking office in 1993, and Mr. Smith's provision put the terms of the Reagan order into law.

While Americans argued about the provision, international family planning groups have worked to decrease their dependence on American financing. At the same time, they say, their efforts are helping reduce birth rates in many nations.

The United States remains the world's largest source of nearly \$2 billion a year that the United Nations estimates that industrial countries spend to subsidize family planning in developing countries. But the Netherlands, once a relatively small contributor, is now the second largest, followed by Germany, Britain and

Japan. Private American donors, including the Ford, Rockefeller, MacArthur, Packard, Mellon and Gates foundations, have been stepping in, too.

The Agency for International Development reports that in the developing countries that receive its family planning support, the fertility rate, or the average number of babies born to a woman, dropped from 4.4 in 1985 to 3.3 in 1997. In populous Indonesia, the rate had fallen by half, from 5.6 in 1971 to 2.6 two years ago. Bangladesh has achieved a major objective of its national population policy in cutting its rate from an average of six babies per woman to three.

With the world population now at 6 billion and climbing by 70 to 80 million a year, nations are still far short of achieving the fertility rate of 2.1 children per woman that demographers say would stabilize the population and relieve pressure on world resources. Most women in sub-Saharan Africa have six or more children.

"There are still large numbers of unwanted children," said John Bongaarts, vice president of the Population Council in New York. "Forty-five percent of pregnancies worldwide are unintended — mistakes or unwanted."

From the beginning, the abortion opponents' No. 1 target has been the International Planned Parenthood Federation in London. With affiliated family planning services in 140 countries, the federation dwarfs all other foreign nongovernment groups in promoting birth control and abortion.

Pramilla Senanayake, assistant director general of the Planned Parenthood organization in London, said the London office's budget last year was \$90.6 million. With that and at least \$400 million that the affiliates collect independently, about three-quarters from their own local sources, the federation says its affiliates distributed 250,000 condoms a day in 1997 and 600,000 oral contraceptive pills a day. It says the affiliates saw 100,000 clients a day for sexual and reproductive health services, including abortions.

As required by law, Dr. Senanayake said the federation uses none of its A.I.D. money — \$9.2 million last year, or 10 percent of its budget — to perform or promote abortion. Rather than let the United States derail its work, the federation may have to refuse future financing, as it did after President Reagan's order was issued and until President Clinton revoked it.

Dr. Senanayake said the federation is likely to carry on. The government of Japan has now displaced the United States as the biggest contributor. But there could still be a cost.

"What the U.S. government is doing," she said, "is increasing inadvertently the number of unsafe abortions. These women will be pushed to go and have back-street abortions."

DRAFT DRAFT DRAFT
12/15/99, 9:50 a.m.

Sample Letter No. 1

Request for 599D Certifications to **Non-U.S. NGO Prime with Non-U.S. NGO or private commercial firm Subs**

Dear (Name of Grantee/CA or Contract Representative):

USAID is considering your organization for direct funding with USAID population assistance funds appropriated for fiscal year 2000. In addition, we anticipate that your organization may provide such funds to other non-U.S. organizations through subagreements. A new law* requires non-U.S., non-governmental organizations (NGOs), private firms, and multilateral organizations to certify that they will not engage in certain abortion-related activities, before they can be eligible to receive FY 2000 population funds.

Although the President has exercised statutory authority to waive this requirement, USAID may provide only a limited amount of funding under the law—a total of \$15 million for population activities worldwide—to non-U.S. NGOs (and private and multilateral organizations) that do not certify. To comply with the \$15 million limitation, it is necessary for USAID to obtain certifications, whenever possible, from non-U.S. NGOs that would receive FY 2000 population funds, either directly from USAID or as sub-grantees or subcontractors. When certifications cannot be obtained, USAID funding can only be provided within the limited \$15 million cap.

We therefore request your assistance on two actions below:

- 1) We ask that you review the enclosed 599D Certification Form and related Certification Guidance with respect to the activities of your own organization. After selecting one of the options and obtaining the signature of an authorized representative, please return the form.
- 2) USAID must also ask your organization to collect certification forms from your non-U.S. NGO subgrantees and subcontractors that you expect to receive FY 2000 population assistance under your planned agreement with USAID. Such subgrantees and subcontractors should be asked to complete the Certification Form, based on the Certification Guidance. Failure to obtain completed forms from these organizations could delay or jeopardize planned FY 2000 funding actions. Please forward the completed forms to USAID at the address indicated.

You are asked to collect and send the requested certification forms as soon as possible, but no later than March 31, 2000. Forms should be sent (mailed or faxed???) to the following address:

John Snow, Inc.
1616 North Fort Meyer Drive, 11th Floor
Arlington, VA 22209
Attention: (name to be determined)
Tel: 703-528-7474
Fax: 703-528-7480

Please remember that receiving these forms on time is essential to our decision-making regarding allocation of the \$15 million, and that funding for organizations that do not certify under Option 1 is very limited.

If you have questions concerning this letter or the enclosures, please contact:

Sincerely,

Mission PHN Officer (?)

*Section 599D of the Foreign Operations, Export Financing, and Related Programs Act, 2000

\\599DLETTER1.DOC

DRAFT DRAFT DRAFT

12/14/99, 3:10 p.m.

599D Certification Form for FY 2000 USAID Population Funding

Please review Option Nos. 1 and 2 below and sign in the applicable signature block:

Option No. 1: I, the undersigned, as a duly authorized representative of (name of non-U.S., private, non-governmental organization or multilateral organization expecting to receive FY 2000 USAID funds) have reviewed USAID's Section 599D Certification Guidance, dated January xx, 1999, and do hereby certify that the organization will not:

2000

- 1) perform abortions in any foreign country, except where the life of the mother would be endangered if the pregnancy were carried to term or in cases of forcible rape or incest;
- 2) violate the laws of any foreign country concerning the circumstances under which abortion is permitted, regulated, or prohibited; or
- 3) engage in activities or efforts to alter the laws or governmental policies of any foreign country concerning circumstances under which abortion is permitted, regulated, or prohibited;

from the date the organization signs an agreement to receive funding derived from USAID's FY 2000 population assistance account through September 30, 2001.

This certification does not restrict the organization's treatment of injuries or illnesses caused by legal or illegal abortion or activities which are in opposition to coercive abortion or involuntary sterilization.

This certification constitutes a material representation of fact upon which reliance is placed by USAID or its intermediary contractors, grantees, and recipients when entering into financing transactions.

Signature Block 1: _____

Name

Title

Date

Option No. 2: My organization is not prepared at this time to certify to the conditions outlined in Option No. 1 above. I understand that USAID may still consider my organization for FY 2000 population funding, within a worldwide limitation of \$15 million.

Signature Block 2: _____

Name

Title

Date

DRAFT DRAFT DRAFT
12/15/99, 9:45 a.m.

Sample Letter No. 2

Request for 599D Certifications to U.S. NGO Prime with Non-U.S. NGO or private commercial firm Subs

Dear (Name of Grantee/CA or Contract Representative):

USAID is considering your organization for direct funding with USAID population assistance funds appropriated for fiscal year 2000. In addition, we anticipate that your organization may provide such funds to non-U.S. organizations through subagreements. A new law* requires non-U.S. non-governmental organizations (NGOs), private firms, and multilateral organizations to certify that they will not engage in certain abortion-related activities, before they can be eligible to receive FY 2000 population funds.

Although the President has exercised statutory authority to waive this requirement, USAID may provide only a limited amount of funding under the law—a total of \$15 million worldwide—to non-U.S. NGOs (and private and multilateral organizations) that do not certify. To comply with the \$15 million funding limitation, it is necessary for USAID to obtain certifications, whenever possible, from non-U.S. NGOs that would receive FY 2000 population funds, either directly from USAID or as sub-grantees or subcontractors. When certifications cannot be obtained, USAID funding can only be provided within the limited \$15 million cap.

While the certification procedure does not apply to U.S. organizations such as yours, it does apply to non-U.S. NGOs and private commercial firms receiving FY 2000 population assistance funds from your organization under your planned agreement with USAID. Accordingly, USAID must ask your organization to collect certifications from such sub-grantees and subcontractors. Please ask your current or prospective non-U.S. NGO sub-grantees and subcontractors to review the enclosed Certification Guidance and complete the 599D Certification Form and provide it to you. Failure to obtain certification forms from lower tier organizations could delay or jeopardize planned FY 2000 funding actions.

You are asked to collect and send the requested certification forms as soon as possible, but no later than March 31, 2000. Forms should be sent (mailed or faxed???) to the following address:

John Snow, Inc.
1616 North Fort Meyer Drive, 11th Floor
Arlington, VA 22209
Attention: (name to be determined)

Tel: 703-528-7474

Fax: 703-528-7480

Please remember that receiving these forms on time is essential to our decision-making regarding allocation of the \$15 million, and that funding for organizations that do not certify under Option 1 is very limited.

If you have questions concerning this letter or the enclosures, please contact :
(names to be determined)

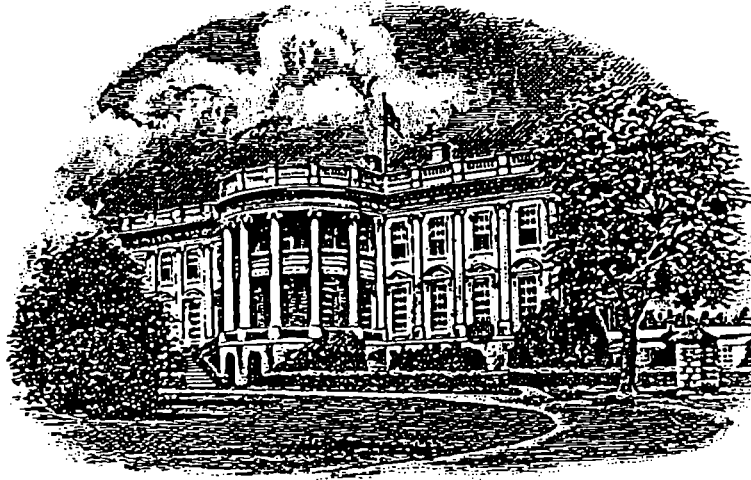
Sincerely,

(name to be determined, a USAID/W
official)

*Section 599D of the Foreign Operations, Export Financing, and Related Programs Act,
2000

\\599DLETTER2.DOC

The White House



Office of the Counsel to the President
Facsimile Transmission

Date: 12/16/99

To: Randy Moss

Facsimile Number: 514-0539

Total Pages: 4

From: Michelle Peterson

Phone: (202) 456-7804

Fax: (202) 456-7024

Note: Thanks for your help

The documents accompanying this facsimile transmittal sheet are intended only for the use of the individual or entity to whom it is addressed. This message contains information which may be privileged, confidential or exempt from disclosure under applicable law. If the reader of this message is not the intended recipient, or the employee or agent responsible for delivering the message to the intended recipient, you are hereby notified that any disclosure, dissemination, copying or distribution, or the taking of any action in reliance on the contents of this communication is strictly prohibited. If you have received the information in error, please immediately notify the sender at the telephone number above.

DRAFT DRAFT DRAFT

12/14/99, 3:10 p.m.

599D Certification Form for FY 2000 USAID Population Funding

Please review Option Nos. 1 and 2 below and sign in the applicable signature block:

Option No. 1: I, the undersigned, as a duly authorized representative of (name of non-U.S., private, non-governmental organization or multilateral organization expecting to receive FY 2000 USAID funds), have reviewed USAID's Section 599D Certification Guidance, dated January xx, 1999, and do hereby certify that the organization will not:

- 1) perform abortions in any foreign country, except where the life of the mother would be endangered if the pregnancy were carried to term or in cases of forcible rape or incest;
- 2) violate the laws of any foreign country concerning the circumstances under which abortion is permitted, regulated, or prohibited; or
- 3) engage in activities or efforts to alter the laws or governmental policies of any foreign country concerning circumstances under which abortion is permitted, regulated, or prohibited;

from the date the organization signs an agreement to receive funding derived from USAID's FY 2000 population assistance account through September 30, 2001.

This certification does not restrict the organization's treatment of injuries or illnesses caused by legal or illegal abortion or activities which are in opposition to coercive abortion or involuntary sterilization.

This certification constitutes a material representation of fact upon which reliance is placed by USAID or its intermediary contractors, grantees, and recipients when entering into financing transactions.

Signature Block 1: _____

Name

Title

Date

Option No. 2: My organization is not prepared at this time to certify to the conditions outlined in Option No. 1 above. I understand that USAID may still consider my organization for FY 2000 population funding, within a worldwide limitation of \$15 million.

Signature Block 2: _____

Name

Title

Date

This text was provided to USAID by the White House on November 16, 1999 as the agreement between the Administration and Congressional leadership on restrictions to be applied to FY 2000 population assistance. This language is not final until Congress passes the legislation that will include this agreement and the President signs it into law.

AUTHORIZATION FOR POPULATION PLANNING

Sec. 599D. (a) AUTHORIZATION. — Not to exceed \$385,000,000 of the funds appropriated in title II of this Act may be available for population planning activities or other population assistance.

(b) RESTRICTION ON ASSISTANCE TO FOREIGN ORGANIZATIONS
THAT PERFORM OR ACTIVELY PROMOTE ABORTIONS. —

(1) PERFORMANCE OF ABORTIONS. — (A) Notwithstanding section 614 of the Foreign Assistance Act of 1961, or any other provision of law, no funds appropriated by title II of this Act for population planning activities or other population assistance may be made available for any foreign private, nongovernmental, or multilateral organization until the organization certifies that it will not, during the period for which funds are made available, perform abortions in any foreign country, except where the life of the mother would be endangered if the pregnancy were carried to term or in cases of forcible rape or incest.

(B) Subparagraph (A) may not be construed to apply to the treatment of injuries or illnesses caused by legal or illegal abortions or to assistance provided directly to the government of a country.

(2) LOBBYING ACTIVITIES. (A) — Notwithstanding section 614 of the Foreign Assistance Act of 1961, or any other provision of law, no funds appropriated by title II of this Act for population planning activities or other population assistance may be made available for any foreign private, nongovernmental, or multilateral organization until the organization certifies that it will not, during the period for which the funds are made available, violate the laws of any foreign country concerning the circumstances under which abortion is permitted, regulated, or prohibited, 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.

(B) Subparagraph (A) shall not apply to activities in opposition to coercive abortion or involuntary sterilization.

(3) APPLICATION TO FOREIGN ORGANIZATIONS. – The prohibitions and certifications of this subsection apply to funds made available to a foreign organization either directly or as a subcontractor or subgrantee.

(c) WAIVER AUTHORITY. –

- (1) AUTHORITY. – The President may waive the restrictions contained in subsection (b) that require certifications from foreign private, nongovernmental, or multilateral organizations.
- (2) REDUCTION OF ASSISTANCE. – In the event the President exercises the authority contained in paragraph (1) to waive either or both subsections (b) (1) and (b) (2), then –
 - (A) assistance authorized by subsection (a) and allocated for population planning activities or other population assistance shall be reduced by a total of \$12,500,000, and that amount shall be transferred from funds appropriated by this Act under the heading “Development Assistance” and consolidated and merged with funds appropriated by this Act under the heading “Child Survival and Disease Programs Fund”; and
 - (B) Notwithstanding any other provision of law, such transferred funds that would have been made available for population planning activities or other population assistance shall be made available for infant and child health programs that have a direct, measurable, and high impact on reducing the incidence of illness and death among children.
- (3) LIMITATION. – The authority provided in paragraph (1) may be exercised to allow the provision of not more than \$15,000,000, in the aggregate, to all foreign private, nongovernmental, or multilateral organizations with respect to which such authority is exercised.
- (4) ADDITIONAL REQUIREMENTS. – Upon exercising the authority provided in paragraph (1), the President shall report in writing to the Committee on Appropriations and the Committee on Foreign Relations of the Senate and the Committee on Appropriations and the Committee on International Relations of the House of Representatives.

(B) Subparagraph (A) shall not apply to activities in opposition to coercive abortion or involuntary sterilization.

(3) APPLICATION TO FOREIGN ORGANIZATIONS. – The prohibitions and certifications of this subsection apply to funds made available to a foreign organization either directly or as a subcontractor or subgrantee.

(c) WAIVER AUTHORITY. –

(1) AUTHORITY. – The President may waive the restrictions contained in subsection (b) that require certifications from foreign private, nongovernmental, or multilateral organizations.

(2) REDUCTION OF ASSISTANCE. – In the event the President exercises the authority contained in paragraph (1) to waive either or both subsections (b) (1) and (b) (2), then –

(A) assistance authorized by subsection (a) and allocated for population planning activities or other population assistance shall be reduced by a total of \$12,500,000, and that amount shall be transferred from funds appropriated by this Act under the heading “Development Assistance” and consolidated and merged with funds appropriated by this Act under the heading “Child Survival and Disease Programs Fund”; and

(B) Notwithstanding any other provision of law, such transferred funds that would have been made available for population planning activities or other population assistance shall be made available for infant and child health programs that have a direct, measurable, and high impact on reducing the incidence of illness and death among children.

(3) LIMITATION. – The authority provided in paragraph (1) may be exercised to allow the provision of not more than \$15,000,000, in the aggregate, to all foreign private, nongovernmental, or multilateral organizations with respect to which such authority is exercised.

(4) ADDITIONAL REQUIREMENTS. – Upon exercising the authority provided in paragraph (1), the President shall report in writing to the Committee on Appropriations and the Committee on Foreign Relations of the Senate and the Committee on Appropriations and the Committee on International Relations of the House of Representatives.

THE WHITE HOUSE
Office of the Press Secretary

For Immediate Release

November 29, 1999

November 29, 1999

MEMORANDUM FOR THE SECRETARY OF STATE

SUBJECT: International Family Planning Waiver

Pursuant to the authority vested in me by section 599D(c) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2000, as enacted by section 1000(a)(2) of Division B of H.R. 3194, the Consolidated Appropriations Act for Fiscal Year 2000, I hereby waive the restrictions contained in subsection 599D(b) to the full extent authorized by subsection 599D(c). This waiver shall take effect immediately and shall continue until the expiration of subsection 599D(b).

You are hereby authorized and directed to transmit this waiver to the Committee on Appropriations and the Committee on Foreign Relations of the Senate and the Committee on Appropriations and the Committee on International Relations of the House of Representatives.

You are authorized and directed to publish this memorandum in the Federal Register.

WILLIAM J. CLINTON

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Barry J. Toiv

11/30/99 06:33:46 PM

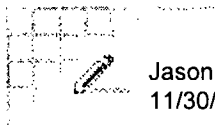
Record Type: Record

To: Martha Foley/WHO/EOP@EOP, Michelle Peterson/WHO/EOP@EOP

cc:

Subject: Statement by the President: H.R. 3194, the Consolidated Appropriations Act for FY 2000

----- Forwarded by Barry J. Toiv/WHO/EOP on 11/30/99 06:33 PM -----



Jason H. Schechter
11/30/99 03:55:42 PM

Record Type: Record

To: See the distribution list at the bottom of this message

cc:

Subject: Statement by the President: H.R. 3194, the Consolidated Appropriations Act for FY 2000

THE WHITE HOUSE

Office of the Press Secretary
(Aboard Air Force One en route San Francisco, California)

For Immediate Release

November 30, 1999

STATEMENT BY THE PRESIDENT

I have signed into law H.R. 3194, the Consolidated Appropriations Act for FY 2000. I am pleased that my Administration and the Congress were able to reach agreement on the first budget of the 21st Century -- producing a hard-won victory for the American people.

This legislation makes progress on several important fronts. It puts education first, honoring our commitment to hire 100,000 qualified teachers to lower class size in the early grades and doubling the funds for after school and summer school programs.

It makes America a safer place. The bill provides an acceptable funding level for my 21st Century Policing Initiative, which builds on the success of the Community Oriented Policing Services (COPS) program. To date, the COPS

program has funded more than 100,000 additional police officers for our streets. This bill funds the first increment of the 21st Century Policing initiative, which will place an additional 30,000 to 50,000 police officers on the street over the next 5 years, while expanding the concept of community policing to include community prosecution and law enforcement technology assistance. I appreciate the Congress' efforts to forge a bipartisan commitment to the program, which will build upon our successful efforts to reduce crime in our communities.

The bill strengthens our effort to preserve natural areas and protect our environment by its support of my Lands Legacy Initiative. I am very pleased that the bill does not include most of the environmental riders that would have put special interests above the national interest.

This budget agreement also strengthens America's leadership role in the world by paying our dues and arrears to the U.N.; by meeting our commitments to the Middle East peace process; by making critical investments in debt relief for the poorest countries, by enhancing the security of our over-seas personnel; by providing for new, critical peacekeeping missions; and by funding efforts to safeguard nuclear weapons in Russia.

Labor/Health and Human Services/Education Bill

Specifically, I am pleased that the legislation provides \$1.3 billion for the second installment of my plan to help reduce class size in the early grades. The Republican proposal did not guarantee funding for the teachers hired last year and would have instead allowed Class Size dollars to be used for virtually any activity, including vouchers. The final budget agreement supports the over 29,000 teachers hired last year plus an additional 2,500 teachers.

The bill appropriately includes several other high priority education initiatives. One million students will continue to be served by the Reading Excellence Initiative and 375,000 more students than last year will have access to 21st Century Community Learning Centers. By providing \$145 million for Public Charter Schools, approximately 650 more schools than last year will receive startup funding.

I commend the Congress for providing increases to several programs in my Hispanic Education Agenda that address the disproportionately low educational achievement and high dropout rates of Latino and limited English proficient students. The Hispanic Education Agenda includes programs such as Title I Grants to Local Education Agencies (LEAs), Adult Education, Bilingual Education, the High School Equivalency and College Assistance Migrant Programs (HEP/CAMP), Hispanic-serving Institutions, and support services to promote the graduation of low-income college students (TRIO).

I am disappointed, however, that this legislation does not provide any of the funding that I specifically requested for Troops to Teachers. This lack of funding jeopardizes this program, which would have provided 3,000 new teachers in high-need subject areas and school districts.

I am pleased that the bill funds most of my major proposals for job training, worker protection programs, and grants for working with developing countries to establish core labor standards. For example, \$1.6 billion is included for dislocated worker assistance, enabling the program to provide training and re-employment services to 858,500 dislocated workers. Since 1993, my Administration has succeeded in tripling funding for, and participation in, programs that help dislocated workers return to work.

As authorized in the bipartisan Workforce Investment Act of 1998, the Congress has provided \$140 million to expand services to job seekers at One-Stop centers.

I am pleased that the bill provides the funds I requested for major youth job training programs. Specifically, the bill includes the \$250 million I requested for Youth Opportunity Grants to finance the second year of the 5-year competitive grants that provide education, training, and support services to 58,000 youth in Empowerment Zones and Enterprise Communities. In addition, the bill provides the \$1 billion for Youth Activities Formula Grants to provide training and summer employment opportunities to an estimated 577,700 youth. Also it includes \$55 million for the final year of Federal funding for the School-to-Work initiative. The bill provides \$1.4 billion for the Job Corps program, including financing for enhanced follow-up services for graduates, completion of a four-center expansion initiated in FY 1998, and construction of Head Start child care facilities on five Job Corps campuses.

The bill provides \$83 million, or 8 percent above the FY 1999 enacted level, for labor law enforcement agencies, funding key initiatives to ensure workplace safety, address domestic child labor abuses, encourage equal pay, assist in complying with pension law, and promote family leave.

I am especially pleased that this legislation includes critically needed changes to the Welfare-to-Work program's eligibility requirements. We have worked closely with the Congress to ensure these changes were enacted this year. By simplifying eligibility, this legislation will allow the Welfare-to-Work program, within existing resources, to serve more effectively long-term welfare recipients and noncustodial parents of low-income children. The bill also establishes an alternative penalty that is tough, but fair, for States that have not implemented certain child support enforcement requirements.

This legislation fully funds my request for Head Start, adding up to 44,000 new slots for low-income children and continuing on the path to serve one million children by FY 2002.

Unfortunately, the bill reduces the Social Services Block Grant by \$134 million below the FY 1999 level, undermining programs serving our most vulnerable families.

The bill includes historic investments in biomedical research, mental health, pediatric training, and a number of other critically important public health initiatives. It also makes an essential downpayment on my Safety Net proposal, which is designed to provide financial and technical support to those providing a disproportionate amount of care to the uninsured. Lastly, it provides payment restorations to hospitals, nursing homes, and other providers serving the 39 million elderly and disabled beneficiaries.

It also provides a \$34.5 billion investment in health programs, 11.7 percent above the FY 1999 enacted level, including an historic increase of \$2.3 billion for the National Institutes of Health. These new initiatives will strengthen the public health infrastructure, provide critical prevention and treatment services to individuals with mental illness, and invest in pediatric training programs. Specifically, the bill provides \$40 million to support graduate medical education at freestanding children's hospitals, which play an essential role in the education of the Nation's pediatricians; \$67 million above the FY 1999 funding level for the Mental Health Block Grant, a 23 percent increase over FY 1999 and the largest increase ever; \$30 million for health education, prevention, and treatment services to address health disparities among minority populations; and an additional \$62 million over FY 1999 funding levels to provide critical immunizations to children nationwide. The \$239 million for the Title X Family Planning program will enable family planning clinics to extend comprehensive reproductive health care services to an additional 500,000 clients who are neither Medicaid-eligible nor insured. In addition, the \$25 million for the Health Care for the Uninsured Initiative will support the development of integrated systems of care and address service gaps within these systems.

It provides \$25 million, a full down payment on our proposed \$1 billion investment to develop integrated systems of care for the uninsured. It also dedicates an additional \$15 million to identify the best ways to deliver health care coverage to this population. I am pleased that the bill includes a \$73 million increase in funding for HIV prevention activities to help stop the spread of this disease; an increase of \$183 million in the Ryan White CARE Act, which helps provide primary care and support for those living with HIV/AIDS; and an estimated \$300 million in additional funds for AIDS-related research at the NIH. The bill also includes \$80 million in funding to the Minority AIDS Initiative, which utilizes existing programs to

reach African-Americans, Latinos, and other racial and ethnic minorities that are disproportionately impacted by HIV/AIDS, as well as an additional \$100 million to fight AIDS internationally. Finally, the Administration helped protect local authority over HIV prevention activities, successfully removing language from the District of Columbia appropriations bill that would have tied the hands of community health agencies in their ability to use needle exchange programs as part of their overall HIV prevention strategy.

The bill includes \$264 million to expand HHS' bioterrorism initiative. It provides \$52 million for the Centers for Disease Control and Prevention's (CDC) national pharmaceutical stockpile and \$123 million for CDC to expand national, State, and local epidemiologic, laboratory, and surveillance planning capacity, as well as to conduct a vaccine study. The bill also fully funds my request to expand the number of Metropolitan Medical Response Systems that can respond to the health and medical consequences of a chemical, biological, or nuclear incident, and to enhance smallpox and anthrax vaccine research and development. I am particularly pleased that the bill funds the creation of a new national electronic disease surveillance system, which will also help detect outbreaks and strengthen the public health delivery system.

I commend the Congress for providing funding for my Nursing Home Initiative, including resources for more rigorous inspections of nursing facilities and improved Federal oversight of nursing home quality, and for funding the 31-percent increase in Home-Delivered Meals that I requested.

Finally, the bill also includes the Balanced Budget Refinement Act of 1999, which invests \$16 billion over 5 years to address the flawed policy and excessive payment reductions resulting from the Balanced Budget Act of 1997. It lifts caps on therapy services, increases payments for very sick nursing home patients, restores teaching hospital funding, and eases the transition to the new prospective payment system for hospital outpatients. It also includes provisions to limit cost-sharing requirements for Medicare beneficiaries and extends coverage of important immunosuppressive drugs. Unfortunately, it includes provisions that are not justifiable, such as a \$4 billion payment increase to managed care plans that are already overpaid according to most experts. This is troubling because any excess payments from the Medicare trust fund put the program at greater risk.

Commerce/Justice/State Bill

Regrettably, the bill does not contain a needed hate crimes provision that was included in the Senate version of the bill. I urge the Congress to pass legislation in a timely manner that would strengthen the Federal Government's ability to combat hate crimes by relaxing jurisdictional obstacles and by giving

Federal prosecutors the ability to prosecute hate crimes that are based on sexual orientation, gender, or disability, along with those based on race, color, religion, and national origin.

I am pleased that we were able to secure additional funds for the Legal Services Corporation. Adequate funding for legal services is essential to ensuring that all citizens have access to the Nation's justice system. Similarly, through negotiations with the Congress, the funding level for the Equal Employment Opportunity Commission (EEOC) was increased above the FY 1999 enacted level. The additional funds will assist the EEOC in its continued progress in reducing the backlog of employment discrimination cases.

The bill funds my requested \$13 million increase for the Department of Justice's Civil Rights Division. These funds will support law enforcement actions related to hate crimes, the Americans with Disabilities Act, and fair housing and lending.

The legislation contains adequate funding for the decennial census, and includes a compromise on language requiring the Census Bureau to allocate funds among eight functions or frame-works. With the decennial census approaching, I am confident that this language will not inhibit the Census Bureau's ability to actually conduct the census.

The United States has recently entered into the U.S.-Canada Pacific Salmon Agreement. The Agreement ends years of contention between the U.S. and Canada regarding expired fishing harvest restrictions and provides for improved fisheries management. I am pleased that legislative riders that would have hindered implementation of this important Agreement have been modified or removed from the bill. In addition, additional funds have been provided for implementation of the Agreement and for other salmon recovery efforts. These funds will allow us to work cooperatively with our partners -- Canada, a number of western States, and Treaty Tribes -- to implement the Agreement and to restore Pacific coastal salmon runs.

The bill does not provide additional requested funding to the Department of Justice for tobacco litigation, but does not preclude the expenditure of funds for this purpose. We will identify existing resources to pursue this important case. Smoking-related health expenses cost taxpayers billions of dollars each year through Medicare, veterans' and military health, and other Federal health programs. The \$20 million I requested is needed to represent the interests of the tax-payers, who should not have to bear the responsibility for these staggering costs.

Critical funds were added to help our Nation's 24 million small businesses. The bill now includes \$16.5 million for my New Markets Initiative to invest in targeted rural and urban areas. Also, funding levels were increased for the Small

Business Administration's (SBA) operating expenses and disaster loan program. These funds will enable the SBA to provide critical services, including a fast and effective response to Hurricane Floyd.

I regret that a provision is included that would amend the recently enacted Treasury and General Government Appropriations Act, 2000, that could limit the access of Federal government employees to contraceptive coverage.

Foreign Operations Bill and Other International Affairs
Appropriations and Authorizations

I am pleased that we were able to reach bipartisan agreement with the Congress on a level of funding for international affairs programs that supports our continued engagement on key global issues. Most notably, we were able to agree to meet our obligations to the United Nations, which will allow us to keep our vote in the General Assembly. We also obtained additional funding for international peacekeeping efforts seeking to redress the instability and suffering caused by conflicts in East Timor, Kosovo, and Africa.

The bill includes my full request for the Wye River Agreement, which will support our partners in the Middle East as they accelerate their historic attempt to secure a permanent peace. We gained bilateral funding for the new Cologne debt reduction initiative, as well as agreement from the Congress to allow the International Monetary Fund to use existing resources to finance its portion of the initiative, allowing us to begin to lessen the crushing debt burden that many of the world's poorest nations face as they try to implement difficult economic and democratic reforms.

Unfortunately, the bill also includes a provision on international family planning that I have strongly opposed throughout my Administration. This is a one-time provision that imposes additional restrictions on international family planning groups. However, I insisted that the Congress allow for a Presidential waiver provision, which I have exercised today.

I have instructed USAID to implement the new restrictions on family planning money in such a way as to minimize to the extent possible the impact on international family planning efforts and to respect the rights of citizens to speak freely on issues of importance in their countries, such as the rights of women to make their own reproductive decisions. As I have stated before, I do not believe it is appropriate to limit foreign NGOs' use of their own money, or their ability to participate in the democratic process in their own countries. Thus, I will oppose inclusion of this restriction in any future appropriations bill.

The bill takes a step in the right direction in terms of paying our dues and our debts to the United Nations and other

international organizations. The bill includes most of the funds requested for U.N. arrears, as well as the United Nations Reform Act, which authorizes payment of these arrears contingent upon certain U.N. reforms. My Administration is committed to making sure that all of our debts are paid, and, while doing so, pressing for reforms that will make the U.N. more efficient and effective.

International peacekeeping activities in this bill are funded at a level of \$500 million, \$300 million above the level in the bill that I vetoed. This additional funding is crucial and will support the United States' response to emergent peacekeeping requirements in Kosovo, Asia, and Africa. In each of these places, the United States has worked with allies and friends to end conflicts that have claimed countless innocent lives and thrown whole regions into turmoil. This funding will help America do its part to make and keep the peace in troubled regions.

On a number of other critical foreign policy priorities, we were able to achieve bipartisan agreements that will directly affect the lives of Americans and others alike. We fully funded a new initiative that will significantly expand our efforts to stem the spread of HIV/AIDS in Africa and elsewhere in the developing world. We significantly increased funding for programs aimed at reducing the threat of weapons of mass destruction in the former Soviet Union and elsewhere. We agreed to a significant package of assistance to Kosovo and Southeastern Europe that will help to solidify the fragile peace that we and our NATO allies have secured. We initiated new programs that will help to provide alternatives to the child labor practices that are still too prevalent in much of the world. I am particularly pleased the bill provides my full request for embassy security to protect the men and women who serve our country abroad.

There are still important commitments and goals that were not adequately addressed in this bill. I am disappointed that we did not achieve all of the funding that we need to fully implement the multilateral portion of the Cologne debt initiative, and that we were not able to meet our commitments to provide multilateral environmental assistance through the Global Environment Facility. However, in total, this bill demonstrates that the bipartisan consensus that America must remain engaged in global affairs, which has guided our interaction with the rest of the world since the end of the Second World War, is still very much alive and well, and I am hopeful that it will continue to guide our foreign policy into the 21st Century.

I continue to believe that various provisions prohibiting implementation of the Kyoto Protocol in this bill are unnecessary, as my Administration has no intent of implementing the Protocol prior to ratification. Furthermore,

I will consider activities that meet our responsibilities under the ratified U.N. Framework Convention on Climate Change to be consistent with this provision. Finally, to the extent these provisions could be read to prevent the United States from negotiating with foreign governments about climate change, it would be inconsistent with my constitutional authority. Accordingly, I will construe this provision as not detracting from my authority to engage in the many activities, both formal and informal, that constitute negotiations relating to climate change.

This legislation includes a number of provisions in the various Acts incorporated in it regarding the conduct of foreign affairs that raise serious constitutional concerns. These provisions would direct or burden my negotiations with foreign governments and international organizations, as well as intrude on my ability to maintain the confidentiality of sensitive diplomatic negotiations. Similarly, some provisions would constrain my Commander in Chief authority and the exercise of my exclusive authority to receive ambassadors and to conduct diplomacy. Other provisions raise concerns under the Appointments and Recommendation Clauses. My Administration's objections to most of these and other provisions have been made clear in previous statements of Administration policy and other communications to the Congress. Wherever possible, I will construe these provisions to be consistent with my constitutional prerogatives and responsibilities and where such a construction is not possible, I will treat them as not interfering with those prerogatives and responsibilities.

District of Columbia Bill

With respect to the District of Columbia bill, I am pleased that the majority and minority in the Congress were able to come together to pass a version that I can sign. While I continue to object to remaining riders that violate the principles of home rule, some of the highly objectionable provisions that would have intruded upon local citizens' right to make decisions about local matters have been modified from previous versions of the bill. My Administration will continue to strenuously urge the Congress to keep such riders out of the FY 2001 D.C. Appropriations Bill.

I commend the Congress for providing the Federal funds I requested for the District of Columbia. The bill includes essential funding for District Courts and Corrections and the D.C. Offender Supervision Agency and provides requested funds for a new tuition assistance program for District of Columbia residents. The bill also includes funding to promote the adoption of children in the District's foster care system, to support the Children's National Medical Center, to assist the Metropolitan Police Department in eliminating open-air drug trafficking in the District, and for drug testing and treatment, among other programs.

Interior and Related Agencies Bill

With respect to the Department of the Interior and Related Agencies bill, I commend the Congress for agreeing on an acceptable version -- one that does not include most of the highly objectionable provisions that would harm the environment and benefit special interest groups by allowing the inappropriate use of national forests and other public lands and resources.

In particular, we have reached a fair compromise on millsite claims under the 1872 Mining Law. Hardrock mining operations under existing approved plans of operations, as well as applications for new mining plans filed by the date of the Interior Solicitor's Opinion of November 7, 1997, would go forward without the Department of the Interior applying the five-acre-per-mining-claim millsite limitation. The Department of the Interior would impose this limitation on plans for new hardrock mining operations filed after November 7, 1997; it would also impose the limitation on amended plans of operations filed after November 7, 1997, that add millsite acreage.

Our agreement also will allow final rules to take effect in the near future that will provide a fair return to the taxpayers for the development of Federal oil resources; and will ensure more effective environmental protection in hardrock mining on Federal lands.

This bill provides two-thirds of the funds I requested for my Lands Legacy initiative and represents a significant improvement over prior-year funding, allowing us to protect such irreplaceable national treasures as the Baca Ranch in New Mexico, the Everglades in Florida, wilderness lands in the California Desert, and Civil War battlefield sites that are threatened by urban sprawl. There is also adequate support given to the Clean Water Action Plan. I am especially pleased with the additional funding for the Forest Service and for abandoned mine lands reclamation, which would make significant progress in addressing acid mine drainage and watershed problems in the Appalachian region. I look forward to working with the Congress next year to provide full and permanent funding for my Lands Legacy proposal, including full Federal and State funding for the Land and Water Conservation Fund.

My Administration has also been able to secure additional funding for energy conservation, the single largest component of my Climate Change Technology Initiative, which will help us to form the partnerships with industry that are vital to the development of a new generation of ultra-efficient cars, more efficient and affordable housing, and more efficient, less-polluting industrial processes. This progress will help us to address the threat of global warming economically and practically.

I commend the Congress for the historic \$157.2 million increase for Indian health, which is only slightly below the \$172 million increase the Administration sought for the Indian Health Service. This funding increase represents a continuing demonstration of the Federal commitment to improve the health status of Native Americans and Alaska natives. I also commend the Congress for the removal of an objectionable rider that would have infringed on tribal sovereignty, and for providing specific funding to accommodate new contracts with tribes.

Although I am disappointed that the Congress has failed to increase funding for the National Endowment for the Arts for the eighth straight year, I am pleased with the generally positive debate and the first increase in 4 years in funding for the National Endowment for the Humanities.

The bill also contains language on the American Heritage Rivers initiative. I believe that the congressional language is unnecessary and unfortunate. I will direct the Departments funded by this bill, within existing laws and authorities, to continue to support and undertake community-oriented services or environmental projects on rivers I have recognized as part of the initiative.

By increasing critical funding for land conservation efforts and removing harmful environmental provisions, the legislation represents a step forward in efforts to protect the environment and manage Federal lands and resources responsibly.

Disaster Assistance

I am pleased that the bill includes over \$500 million in additional funds for our Nation's farmers, ranchers, and rural communities to help them recover from natural disasters, particularly this year's hurricanes. These funds will help farmers clear their streams and fields for next year's crop, just as the \$2.5 billion in loans provided in the bill will help them secure the financing they need for planting. Vitally needed funds are included to help low-income rural families and farm laborers repair and replace housing damaged by Hurricane Floyd, and low-interest loans will be available to repair and replace farm structures and equipment lost in the storm. In addition, \$186 million is included for additional crop loss payments across the country, including areas in the East that suffered through one of the worst droughts in memory. The bill also provides funding to implement the mandatory livestock price reporting authority included in the Agriculture Appropriations Act, which will make the livestock market more transparent and particularly help small producers get a fair price for their livestock in the market.

Authorization Bills/Other Issues

The bill also includes a provision that would delay the Department of Health and Human Services's Organ Procurement and Transplantation Network Final Rule for a minimum of 42 days from the bill's effective date. This Final Rule is in response to my Administration's belief that the current organ allocation policies by the Organ Procurement and Transplantation Network are inequitable because patients with similar severities of illness are treated differently, depending on where they may live or at which transplant center they may be listed.

The Satellite Home Viewer Improvement Act -- part of the Intellectual Property and Communications Omnibus Reform Act of 1999 -- will increase the ability of satellite companies to compete against cable companies, and will result in more customer choice, lower prices, and increased access to local news and information. This Act puts the TV remote control back into consumers' hands and competition at their fingertips. In addition, the patent reform legislation that the Administration has fought for will help meet the needs of America's inventors and entrepreneurs. It strengthens protection in a number of ways: it extends the term of a patent when there is an administrative delay in the patent process; it requires the timely domestic publication of patent applications that are also filed abroad; and it reinvents the Patent and Trademark Office as a performance-based organization to better serve America's entrepreneurs and innovators.

Unfortunately, the Congress did not fund my additional request to protect the Nation's critical computer and information based infrastructures from a growing threat of cyber attack from hostile nations, terrorists, or criminals.

In order that \$68 million in interest accrued by the Abandoned Mine Land Fund (to be transferred to the United Mine Workers of America Combined Benefits Fund -- designated by the Congress as an emergency requirement) not be scored against the discretionary spending caps, I hereby designate that amount as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended. I will shortly be designating other funds in this legislation as emergency requirements.

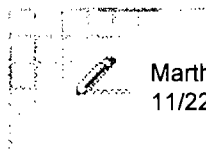
Finally, there are several provisions in the bill that purport to require congressional approval before Executive Branch execution of aspects of the bill. I will interpret such provisions to require notification only, since any other interpretation would contradict the Supreme Court ruling in INS vs. Chadha.

WILLIAM J. CLINTON

THE WHITE HOUSE,
November 29, 1999.

#

Message Sent To: _____



Martha Foley
11/22/99 09:56:41 AM

Record Type: Record

To: Michelle Peterson/WHO/EOP@EOP, Steve Ricchetti/WHO/EOP@EOP, Matthew T. Schneider/WHO/EOP@EOP

cc:

Subject: FW: Mexico City Policy

----- Forwarded by Martha Foley/WHO/EOP on 11/22/99 09:53 AM -----



"Lorenzen, Ed" <Ed.Lorenzen@mail.house.gov>
11/18/99 11:07:56 AM

Record Type: Record

To: Martha Foley/WHO/EOP

cc:

Subject: FW: Mexico City Policy

> The pro-lifer spin.

>

> -----Original Message-----

> From: Wynne, Maggie

> Sent: Thursday, November 18, 1999 10:05 AM

> Subject: Mexico City Policy

>

> Earlier this week the Republican leadership and the White House finalized

> compromise language on the pro-life Mexico City Policy (MCP) which has

> been included in the omnibus appropriations bill (H.R. 3194), together

> with authorization of payment of \$926 million for disputed U.N.

> arrearages.

>

> While the compromise MCP language is far from perfect, it is nevertheless

> a significant victory. For the first time in seven years, Federal law

> will distinguish between those nongovernmental organizations (NGOs) that

> provide family planning, and those that hide behind the family planning

> label to pursue their pro-abortion activities. The language ensures that

> 96% of the fiscal year 2000 international population funding will NOT go

> to foreign groups that perform or promote abortions in other countries.

>

> For this reason, Reps. Chris Smith and Jim Barcia are supporting this

> compromise, and they will be voting "YES" on the omnibus appropriations

- > bill.
- >
- > Background
- >
- > The Mexico City Policy, as implemented from 1984-1993, prevented U.S.
- > population (control) assistance to any foreign nongovernmental
- > organization that performed or actively promoted abortion as a method of
- > family planning. This policy was rescinded by President Clinton in
- > January 1993. Since 1995, amendments have been offered to authorization
- > and appropriations bills to codify these pro-life safeguards. These
- > amendments would have amended the Foreign Assistance Act of 1961 to
- > prevent U.S. population assistance to foreign NGOs that perform abortions
- > (except in cases of forcible rape, incest, or where the life of the mother
- > is endangered), violate a country's laws with respect to abortion, or
- > engage in any activity or effort to alter a country's laws regarding
- > abortion. Compromise versions of the amendment offered in more recent
- > years would have allowed the President to waive the provision with regard
- > to groups that perform abortions.
- >
- > The Mexico City Policy Agreement
- >
- > The language included in the omnibus bill would: (1) allow the MCP
- > amendment conditions to become law for FY 2000 (that is, it would govern
- > the \$385 million appropriated for international family planning in the FY
- > 2000 Foreign Operations appropriations bill); (2) allow a waiver for part
- > of the funds; and (3) impose a penalty if the waiver is invoked.
- >
- > The result is as follows:
- >
- > * Total FY 2000 population funding: \$385 million
- >
- > * FY 2000 funds available only to U.S. groups, or to foreign groups
- > which agree to MCP conditions: \$370 million (96% of total funds)
- >
- > (If a U.S. group receiving the money in turn gives money to a foreign
- > subcontractor or subgrantee, that subsidiary organization must abide by
- > the MCP conditions.)
- >
- > * FY 2000 funds which the President, through the Agency for
- > International Development (AID), may -- by invoking a waiver -- provide to
- > foreign groups engaged in performing or lobbying for abortion: \$15
- > million (4% of total funds)
- >
- > (This \$15 million represents the total amount of FY 2000 funds that may be
- > received by all foreign nongovernmental organizations not complying with
- > the Mexico City Policy.)
- >
- > * If the President invokes the waiver for any amount, \$12.5 million
- > will be transferred from the population account and given to child
- > survival programs which have a direct, measurable and high impact on
- > reducing child mortality and morbidity. (Child survival programs, more
- > broadly defined, otherwise get about \$245 million in the Foreign Ops
- > bill.)
- >

> Benefits of the Compromise Mexico City Policy

>

> (1) Despite many earlier statements opposing these pro-life conditions,
> the President has finally accepted the Mexico City Policy provisions, and
> Administration spokesmen, including Secretary of State Madeleine Albright,
> have stated that they believe the conditions will have a "minimal impact"
> on "family planning" programs and organizations. Pro-life Members have
> said all along that, as in the past, the Mexico City Policy would not
> reduce the effectiveness of U.S. family planning programs. Rather, it
> would ensure that funds are directed to those groups that provide family
> planning but do not perform or promote abortion as a back-up method of
> birth control.

>

> (2) Both of the main elements of the Mexico City Policy (performance and
> lobbying) would be in effect for the vast majority of funds distributed to
> foreign organizations.

>

> (3) If the President insists on funding foreign groups that perform or
> advocate for abortion, the population account will be reduced by \$12.5
> million and the funds will be given to truly life-saving programs for
> children.

>

> (4) Many country affiliates of organizations like International Planned
> Parenthood Federation, will be receiving their own grants under the terms
> of the Mexico City Policy, and their agreements with the U.S. will help
> them to resist any pressure from IPPF or others to lobby for changes in
> abortion laws in their countries.

>

> Drawbacks

>

> (1) The Mexico City Policy will not be codified, but will be an
> appropriations rider that must be renewed next year and thereafter (until
> an authorization measure with it is enacted, or a pro-life president
> directs AID to restore the Reagan-Bush conditions).

>

> (2) Some groups that perform or promote abortion will still be eligible to
> receive U.S. tax dollars. The Administration will be able to give up to
> \$15 million in FY 2000 funds to foreign organizations engaged in these
> pro-abortion practices.



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

FACSIMILE TRANSMITTAL COVER SHEET

Date: _____

11/15/99

TO:

ATTENTION: Shelly Peterson

ORGANIZATION: _____

202 456-7024

OFFICE PHONE: 202-456-7804

FAX _____

FROM:

ORIGINATOR: Duff G. Gillespie

ORGANIZATION: USAID/G/PHN

FAX PHONE: 202-216-3485

OFFICE PHONE: 202-712-4120

NUMBER OF PAGES (including this cover sheet):

Shelly,

The question of mixing child survival and population funding has been the subject of a long standing discussion with the House Appropriations Committee staff. In response to FY 2000 HACFO Conference language which included fairly burdensome and restrictive language on mixing the two types of funding, USAID developed some alternative language that outlined steps we would take (and have since taken) to ensure that child survival funds are adequately protected and protect against any alleged inappropriate use of funds. The attached paper was developed in response to the HACFO language, and outlines our concerns and the steps we would take. These steps were shared with HACFO staff, and appeared to offer sufficient assurances for them, as the language did not appear in the final Statement of Managers.

Please note that there are two parts to the attachment. The first is part of a formal paper we prepared, offering alternative language for the Conference report. The second is a more detailed discussion of the issues and steps we would take. The latter was discussed with HACFO staff.

Please let me know if you have any questions.

Duff

712-4300/4223
Suzanne Palmeri
her
secty



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

FACSIMILE TRANSMITTAL COVER SHEET

DATE: 11/22/99

TO: Shelly Peterson

URGENT

Tel: 202-456-7804
Fax: 202-456-7024

FROM: Barbara Crane / Duff Gillespie
Senior Policy Adviser
Office of Population
Center for Population, Health and Nutrition
USAID
1300 Pennsylvania Avenue, N.W.
Washington, D.C. 20523-3600

Tel: 202-712-5839
Fax: 202-216-3046
Email: bcrane@usaid.gov

Number of pages (including cover sheet) 2

Subject: Edits to Presidential statement

Attached are some possible additional
phrasing to include in the statement, discussed
by Duff + me. Please call if you'd like to
discuss further. Thanks for sharing this with us!

Barbara Crane

*Pat
Ramsey*



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

FACSIMILE TRANSMITTAL COVER SHEET

DATE: 12/15/99

TO: Shelley Peterson, Office of the White House Counsel

Tel: 202-456-7804

Fax: 202-456-7024

FROM: Barbara Crane
Senior Policy Adviser
Office of Population
Center for Population, Health and Nutrition
USAID
1300 Pennsylvania Avenue, N.W.
Washington, D.C. 20523-3600

Tel: 202-712-5839

Fax: 202-216-3046

Email: bcrane@usaid.gov

Number of pages (including cover sheet) 11

Subject: URGENT!

*Attached are the certification documents -
latest versions. Please call if
questions. Thanks!*

DRAFT DRAFT DRAFT

12/14/99, 3:10 p.m.

599D Certification Form for FY 2000 USAID Population Funding

Please review Option Nos. 1 and 2 below and sign in the applicable signature block:

Option No. 1: I, the undersigned, as a duly authorized representative of (name of non-U.S., private, non-governmental organization or multilateral organization expecting to receive FY 2000 USAID funds), have reviewed USAID's Section 599D Certification Guidance, dated January xx, 1999, and do hereby certify that the organization will not:

- 1) perform abortions in any foreign country, except where the life of the mother would be endangered if the pregnancy were carried to term or in cases of forcible rape or incest;
- 2) violate the laws of any foreign country concerning the circumstances under which abortion is permitted, regulated, or prohibited; or
- 3) engage in activities or efforts to alter the laws or governmental policies of any foreign country concerning circumstances under which abortion is permitted, regulated, or prohibited;

from the date the organization signs an agreement to receive funding derived from USAID's FY 2000 population assistance account through September 30, 2001.

This certification does not restrict the organization's treatment of injuries or illnesses caused by legal or illegal abortion or activities which are in opposition to coercive abortion or involuntary sterilization.

This certification constitutes a material representation of fact upon which reliance is placed by USAID or its intermediary contractors, grantees, and recipients when entering into financing transactions.

Signature Block 1: _____

Name

Title

Date

Option No. 2: My organization is not prepared at this time to certify to the conditions outlined in Option No. 1 above. I understand that USAID may still consider my organization for FY 2000 population funding, within a worldwide limitation of \$15 million.

Signature Block 2: _____

Name

Title

Date

DRAFT DRAFT DRAFT
12/15/99, 9:50 a.m.

Sample Letter No. 1

Request for 599D Certifications to Non-U.S. NGO Prime with Non-U.S. NGO or private commercial firm Subs

Dear (Name of Grantee/CA or Contract Representative):

USAID is considering your organization for direct funding with USAID population assistance funds appropriated for fiscal year 2000. In addition, we anticipate that your organization may provide such funds to other non-U.S. organizations through subagreements. A new law* requires non-U.S., non-governmental organizations (NGOs), private firms, and multilateral organizations to certify that they will not engage in certain abortion-related activities, before they can be eligible to receive FY 2000 population funds.

Although the President has exercised statutory authority to waive this requirement, USAID may provide only a limited amount of funding under the law—a total of \$15 million for population activities worldwide—to non-U.S. NGOs (and private and multilateral organizations) that do not certify. To comply with the \$15 million limitation, it is necessary for USAID to obtain certifications, whenever possible, from non-U.S. NGOs that would receive FY 2000 population funds, either directly from USAID or as sub-grantees or subcontractors. When certifications cannot be obtained, USAID funding can only be provided within the limited \$15 million cap.

We therefore request your assistance on two actions below:

- 1) We ask that you review the enclosed 599D Certification Form and related Certification Guidance with respect to the activities of your own organization. After selecting one of the options and obtaining the signature of an authorized representative, please return the form.
- 2) USAID must also ask your organization to collect certification forms from your non-U.S. NGO subgrantees and subcontractors that you expect to receive FY 2000 population assistance under your planned agreement with USAID. Such subgrantees and subcontractors should be asked to complete the Certification Form, based on the Certification Guidance. Failure to obtain completed forms from these organizations could delay or jeopardize planned FY 2000 funding actions. Please forward the completed forms to USAID at the address indicated.

You are asked to collect and send the requested certification forms as soon as possible, but no later than March 31, 2000. Forms should be sent (mailed or faxed???) to the following address:

John Snow, Inc.
1616 North Fort Meyer Drive, 11th Floor
Arlington, VA 22209
Attention: (name to be determined)
Tel: 703-528-7474
Fax: 703-528-7480

Please remember that receiving these forms on time is essential to our decision-making regarding allocation of the \$15 million, and that funding for organizations that do not certify under Option 1 is very limited.

If you have questions concerning this letter or the enclosures, please contact:

Sincerely,

Mission PHN Officer (?)

*Section 599D of the Foreign Operations, Export Financing, and Related Programs Act, 2000

\\599DLETTER1.DOC

DRAFT DRAFT DRAFT
12/15/99, 9:45 a.m.

Sample Letter No. 2

Request for 599D Certifications to U.S. NGO Prime with Non-U.S. NGO or private commercial firm Subs

Dear (Name of Grantee/CA or Contract Representative):

USAID is considering your organization for direct funding with USAID population assistance funds appropriated for fiscal year 2000. In addition, we anticipate that your organization may provide such funds to non-U.S. organizations through subagreements. A new law* requires non-U.S. non-governmental organizations (NGOs), private firms, and multilateral organizations to certify that they will not engage in certain abortion-related activities, before they can be eligible to receive FY 2000 population funds.

Although the President has exercised statutory authority to waive this requirement, USAID may provide only a limited amount of funding under the law—a total of \$15 million worldwide—to non-U.S. NGOs (and private and multilateral organizations) that do not certify. To comply with the \$15 million funding limitation, it is necessary for USAID to obtain certifications, whenever possible, from non-U.S. NGOs that would receive FY 2000 population funds, either directly from USAID or as sub-grantees or subcontractors. When certifications cannot be obtained, USAID funding can only be provided within the limited \$15 million cap.

While the certification procedure does not apply to U.S. organizations such as yours, it does apply to non-U.S. NGOs and private commercial firms receiving FY 2000 population assistance funds from your organization under your planned agreement with USAID. Accordingly, USAID must ask your organization to collect certifications from such sub-grantees and subcontractors. Please ask your current or prospective non-U.S. NGO sub-grantees and subcontractors to review the enclosed Certification Guidance and complete the 599D Certification Form and provide it to you. Failure to obtain certification forms from lower tier organizations could delay or jeopardize planned FY 2000 funding actions.

You are asked to collect and send the requested certification forms as soon as possible, but no later than March 31, 2000. Forms should be sent (mailed or faxed???) to the following address:

John Snow, Inc.
1616 North Fort Meyer Drive, 11th Floor
Arlington, VA 22209
Attention: (name to be determined)

Tel: 703-528-7474

Fax: 703-528-7480

Please remember that receiving these forms on time is essential to our decision-making regarding allocation of the \$15 million, and that funding for organizations that do not certify under Option 1 is very limited.

If you have questions concerning this letter or the enclosures, please contact :
(names to be determined)

Sincerely,

(name to be determined, a USAID/W
official)

*Section 599D of the Foreign Operations, Export Financing, and Related Programs Act,
2000

\\599DLETTER2.DOC

DRAFT DRAFT DRAFT

12/15/99, 1:45 p.m.

\certguide.doc

Section 599D Certification Guidance

The following guidance is provided to assist non-U.S., non-governmental organizations to understand and complete the 599D Certification Form for purposes of receiving USAID FY 2000 Population Funding.

1. Who is asked to complete the certification?

- ◆ Multilateral (including global or regional) organizations which consist of member states, and
- ◆ Private, non-governmental entities, whether non-profit or commercial, which are organized under the laws of a country other than the United States,

that anticipate receiving funds from USAID's FY 2000 population assistance account, either directly from USAID through a contract, grant or cooperative agreement, or as sub-grantees or subcontractors.

Organizations that are not asked to certify include: U.S. government and U.S. private organizations; foreign governments; organizations that receive only in-kind assistance, e.g., in the form of technical assistance or commodities; organizations that will not receive funds from USAID's FY 2000 population assistance account; and commercial firms that are not engaged in family planning programs (for example, firms which supply goods and services of an administrative nature, such as suppliers of computer equipment, office supplies, maintenance or printing services).

2. To whom does the certification of activities apply?

To the organization whose duly authorized representative has signed the certification.

3. What period does the certification cover?

It covers the period beginning on the date the certifying organization signs an agreement under which it will receive funding from USAID's FY 2000 population assistance account through the last date on which such funds are available for obligation by USAID, that is, September 30, 2001.

4. What are the elements of the certification provision on performing abortions?

The certifying organization certifies that it will not perform abortions in any foreign country (that is, outside the U.S.), except where the life of the mother would be endangered if the pregnancy were carried to term or in cases of forcible rape or incest. The certification does not restrict organizations from treating injuries or illnesses caused by legal or illegal abortions.

5. What are the elements of the certification provision on violating the laws of a foreign country concerning abortion?

The certifying organization certifies that it will comply with the laws of the foreign countries in which it operates, with respect to the circumstances under which abortion is permitted, regulated or prohibited. Organizations should seek the advice of local counsel with respect to the application of such laws to their activities.

6. What does it mean to “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”?

The statutory language quoted here refers to activities or efforts by the organization which are intended to alter the laws or policies of foreign governments (or governmental agencies) with respect to the circumstances under which abortion is permitted, regulated, or prohibited. It includes an organization’s intentional efforts or activities to alter abortion laws or policies, whether the objective is more restrictive or less restrictive laws or policies.

The quoted language covers the following types of activities and efforts undertaken by an organization:

- Oral or written communications directed to a country's legislators and government officials, which support proposals or recommendations to alter laws or governmental policies of a foreign country concerning the circumstances under which abortion is permitted, regulated, or prohibited;
- Public outreach activities or efforts (for example, as reflected in newsletters, editorials or other mass media communications) intended to alter laws or governmental policies; or
- Organizing meetings, mass demonstrations (e.g., rallies or marches), or media events aimed at altering laws or governmental policies concerning abortion.

The above quoted language does not include activities in opposition to coercive abortion or involuntary sterilization. Because the restriction applies to efforts to alter laws and policies “concerning the circumstances under which abortion is permitted, regulated or prohibited”, it does not include activities or efforts intended to alter legal penalties applied to women who obtain abortions (e.g., “decriminalization”.) Similarly, given the language “engage in activities and efforts”, the definition would not include an activity or effort of a *de minimis* (that is, minimal or negligible) or incidental nature. It does not

include activities or efforts which are not intended to alter abortion laws or policies, but which may have that effect.

The quoted language does not include the following types of activities and efforts, which may be undertaken within the terms of the certification provisions:

- a) Research and dissemination of information on the incidence, causes, or consequences of abortion or the status of abortion laws or policies;
- b) Incidental statements in publications, meetings, workshops or communications to the mass media that are not part of activities or efforts (see above) by the organization intended to alter the abortion laws or policies of foreign countries;
- c) Statements or actions by an individual employee or officer of an organization which are clearly undertaken in a personal capacity and not on behalf of or under the auspices of the organization;
- d) Provision of information on existing laws or policies, engaging in efforts to maintain existing laws or policies or to ensure implementation of existing laws or policies;
- e) Interactions with legislators or government officials in which the organization is responding to a request for factual information or contacting a legislator or government official to obtain factual information, provided that such interactions are not part of activities or efforts intended to alter abortion laws or policies;
- f) Activities and efforts related to laws or policies specifically affecting treatment of injuries or illnesses caused by legal or illegal abortions;
- g) Attendance by an organization's representatives at meetings where altering abortion laws and policies may be discussed, provided the organization is not engaged in activities or efforts intended to alter abortion laws or policies;
- h) Sponsorship of meetings where altering abortion laws or policies may be discussed, provided that such discussions are de minimus;
- i) The organization's membership in a network of organizations, provided such membership does not involve any active participation by the organization in activities or efforts of the network to alter the abortion laws or government policies of a foreign country; or
- i) A multilateral organization's response to a request from a member state for assistance relative to its abortion laws or policies.

7. What if my organization cannot or does not certify?

Organizations which are covered by the certification procedure (see Question 1 above), but which cannot or do not certify, will be considered for FY 2000 population funding, but subject to the availability of funds capped in the aggregate for all such organizations worldwide at \$15 million.

8. What if my organization certifies, but does not comply with the terms of the certification?

The Certification Form states that the certification is a material fact upon which USAID and its intermediary organizations rely in providing FY 2000 population assistance funds. This means that USAID, and the intermediaries, must rely on the truth and accuracy of the certification statement, which is an essential or "material" piece of information in the decision to provide funds outside the limited \$15 million cap. USAID will require that agreements, subagreements and related amendments which provide FY 2000 population assistance funds to certifying organizations include standard remedies available when a certifying organization fails to comply with the terms of a certification. Such remedies are necessary to ensure that the \$15 million funding cap is observed. This is consistent with the way USAID and other federal agencies ensure compliance by grantees, contractors and recipients with certification requirements.