

file Mexico City
→ int'l family planning

September 17, 1999

TO: Ambassador Holbrooke
FR: Tori Holt *TH*
RE: Mexico City policy documents

To follow up on your request, I have compiled the attached documents on the evolution of the debate over the "Mexico City" policy limitations on international family planning funds. Most of these are primary materials, not analyses, as you suggested. I am happy to discuss this with you, and will continue to seek some outstanding documents.

The attached materials include:

- 1) **1984 Statement outlining the new U.S. policy by Reagan administration official James Buckley**, head of the U.S. delegation to the UN International Conference on Population, in Mexico City, August 9, 1984 (and thus "Mexico City" policy). Note that this was a White House policy - not an Executive Order by the President, as frequently thought.
- 2) **White House Memorandum to Agency for International Development (AID), January 22, 1993**, outlining President Clinton's direction that AID remove the "Mexico City" conditions of the Reagan/Bush Administrations. Clinton's repeal was done by a memorandum, not an Executive Order, which was all that was needed.
- 3) **US AID Policy on Abortion, April 1994**. (Simple one pager on the position.)
- 4) **Current U.S. Law**. Excerpts from current law governing AID Development Assistance; four pages.
- 5) **1997 "Mexico City" Amendment by Rep. Chris Smith (R-NJ) to the Foreign Operations Appropriations bill, September 4, 1997**. His amendment bans foreign recipients of U.S. funding from providing abortion services and engaging in any activity to alter the laws or policies of any foreign country concerning the circumstances under which abortion is permitted, regulated, or prohibited. (Vetoed by President.)
- 6) **State Department conference report, March 10, 1998, referencing interpretation of lobbying ban in Smith amendment**. I include this language to demonstrate that the report language influences the definition of "lobbying", which Smith's staff pointed out had

changed. This language supporting Smith's amendment in last year's State Authorization bill walks back from banning attendance at conferences involving discussion of abortion laws, while still barring "sponsoring" them. This did not solve the fundamental barring of public statements on "alleged defects" of the law or other provisions opposed by the Clinton Administration. (The bill was vetoed that fall.)

- 7) **Memo to the Secretary on Mexico City language on House Foreign Operations bill, July 29, 1999.** This memo from Barbara Larkin outlines the two amendments involving the issue this summer.
- 8) **Texts of Smith "Mexico City" amendment and alternative amendment by Rep. James Greenwood, (R-PA).** Both amendments were approved by the House in July. The Administration opposes the Smith amendment, but supported Greenwood. Smith opposes Greenwood, of course, and will argue that his amendment should be included in any bill including UN arrears.
- 9) **OVERVIEW Q&A from the State Department Bureau of Population, Refugees and Migration.** This e-mail outlines the answers to a few basic questions about Mexico City, FYI.

SEP-17-99 FRI 18:10

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P. 04

20

LEVEL 1 - 10 OF 19 STORIES

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1

August 9, 1994, Thursday, Late City Final Edition

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HEADLINE: STATEMENT BY U.S. DELEGATE TO THE CONFERENCE ON POPULATION IN MEXICO CITY

BYLINE: AP

DATELINE: MEXICO CITY, Aug. 8

BODY:

Following is the text of a statement delivered here today by James L. Buckley, head of the United States delegation to the United Nations International Conference on Population:

We thank the Government of Mexico, under its distinguished president, Miguel de la Madrid, for its hospitality in hosting this important gathering of the international community.

This Conference has been called to review the World Population Plan of Action adopted in Bucharest 10 years ago. As we do so, it is important to keep in mind that the subject of population is part of a larger objective. In its own words, the Plan of Action is "an instrument of the international community for the promotion of economic development, quality of life, human rights and fundamental freedom."

In short, population goals and policies must be considered not as ends in themselves but in the context of social and economic strategies designed to enhance the human condition in a manner consistent with basic values.

Over the past 20 years, the United States has played a leading role in focusing attention on population issues, in urging international cooperation, and in the design and implementation of population strategies based on voluntary family planning. In the current year, we will be contributing \$240,000,000 for these purposes, or 44 percent of the total population assistance provided by developed nations; and the Reagan Administration has requested an increase for 1985. U.S. support for these programs has increased by more than 30 percent since 1980.

At the same time, the experience of the last two decades not only makes possible but requires a sharper focus for our population policy.

Reduction in Mortality Rates

Given the dramatic success achieved by developing nations in reducing mortality rates, there is no question that many of them find it difficult to cope with the resulting surge in their populations. Moreover, major increases

SEP-17-1999 15:47

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202 395

The New York Times, August 9, 1984

are destined to continue well into the next century even with significant reductions in birth rates.

Small wonder that so many have reacted to this dramatic phenomenon by concentrating more on how to control the surge in human numbers than on how expanding populations might be accommodated.

We believe, however, that in his superb address welcoming us to Mexico, President de la Madrid placed the problem in context when he said:

"Our planet, inhabited today by 4.8 billion human beings, has the natural resources, production capacity and different administrative and political skills it needs to fully meet the basic needs of its future population. To that end, let us make reason our guide in our efforts to prepare for the future."

We can do no better than to follow the President's advice and place the population problem in perspective.

Producers and Consumers

First, and foremost, population growth is, of itself, neither good nor bad. It becomes an asset or a problem in conjunction with other factors, such as economic policy, social constraints, and the ability to put additional men and women to useful work. People, after all, are producers as well as consumers.

Hong Kong and South Korea are cases in point. They have few natural resources, and over the past 20 years they have experienced major increases in population, yet few nations have experienced such rapid economic growth. We believe it no coincidence that each of these societies placed its reliance on the creativity of private individuals working within a free economy.

Some developing nations chose a different path, that of a tightly controlled, centrally planned economy. In such cases, the concentration of economic decision-making in the hands of planners and public officials tends to inhibit individual initiative, and sometimes crippled the ability of men and women to work towards a better future. In many cases, agriculture was devastated by government price controls that wiped out the rewards for labor. Job creation in infant industries was hampered by confiscatory taxes. Personal industry and thrift were penalized. Under such circumstances, population growth became a threat.

One of the consequences of lagging development was the disruption of the natural mechanism for slowing population growth. The world's developed nations have reached a population equilibrium without compulsion. The controlling factor has been the adjustment, by individual families, of reproductive behavior to economic opportunity and aspiration. Historically, as opportunities and the standard of living rise, the birth rate falls. Fortunately, a broad international consensus has emerged since Bucharest that economic development and population policies are mutually reinforcing.

SEP-17-1999 15:47

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202 395

The New York Times, August 9, 1984

Interaction With Economy

This Conference offers a unique opportunity for all of us to reflect on the interaction between economic development and population in the light of experience so that we may develop more effective strategies for the years ahead. Our thinking, however, must not be limited to a consideration of economic and population factors alone. Any policy adopted must be consistent with a respect for human dignity and fundamental freedom.

As President Reagan stated in his message to this Conference:

"We believe population programs can and must be truly voluntary, cognizant of the rights and responsibilities of individuals and families, and respectful of religious and cultural values. When they are, such programs can make an important contribution to economic and social development, to the health of mothers and children, and to the stability of the family and of society."

In preparing for this Conference, the United States has issued a carefully developed statement of policy, a copy of which has been distributed to each delegation. It does not represent a radical shift. Rather, it reflects a sharpening of focus to make U.S. foreign assistance programs more responsive to true needs and more reflective of fundamental values.

The United States will continue its longstanding commitment to development and family planning assistance in other countries. By exercising greater care in determining how those contributions are used, the United States expects to increase the effectiveness of its economic assistance while insuring that its family planning funds are used in ways consistent with human dignity and family values.

The United Nations Declaration of the Rights of the Child (1959) recognizes the right of children to protection before birth as well as after. In keeping with this affirmation, the United States does not consider abortion an acceptable element of family planning programs.

U.S. Policy on Abortion

Over the past decade, the United States has not allowed its population assistance contribution to be used to finance or promote abortion. The present policy tightens this existing restriction in three ways.

First, where U.S. funds are combined with other funds, the U.S. contribution will be placed into segregated accounts. Second, the U.S. will no longer contribute to organizations which perform or actively promote abortion as a method of family planning in other nations; and third, before the U.S. will contribute funds to the United Nations Fund for Population Activities, it will first require concrete assurances that the UNFPA is not engaged in, and does not provide funding for, abortion or coercive family planning programs.

The New York Times, August 9, 1984

Should such assurances not be possible, and in order to maintain the level of its overall contribution to the international effort, the United States will redirect the amount of its international contribution to other, non-UNFPA family planning programs.

When efforts to lower population growth are deemed advisable, U.S. policy considers it imperative that such efforts respect the right of couples to determine the size of their own families. Accordingly, the United States will not provide family planning funds to any nation which engages in forcible coercion to achieve population goals.

Our support of family planning programs serves two basic purposes, both of which require ready access to information and knowledge and services that will enable couples to exercise their right to determine when they will conceive a child.

Health of Mother and Child

The first concerns health. Family planning services will enable couples to enable them to control the size of their families, women who are too young or too old to bear one with safety.

Availability of effective family planning services to protect the health of mother and child by enabling them to control the size of their families, women who are too young or too old to bear one with safety.

The second end of family planning is to facilitate parental control over the size of families. An effective family planning program will result in substantial decreases in family size, only to the degree that couples desire fewer children, and that safe, effective and affordable methods of family planning are available.

is to facilitate parental control over the size of families. An effective family planning program will result in substantial decreases in family size, only to the degree that couples desire fewer children, and that safe, effective and affordable methods of family planning are available.

Here again we can see that as long as the great majority of people in the least developed countries want to have them. This desire is prevalent in the least developed countries where children begin to contribute to family income at an early age, and are a main source of support for parents too old to work. Once a society achieves a certain level of real economic development, however, the incentives to have children will change - especially where women have achieved higher education and are able to obtain their rightful place in society.

ent as well as historical experience. So we see an economic advantage in having a family and to have them. This desire is prevalent in the least developed countries where children begin to contribute to family income at an early age, and are a main source of support for parents too old to work. Once a society achieves a certain level of real economic development, however, the incentives to have children will change - especially where women have achieved higher education and are able to obtain their rightful place in society.

South Korea and the Philippines are cases in point. Between 1970 and 1982, they experienced an average annual rate of economic growth of over 7 percent, well above that of any other part of the world. At the same time, through a combination of family planning efforts and the decline in birth rates associated with economic growth, they reduced their average crude birth rate by more than 30 percent. While some of these nations are richly endowed with natural resources, others have none. What they do share in common is market economies and policies which encourage private investment and industrialization.

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Impact of Population Pressure

SEP-17-1999 15:43

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202 395 7

The New York

res, August 9, 1984

Unfortunately, the current situation that relief from population pressure requires optimal economic policies. In the already serious problems, and in development. Slowing population and comprehensive development policies to combat hunger, unemployment, or widening, etc.

By helping developing countries with family planning programs in conjunction with population assistance contribute to speeds the development of effective opportunities, reduces the potential to improve the health and education of each country's graduation from poverty.

These are our goals and expectations of the last two decades to provide a sharper focus.

We urge this Conference to adopt the Plan of Action. We hope that in those that have proven the most effective.

in many developing countries is such that cannot be achieved overnight even under the best of circumstances. Rapid population growth compounds the costs and difficulties in economic development, however, is not a panacea. Without sound economic policies it cannot in itself solve problems of potential social disorder.

Through support for effective voluntary family planning, sound economic policies, U.S. population assistance programs, savings and investment rates, markets and related employment opportunities, source requirements of programs to improve the health and education of people, and hastens the achievement of self-reliance for external assistance.

As we take advantage of the experience of population assistance policy with a sharper focus.

As it reviews the World Population Commission's alternative models, it will seek out the most effective.

Progress Toward Development

Much remains to be done, but progress already achieved. Over the past 20 years, distributed demonstrate, fertility rates have fallen more than halfway toward goal of population stability; human life expectancy has increased dramatically; literacy rates have increased significantly; disease is on the decline and per capita income in most countries has risen substantially.

This record of accomplishment with the important work of this Commission neither surprised nor disturbed.

We here today represent a rich diversity of cultures and historical traditions. Our ethical and moral values have been shaped by a variety of religious and secular traditions. In accordance with fundamentally different assumptions about the nature of man and the purpose of nations.

When all this diversity is sensitive of all human subjects - the family - it should surprise on a number of important issues.

We can all benefit from the shared perspectives. But we cannot expect place on our agenda.

At the heart from the extraordinary progress of 20 years, as statistics we have seen and birth rates in the developing world goal of population stability; human life expectancy has increased dramatically; literacy rates have increased significantly; disease is on the decline and per capita income in most countries has risen substantially.

The encouragement enough as we proceed. At the same time, we should be aware of the inevitable differences we will encounter.

Diversity of cultures and historical traditions have been shaped by a variety of religious and secular traditions. In accordance with fundamentally different assumptions about the nature of man and the purpose of nations.

When all this diversity is sensitive of all human subjects - the family - it should surprise on a number of important issues.

We can all benefit from the shared perspectives. But we cannot expect place on our agenda.

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SEP-17-1999 15:48

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The New York

Times, August 9, 1994

This said, we do look forward
here in identifying areas in which
concert, and in determining how c

working with all other nations represented
international community can work in
goals can best be achieved.

GRAPHIC: photo of James L. Buckle

LANGUAGE: ENGLISH

THE WHITE HOUSE
WASHINGTON

January 22, 1993

②
1993 Clinton Memo
directing end of
Mexico City policy.

MEMORANDUM FOR THE ACTING ADMINISTRATOR OF THE AGENCY
FOR INTERNATIONAL DEVELOPMENT

SUBJECT: AID Family Planning Grants/Mexico City Policy

The Foreign Assistance Act of 1961 prohibits nongovernmental organizations ("NGO's") that receive Federal funds from using those funds "to pay for the performance of abortions as a method of family planning, or to motivate or coerce any person to practice abortions." (22 U.S.C. 2151b(f)(1)). The August 1984 announcement by President Reagan of what has become known as the "Mexico City Policy" directed the Agency for International Development ("AID") to expand this limitation and withhold AID funds from NGO's that engage in a wide range of activities, including providing advice, counseling, or information regarding abortion, or lobbying a foreign government to legalize or make abortion available. These conditions have been imposed even where an NGO uses non-AID funds for abortion-related activities.

These excessively broad anti-abortion conditions are unwarranted. I am informed that the conditions are not mandated by the Foreign Assistance Act or any other law. Moreover, they have undermined efforts to promote safe and efficacious family planning programs in foreign nations. Accordingly, I hereby direct that AID remove the conditions not explicitly mandated by the Foreign Assistance Act or any other law from all current AID grants to NGO's and exclude them from future grants.

William J. Clinton

AGENCY FOR INTERNATIONAL DEVELOPMENT
WASHINGTON, D C 20523

AUG 7 1986

MEMORANDUM FOR ALL CONTRACTING OFFICERS

TO: Distribution List D-1111

FROM: M/AAA/SER, John F. Owens, Procurement Executive
CONTRACT INFORMATION BULLETIN 86-9

SUBJECT: Family Planning Assistance Policy

Attached are revised clauses on "Voluntary Population Planning" for use in all contract grants and cooperative agreements which provide assistance for family planning activities. Paragraph (d) of the clauses for use in grants and cooperative agreements may be omitted in certain circumstances discussed below. Attachment A contains the clause for use in contracts; Attachment B contains the clause for use in assistance agreements with U.S. nongovernmental organizations; Attachment C contains the clause for use in assistance agreements with non-U.S. nongovernmental organizations. The changes modify the clauses that were promulgated in CI 85-19 which is now cancelled. Handbook 13 and Handbook 14 will be revised to incorporate the new clauses.

In each clause paragraph "Voluntary Participation," is amended by the addition of a new section to implement a new requirement of the 1985 Assistance Appropriations Act that funding may be made only for "voluntary family planning projects" which provide a broad range of family planning methods and services. Information about where such methods and services may obtain.

In the clause for use in assistance agreements, Paragraph (d), "Ineligibility for Nongovernmental Organizations That Perform or Participate in Family Planning as a Method of Family Planning," is modified to state its applicability.

- a. The clause is to be used in grants and cooperative agreements (and assistance subagreements) which provide for a family planning activity or activity in which family planning is a component of an activity for other purposes, such as health, or education, or other purposes, or to the family planning.

AGENCY FOR INTERNATIONAL DEVELOPMENT
WASHINGTON, D C 20523

AUG 7 1986

MEMORANDUM FOR ALL CONTRACTING OFFICERS

TO: Distribution List D-14111

FROM: M/AAA/SER, John F. Owens, Procurement Executive
CONTRACT INFORMATION BULLETIN 86-9

SUBJECT: Family Planning Assistance Policy

Attached are revised clauses on "Voluntary Population Planning" for use in all contracts, grants, and cooperative agreements which provide assistance for family planning activities. Paragraph (d) of the clauses for use in grants and cooperative agreements may be omitted in certain circumstances discussed below. Attachment A contains the clause for use in contracts; Attachment B contains the clause for use in assistance agreements with U.S. nongovernmental organizations; Attachment C contains the clause for use in assistance agreements with non-U.S., nongovernmental organizations. The changes modify the clauses that were promulgated under CIB 85-19 which is now cancelled. Handbook 13 and Handbook 14 will be revised to incorporate the new clauses.

In each clause, paragraph (a), "Voluntary Participation," is amended by the addition of a second section to implement a new requirement in the 1986 Foreign Assistance Appropriations Act that funding may be made available only for "voluntary family planning projects" which offer a broad range of family planning methods and services or information about where such methods and services may be obtained.

In the clauses for use in assistance agreements, Paragraph (d), "Ineligibility of Foreign Nongovernmental Organizations That Perform or Actively Promote Abortion as a Method of Family Planning," is modified to clarify its applicability.

a. While this paragraph is to be used in grants and cooperative agreements (and assistance subagreements) which provide financing for a family planning activity or activities, if family planning is a component of an activity involving assistance for other purposes, such as food and nutrition, health, or education, paragraph d) applies only to the family planning component.

-2-

b. When health or child survival funds are used to provide assistance for family planning and birth spacing as well as health purposes, paragraph (d) is applicable unless 1) the foreign nongovernmental organization is one which primarily provides health services, 2) the objective of the assistance is to finance integrated health care services to mothers and children, and 3) birth spacing or family planning is one of several health care services being provided as part of an integrated system of service delivery. Paragraph (d) need not be included in the assistance agreement if it indicates that assistance for family planning and birth spacing will be provided only in this way. AID support under these circumstances is considered a contribution to a health service delivery program and not to a "family planning program." In such a case, paragraph d need not be included in an assistance agreement.

c. Paragraph (d) need not be included in assistance agreements with U.S. nongovernmental organizations for family planning purposes if implementation of the activity does not involve assistance to foreign nongovernmental organization.

Attachment A

752.7016 Family Planning and Population Assistance
Activites.

The following clause is applicable to all contracts involving any aspect of family planning or population activities.

FAMILY PLANNING AND POPULATION
ASSISTANCE ACTIVITIES (AUG 1986)

(a) Voluntary Participation.

(1) The Contractor agrees to take any steps necessary to ensure that funds made available under this contract will not be used to coerce any individual to practice methods of family planning inconsistent with such individual's moral, philosophical, or religious beliefs. Further, the Contractor agrees to conduct its activities in a manner which safeguards the rights, health and welfare of all individuals who take part in the program.

(2) Activities which provide family planning services or information to individuals, financed in whole or in part under this agreement, shall provide a broad range of family planning methods and services available in the country in which the activity is conducted or shall provide information to such individuals regarding where such methods and services may be obtained.

(b) Prohibition on Abortion-related Activities. No funds made available under this Contract shall be used to finance, support, or be attributed to the following activities: (i) procurement or distribution of equipment intended to be used for the purposes of inducing abortions as a method of family planning; (ii) special fees or incentives to women to coerce or motivate them to have abortions; (iii) payments to persons to perform abortions or to solicit persons to undergo abortions; (iv) information, education, training, or communication programs that seek to promote abortion as a method of family planning; (v) any biomedical research which relates, in whole or in part, to methods of, or the performance of, abortions or involuntary sterilization as a means of family planning (epidemiologic or descriptive research to assess the incidence, extent or consequences of abortion is not precluded); or (vi) lobbying for abortion.

(c) Voluntary Participation Requirements for Sterilization Programs. (1) None of the funds made available under this contract shall be used to pay for the performance of involuntary sterilizations or to coerce or provide any financial incentive to any person to practice sterilizations.

(2) The Contractor shall insure that any surgical sterilization procedures supported in whole or in part by funds from the contract are performed only after the individual has voluntarily come to the treatment facility and has given an informed consent to the sterilization procedure. Informed consent means the voluntary knowing assent from the individual given after being advised of the surgical procedures to be followed, the attendant discomforts and risks, the benefits to be expected, the availability of alternative methods of family planning, the purpose of the operation and its irreversibility, and the fact that the consent can be withdrawn at any time prior to the operation. An individual's consent is considered voluntary if it is based upon the exercise of free choice and is not obtained by any special inducement or any element of force, fraud, deceit, duress or other forms of coercion or misrepresentation.

(3) Further, the Contractor shall document the patient's informed consent by: (i) A written consent document in a language the patient understands and speaks, which explains the basic elements of informed consent, as set out above, and which is signed by the individual and by the attending physician or by the authorized assistant of the attending physician; or (ii) when a patient is unable to read adequately a written certification signed by the attending physician or by the authorized assistant of the attending physician that the basic elements of informed consent above were orally presented to the patient, and that the patient thereafter consented to the performance of the operation. The receipt of the oral explanation shall be acknowledged by the patient's mark on the certification and by the signature or mark of a witness who shall be of the same sex and speak the same language as the patient.

(4) Copies of informed consent forms and certification documents for each voluntary sterilization (VS) procedure must be retained by the performing Contractor or subcontractor for a period of three years after the performance of the sterilization procedure.

(d) The Contractor shall insert the substance of this clause in any subgrants, subcontracts, purchase orders, and other subordinate agreements hereunder whenever appropriate to the goods and services to be provided under such agreements.

Attachment B

Standard Provision To Be Used in Grants and
Cooperative Agreements With U.S.
Nongovernmental Organizations

VOLUNTARY POPULATION PLANNING (AUGUST 1986)

(This provision is applicable to all grants involving any aspect of voluntary population planning activities.)

(a) Voluntary Participation:

(1) The grantee agrees to take any steps necessary to ensure that funds made available under this grant will not be used to coerce any individual to practice methods of family planning inconsistent with such individual's moral, philosophical, or religious beliefs. Further, the grantee agrees to conduct its activities in a manner which safeguards the rights, health and welfare of all individuals who take part in the program.

(2) Activities which provide family planning services or information to individuals, financed in whole or in part under this agreement, shall provide a broad range of family planning methods and services available in the country in which the activity is conducted or shall provide information to such individuals regarding where such methods and services may be obtained.

(b) Voluntary Participation Requirements For Sterilization Programs:

(1) None of the funds made available under this grant shall be used to pay for the performance of involuntary sterilization as a method of family planning or to coerce or provide any financial incentive to any person to practice sterilization.

(2) The grantee shall ensure that any surgical sterilization procedures supported in whole or in part by funds from this grant are performed only after the individual has voluntarily gone to the treatment facility and has given informed consent to the sterilization procedure. Informed consent means the voluntary, knowing assent from the individual after being advised of the surgical procedures to be followed, the attendant discomforts and risks, the benefits to be expected, the availability of alternative methods of family planning, the purpose of the operation and its irreversibility, and the option to withdraw consent anytime prior to the operation. An individual's consent is considered voluntary if it is based upon the exercise of free choice and is not obtained by any special inducement or any element of force, fraud, deceit, duress, or other forms of coercion or misrepresentation.

(3) Further, the grantee shall document the patient's informed consent by (i) a written consent document in a language the patient understands and speaks, which explains the basic elements of informed consent, as set out above, and which is signed by the individual and by the attending physician or by the authorized assistant of the attending physician; or (ii) when a patient is unable to read adequately a written certification by the attending physician or by the authorized assistant of the attending physician that the basic elements of informed consent above were orally presented to the patient, and that the patient thereafter consented to the performance of the operation. The receipt of the oral explanation shall be acknowledged by the patient's mark on the certification and by the signature or mark of a witness who shall be of the same sex and speak the same language as the patient.

(4) Copies of informed consent forms and certification documents for each voluntary sterilization procedure must be retained by the grantee for a period of three years after performance of the sterilization procedure.

(c) Prohibition on Abortion-Related Activities:

(1) No funds made available under this grant will be used to finance, support, or be attributed to the following activities: (i) procurement or distribution of equipment intended to be used for the purpose of inducing abortions as a method of family planning; (ii) special fees or incentives to women to coerce or motivate them to have abortions; (iii) payments to persons to perform abortions or to solicit persons to undergo abortions; (iv) information, education, training, or communication programs that seek to promote abortion as a method of family planning; and (v) lobbying for abortion.

(2) No funds made available under this grant will be used to pay for any biomedical research which relates, in whole or in part, to methods of, or the performance of, abortions or involuntary sterilizations as a means of family planning. Epidemiologic or descriptive research to assess the incidence, extent or consequences of abortions is not precluded.

(d) Ineligibility of Foreign Nongovernmental Organizations That Perform or Actively Promote Abortion As A Method of Family Planning:

(1) The recipient agrees that it will not furnish assistance for family planning under this grant to any foreign nongovernmental organization which performs or actively promotes abortion as a method of family planning in AID-recipient countries or which provides financial support to any other foreign nongovernmental organization that conducts such activities. For purposes of this paragraph (d), a foreign nongovernmental organization is a nongovernmental organization which is not organized under the laws of any State of the United States, the District of Columbia or the Commonwealth of Puerto Rico.

(2) Prior to furnishing funds provided under this grant to another nongovernmental organization organized under the laws of any State of the United States, the District of Columbia, or the Commonwealth of Puerto Rico, the recipient shall obtain the written agreement of such organization that the organization shall not furnish assistance for family planning under this grant to any foreign nongovernmental organization except under the conditions and requirements that are applicable to the recipient as set forth in this paragraph (d).

(3) The recipient may not furnish assistance for family planning under this grant to a foreign nongovernmental organization (the subrecipient) unless;

(i) the subrecipient certifies in writing that it does not perform or actively promote abortion as a method of family planning in AID-recipient countries and does not provide financial support to any other foreign nongovernmental organization that conducts such activities, and

(ii) the recipient obtains the written agreement of the subrecipient containing the undertakings described in subparagraph (4), below.

(4) Prior to furnishing assistance for family planning under this grant to a subrecipient, the subrecipient must agree in writing that:

(i) The subrecipient will not, while receiving assistance under this grant, perform or actively promote abortion as a method of family planning in AID-recipient countries or provide financial support to other foreign nongovernmental organizations that conduct such activities.

(ii) The recipient and authorized representatives of AID may, at any reasonable time, (A) inspect the documents and materials maintained or prepared by the subrecipient in the usual course of its operations that describe the family planning activities of the subrecipient, including reports, brochures and service statistics; (B) observe the family planning activity conducted by the subrecipient; (C) consult with family planning personnel of the subrecipient; and (D) obtain a copy of the audited financial statement or report of the subrecipient, if there is one.

(iii) In the event the recipient or AID has reasonable cause to believe that a subrecipient may have violated its undertaking not to perform or actively promote abortion as a method of family planning, the recipient shall review the family planning program of the subrecipient to determine whether a violation of the undertaking has occurred. The subrecipient shall make available to the recipient such books and records and other information as may be reasonably requested in order to conduct the review. AID may also review the family planning program of the subrecipient under these circumstances, and AID shall have access to such books and records and information for inspection upon request.

(iv) The subrecipient shall refund to the recipient the entire amount of assistance for family planning furnished to the subrecipient under this grant in the event it is determined that the certification provided by the subrecipient under subparagraph (3), above, is false.

(v) Assistance for family planning provided to the subrecipient under this grant shall be terminated if the subrecipient violates any undertaking in the agreement required by subparagraphs (3) and (4), and the subrecipient shall refund to the recipient the value of any assistance furnished under this grant that is used to perform or actively promote abortion as a method of family planning.

(vi) The subrecipient may furnish assistance for family planning under this grant to another foreign nongovernmental organization (the sub-subrecipient) only if (A) the sub-subrecipient certifies in writing that it does not perform or actively promote abortion as a method of family planning in AID-recipient countries and does not provide financial support to any other foreign nongovernmental organization that conducts such activities and (B) the subrecipient obtains the written agreement of the sub-subrecipient that contains the same undertakings and obligations to the subrecipient as those provided by the subrecipient to the recipient as described in subparagraphs (4)(i)-(v), above.

(5) Agreements with subrecipients and sub-subrecipients required under subparagraphs (3) and (4) shall contain the definitions set forth in subparagraph (10) of this paragraph (d).

(6) The recipient shall be liable to AID for a refund for a violation of any requirement of this paragraph (d) only if (i) the recipient knowingly furnishes assistance for family planning to a subrecipient who performs or actively promotes abortion as a method of family planning, or (ii) the certification provided by a subrecipient is false and the recipient failed to make reasonable efforts to verify the validity of the certification prior to furnishing assistance to the subrecipient, or (iii) the recipient knows or has reason to know, by virtue of the monitoring which the recipient is required to perform under the terms of this grant, that a subrecipient has violated any of the undertakings required under subparagraph (4) and the recipient fails to terminate assistance for family planning to the subrecipient, or fails to require the subrecipient to terminate such assistance to a sub-subrecipient which violates any undertaking of the agreement required under subparagraph (4)(vi), above. If the recipient finds, in exercising its monitoring responsibility under this grant, that a subrecipient or sub-subrecipient receives frequent requests for the information described in subparagraph (10)(iii)(A)(II), below, the recipient shall verify that this information is being provided properly in accordance with subparagraph (10)(iii)(A)(II) and shall describe to AID the reasons for reaching its conclusion.

(7) In submitting a request to AID for approval of a recipient's decision to furnish assistance for family planning to a subrecipient, the recipient shall include a description of the efforts made by the recipient to verify the validity of the certification provided by the subrecipient. AID may request the recipient to make additional efforts to verify the validity of the certification. AID will inform the recipient in writing when AID is satisfied that reasonable efforts have been made. If AID concludes that these efforts are reasonable within the meaning of subparagraph (6) above, the recipient shall not be liable to AID for a refund in the event the subrecipient's certification is false unless the recipient knew the certification to be false or misrepresented to AID the efforts made by the recipient to verify the validity of the certification.

(8) It is understood that AID also may make independent inquiries, in the community served by a subrecipient or sub-subrecipient, regarding whether it performs or actively promotes abortion as a method of family planning.

(9) A subrecipient must provide the certification required under subparagraph (3) and a sub-subrecipient must provide the certification required under subparagraph (4)(vi) each time a new agreement is executed with the subrecipient or sub-subrecipient furnishing assistance for family planning under the grant.

(10) The following definitions apply for purposes of this paragraph (d):

(i) Abortion is a method of family planning when it is for the purpose of spacing births. This includes, but is not limited to, abortions performed for the physical or mental health of the mother but does not include abortions performed if the life of the mother would be endangered if the fetus were carried to term or abortions performed following rape or incest (since abortion under these circumstances is not a family planning act).

(ii) To perform abortions means to operate a facility where abortions are performed as a method of family planning. Excluded from this definition are clinics or hospitals which do not include abortion in their family planning programs.

(iii) To actively promote abortion means for an organization to commit resources, financial or other, in a substantial or continuing effort to increase the availability or use of abortion as a method of family planning.

(A) This includes, but is not limited to, the following:

(I) Operating a family planning counseling service that includes, as part of the regular program, providing advice and information regarding the benefits and availability of abortion as a method of family planning;

(II) Providing advice that abortion is an available option in the event other methods of family planning are not used or are not successful or encouraging women to consider abortion (passively responding to a question regarding where a safe, legal abortion may be obtained is not considered active promotion if the question is specifically asked by a woman who is already pregnant, the woman clearly states that she has already decided to have a legal abortion, and the family planning counselor reasonably believes that the ethics of the medical profession in the country require a response regarding where it may be obtained safely);

(III) Lobbying a foreign government to legalize or make available abortion as a method of family planning or lobbying such a government to continue the legality of abortion as a method of family planning;

(IV) Conducting a public information campaign in AID-recipient countries regarding the benefits and/or availability of abortion as a method of family planning.

(B) Excluded from the definition of active promotion of abortion as a method of family planning are referrals for abortion as a result of rape, incest or if the life of the mother would be endangered if the fetus were carried to term.

(C) Action by an individual acting in the individual's capacity shall not be attributed to an organization with which the individual is associated, provided that the organization neither endorses nor provides financial support for the action and takes reasonable steps to ensure that the individual does not improperly represent that the individual is acting on behalf of the organization.

(iv) To furnish assistance to a foreign nongovernmental organization means to provide financial support under this grant to the family planning program of the organization, and includes the transfer of funds made available under this grant or goods or services financed with such funds, but does not include the purchase of goods or services from an organization or the participation of an individual in the general training programs of the recipient, subrecipient or sub-subrecipient.

(v) To control an organization means the possession of the power to direct or cause the direction of the management and policies of an organization.

(11) In determining whether a foreign nongovernmental organization is eligible to be a subrecipient or sub-subrecipient of assistance for family planning under this grant, the action of separate nongovernmental organizations shall not be imputed to the subrecipient or sub-subrecipient, unless, in the judgment of AID, a separate nongovernmental organization is being used as a sham to avoid the restrictions of this paragraph (d). Separate nongovernmental organizations are those that have distinct legal existence in accordance with the laws of the countries in which they are organized. Foreign organizations that are separately organized shall not be considered separate, however, if one is controlled by the other. The recipient may request AID's approval to treat as separate the family planning activities of two or more organizations, which would not be considered separate under the preceding sentence, if the recipient believes, and provides a written justification to AID therefor, that the family planning activities of the organizations are sufficiently distinct as to warrant not imputing the activity of one to the other.

(12) Assistance for family planning may be furnished under this grant by a recipient, subrecipient or sub-subrecipient to a foreign government even though the government includes abortion in its family planning program, provided that no assistance may be furnished in support of the abortion activity of the government and any funds transferred to the government shall be placed in a segregated account to ensure that such funds may not be used to support the abortion activity of the government.

(13) The requirements of this paragraph are not applicable to family planning assistance furnished to a foreign nongovernmental organization which is engaged primarily in providing health services if the objective of the assistance is to finance integrated health care services to mothers and children and birth spacing or family planning is one of several health care services being provided by the organization as part of an integrated system of health service delivery.

(e) The grantee shall insert paragraphs (a), (b), (c), and (e) of this provision in all subsequent subagreements and contracts involving family planning or population activities which will be supported in whole or part from funds under this grant. Paragraph (d) shall be inserted in subagreements and sub-subagreements in accordance with the terms of paragraph (d). The term subagreement means subgrants and subcooperative agreements.

(END OF STANDARD PROVISION)

Attachment C

Standard Provision To Be Used in Grants and
Cooperative Agreements With Non U.S.
Nongovernmental Organizations

VOLUNTARY POPULATION PLANNING (AUGUST 1986)

(This provision is applicable to all grants involving any aspect of voluntary population planning activities.)

(a) Voluntary Participation:

(1) The grantee agrees to take any steps necessary to ensure that funds made available under this grant will not be used to coerce any individual to practice methods of family planning inconsistent with such individual's moral, philosophical, or religious beliefs. Further, the grantee agrees to conduct its activities in a manner which safeguards the rights, health and welfare of all individuals who take part in the program.

(2) Activities which provide family planning services or information to individuals, financed in whole or in part under this agreement, shall provide a broad range of family planning methods and services available in the country in which the activity is conducted or shall provide information to such individuals regarding where such methods and services may be obtained.

(b) Voluntary Participation Requirements For Sterilization Programs:

(1) None of the funds made available under this grant shall be used to pay for the performance of involuntary sterilization as a method of family planning or to coerce or provide any financial incentive to any person to practice sterilization.

(2) The grantee shall ensure that any surgical sterilization procedures supported in whole or in part by funds from this grant are performed only after the individual has voluntarily gone to the treatment facility and has given informed consent to the sterilization procedure. Informed consent means the voluntary, knowing assent from the individual after being advised of the surgical procedures to be followed, the attendant discomforts and risks, the benefits to be expected, the availability of alternative methods of family planning, the purpose of the operation and its irreversibility, and the option to withdraw consent anytime prior to the operation. An individual's consent is considered voluntary if it is based upon the exercise of free choice and is not obtained by any special inducement or any element of force, fraud, deceit, duress, or other forms of coercion or misrepresentation.

(3) Further, the grantee shall document the patient's informed consent by (i) a written consent document in a language the patient understands and speaks, which explains the basic elements of informed consent, as set out above, and which is signed by the individual and by the attending physician or by the authorized assistant of the attending physician; or (ii) when a patient is unable to read adequately a written certification by the attending physician or by the authorized assistant of the attending physician that the basic elements of informed consent above were orally presented to the patient, and that the patient thereafter consented to the performance of the operation. The receipt of the oral explanation shall be acknowledged by the patient's mark on the certification and by the signature or mark of a witness who shall be of the same sex and speak the same language as the patient.

(4) Copies of informed consent forms and certification documents for each voluntary sterilization procedure must be retained by the grantee for a period of three years after performance of the sterilization procedure.

(c) Prohibition on Abortion-Related Activities:

(1) No funds made available under this grant will be used to finance, support, or be attributed to the following activities: (i) procurement or distribution of equipment intended to be used for the purpose of inducing abortions as a method of family planning; (ii) special fees or incentives to women to coerce or motivate them to have abortions; (iii) payments to persons to perform abortions or to solicit persons to undergo abortions; (iv) information, education, training, or communication programs that seek to promote abortion as a method of family planning; and (v) lobbying for abortion.

(2) No funds made available under this grant will be used to pay for any biomedical research which relates, in whole or in part, to methods of, or the performance of, abortions or involuntary sterilizations as a means of family planning. Epidemiologic or descriptive research to assess the incidence, extent or consequences of abortions is not precluded.

d) Ineligibility of Foreign Nongovernmental Organizations That Perform or Actively Promote Abortion As a Method of Family Planning:

(1) The recipient certifies that it does not now and will not during the term of this grant perform or actively promote abortion as a method of family planning in AID-recipient countries or provide financial support to any other foreign nongovernmental organization that conducts such activities. For purposes of this paragraph (d), a foreign nongovernmental organization is a nongovernmental organization which is not organized under the laws of any state of the United States, the District of Columbia or the Commonwealth of Puerto Rico.

(2) The recipient agrees that the authorized representatives of AID may, at any reasonable time, (i) inspect the documents and materials maintained or prepared by the recipient in the usual course of its operations that describe the family planning activities of the recipient, including reports, brochures and service statistics; (ii) observe the family planning activity conducted by the recipient; (iii) consult with family planning personnel of the recipient; and (iv) obtain a copy of the audited financial statement or report of the recipient, if there is one.

(3) In the event AID has reasonable cause to believe that the recipient may have violated its undertaking not to perform or actively promote abortion as a method of family planning, the recipient shall make available to AID such books and records and other information as AID may reasonably request in order to determine whether a violation of the undertaking has occurred.

(4) The recipient shall refund to AID the entire amount of assistance for family planning furnished under this grant in the event it is determined that the certification provided by the recipient under subparagraph (1), above, is false.

(5) Assistance for family planning to the recipient under this grant shall be terminated if the recipient violates any undertaking required by this paragraph (d), and the recipient shall refund to AID the value of any assistance furnished under this grant that is used to perform or actively promote abortion as a method of family planning.

(6) The recipient may not furnish assistance for family planning under this grant to a foreign nongovernmental organization (the subrecipient) unless: (i) the subrecipient certifies in writing that it does not perform or actively promote abortion as a method of family planning in AID-recipient countries and does not provide financial support to any other foreign nongovernmental organization that conducts such activities and (ii) the recipient obtains the written agreement of the subrecipient containing the undertakings described in subparagraph (7), below.

(7) Prior to furnishing assistance for family planning under this grant to a subrecipient, the subrecipient must agree in writing that:

(i) The subrecipient will not, while receiving assistance under this grant, perform or actively promote abortion as a method of family planning in AID-recipient countries or provide financial support to other foreign nongovernmental organizations that conduct such activities.

(ii) The recipient and authorized representatives of AID may, at any reasonable time, (A) inspect the documents and materials maintained or prepared by the subrecipient in the usual course of its operations that describe the family planning activities of the subrecipient, including reports, brochures and service statistics; (B) observe the family planning activity conducted by the subrecipient; (C) consult with family planning personnel of the subrecipient; and (D) obtain a copy of the audited financial statement or report of the subrecipient, if there is one.

(iii) In the event the recipient or AID has reasonable cause to believe that a subrecipient may have violated its undertaking not to perform or actively promote abortion as a method of family planning, the recipient shall review the family planning program of the subrecipient to determine whether a violation of the undertaking has occurred. The subrecipient shall make available to the recipient such books and records and other information as may be reasonably requested in order to conduct the review. AID may also review the family planning program of the subrecipient under these circumstances, and AID shall have access to such books and records and information for inspection upon request.

(iv) The subrecipient shall refund to the recipient the entire amount of assistance for family planning furnished to the subrecipient under this grant in the event it is determined that the certification provided by the subrecipient under subparagraph (6), above, is false.

(v) Assistance for family planning to the subrecipient under this grant shall be terminated if the subrecipient violates any undertaking required by this paragraph (d), and the subrecipient shall refund to the recipient the value of any assistance furnished under this grant that is used to perform or actively promote abortion as a method of family planning.

(vi) The subrecipient may furnish assistance for family planning under this grant to another foreign nongovernmental organization (the sub-subrecipient) only if (A) the sub-subrecipient certifies in writing that it does not perform or actively promote abortion as a method of family planning in AID-recipient countries and does not provide financial support to any other foreign nongovernmental organization that conducts such activities and (B) the subrecipient obtains the written agreement of the sub-subrecipient that contains the same undertakings and obligations to the subrecipient as those provided by the subrecipient to the recipient as described in subparagraphs (7)(i)-(v), above.

(8) Agreements with subrecipients and sub-subrecipients required under subparagraphs (6) and (7) shall contain the definitions set forth in subparagraph (13) of this paragraph (d).

(9) The recipient shall be liable to AID for a refund for a violation by a subrecipient relating to its certification required under subparagraph (6) or by a subrecipient or sub-subrecipient relating to its undertakings in the agreement required under subparagraphs (6) and (7) only if (i) the recipient knowingly furnishes assistance for family planning to a subrecipient which performs or actively promotes abortion as a method of family planning, or (ii) the certification provided by a subrecipient is false and the recipient failed to make reasonable efforts to verify the validity of the certification prior to furnishing assistance to the subrecipient, or (iii) the recipient knows or has reason to know, by virtue of the monitoring which the recipient is required to perform under the terms of this grant, that a subrecipient has violated any of the undertakings required under subparagraph (7) and the recipient fails to terminate assistance for family planning to the subrecipient, or fails to require the subrecipient to terminate assistance to a sub-subrecipient which violates any undertaking of the agreement required under subparagraph (7)(vi), above. If the recipient finds, in exercising its monitoring responsibility under this grant, that a subrecipient or sub-subrecipient receives frequent requests for the information described in subparagraph (13)(iii)(A)(II), below, the recipient shall verify that this information is being provided properly in accordance with subparagraph (13)(iii)(A)(II) and shall describe to AID the reasons for reaching its conclusion.

(10) In submitting a request to AID for approval of a recipient's decision to furnish assistance for family planning to a subrecipient, the recipient shall include a description of the efforts made by the recipient to verify the validity of the certification provided by the subrecipient. AID may request the recipient to make additional efforts to verify the validity of the certification. AID will inform the recipient in writing when AID is satisfied that reasonable efforts have been made. If AID concludes that these efforts are reasonable within the meaning of subparagraph (9) above, the recipient shall not be liable to AID for a refund in the event the subrecipient's certification is false unless the recipient knew the certification to be false or misrepresented to AID the efforts made by the

(11) It is understood that AID also may make independent inquiries, in the community served by a subrecipient or sub-subrecipient, regarding whether it performs or actively promotes abortion as a method of family planning.

(12) A subrecipient must provide the certification required under subparagraph (6) and a sub-subrecipient must provide the certification required under subparagraph (7)(vi) each time a new agreement is executed with the subrecipient or sub-subrecipient furnishing assistance for family planning under this grant.

(13) The following definitions apply for purposes of this paragraph (d):

(i) Abortion is a method of family planning when it is for the purpose of spacing births. This includes, but is not limited to, abortions performed for the physical or mental health of the mother but does not include abortions performed if the life of the mother would be endangered if the fetus were carried to term or abortions performed following rape or incest (since abortion under these circumstances is not a family planning act).

(ii) To perform abortions means to operate a facility where abortions are performed as a method of family planning. Excluded from this definition are clinics or hospitals which do not include abortion in their family planning programs.

(iii) To actively promote abortion means for an organization to commit resources, financial or other, in a substantial or continuing effort to increase the availability or use of abortion as a method of family planning.

(A) This includes, but is not limited to, the following:

(I) Operating a family planning counseling service that includes, as part of the regular program, providing advice and information regarding the benefits and availability of abortion as a method of family planning;

(II) Providing advice that abortion is an available option in the event other methods of family planning are not used or are not successful or encouraging women to consider abortion (passively responding to a question regarding where a safe, legal abortion may be obtained is not considered active promotion if the question is specifically asked by a woman who is already pregnant, the woman clearly states that she has already decided to have a legal abortion, and the family planning counsellor reasonably believes that the ethics of the medical profession in the country requires a response regarding where it may be obtained safely);

(III) Lobbying a foreign government to legalize or make available abortion as a method of family planning or lobbying such a government to continue the legality of abortion as a method of family planning;

(IV) Conducting a public information campaign in AID-recipient countries regarding the benefits and/or availability of abortion as a method of family planning.

(B) Excluded from the definition of active promotion of abortion as a method of family planning are referrals for abortion as a result of rape, incest or if the life of the mother would be endangered if the fetus were carried to term.

(C) Action by an individual acting in the individual's own capacity shall not be attributed to an organization with which the individual is associated, provided that the organization neither endorses nor provides financial support for the action and takes reasonable steps to ensure that the individual does not improperly represent that the individual is acting on behalf of the organization.

(iv) To furnish assistance for family planning to a foreign nongovernmental organization means to provide financial support under this grant to the family planning program of the organization, and includes the transfer of funds made available under this grant or goods or services financed with such funds, but does not include the purchase of goods or services from an organization or the participation of an individual in the general training programs of the recipient, subrecipient or sub-subrecipient.

(v) To control an organization means the possession of the power to direct or cause the direction of the management and policies of an organization.

(14) In determining whether a foreign nongovernmental organization is eligible to be a recipient, subrecipient or sub-subrecipient of assistance for family planning under this grant, the action of separate nongovernmental organizations shall not be imputed to the recipient, subrecipient or sub-subrecipient, unless, in the judgment of AID, a separate nongovernmental organization is being used as a sham to avoid the restrictions of this paragraph (d). Separate nongovernmental organizations are those that have distinct legal existence in accordance with the laws of the countries in which they are organized. Foreign organizations that are separately organized shall not be considered separate, however, if one is controlled by the other. The recipient may request AID's approval to treat as separate the family planning activities of two or more organizations, which would not be considered separate under the preceding sentence, if the recipient believes, and provides a written justification to AID therefor, that the family planning activities of the organizations are sufficiently distinct as to warrant not imputing the activity of one to the other.

(15) Assistance for family planning may be furnished under this grant by a recipient, subrecipient or sub-subrecipient to a foreign government even though the government includes abortion in its family planning program, provided that no assistance may be furnished in support of the abortion activity of the government and any funds transferred to the government shall be placed in a segregated account to ensure that such funds may not be used to support the abortion activity of the government.

(e) The grantee shall insert paragraphs (a), (b), (c), and (e) of this provision in all subsequent subgrants and contracts involving family planning or population activities which will be supported in whole or part from funds under this grant. Paragraph (d) shall be inserted in subagreements and sub-subagreements in accordance with the terms of paragraph (d). The term subagreement means subgrants and subcooperative agreements.

(END OF STANDARD PROVISION)

(B) Excluded from the definition of active promotion of abortion as a method of family planning are referrals for abortion as a result of rape, incest or if the life of the mother would be endangered if the fetus were carried to term.

(C) Action by an individual acting in the individual's own capacity shall not be attributed to an organization with which the individual is associated, provided that the organization neither endorses nor provides financial support for the action and takes reasonable steps to ensure that the individual does not improperly represent that the individual is acting on behalf of the organization.

(iv) To furnish assistance for family planning to a foreign nongovernmental organization means to provide financial support under this grant to the family planning program of the organization, and includes the transfer of funds made available under this grant or goods or services financed with such funds, but does not include the purchase of goods or services from an organization or the participation of an individual in the general training programs of the recipient, subrecipient or sub-subrecipient.

(v) To control an organization means the possession of the power to direct or cause the direction of the management and policies of an organization.

(14) In determining whether a foreign nongovernmental organization is eligible to be a recipient, subrecipient or sub-subrecipient of assistance for family planning under this grant, the action of separate nongovernmental organizations shall not be imputed to the recipient, subrecipient or sub-subrecipient, unless, in the judgment of AID, a separate nongovernmental organization is being used as a sham to avoid the restrictions of this paragraph (d). Separate nongovernmental organizations are those that have distinct legal existence in accordance with the laws of the countries in which they are organized. Foreign organizations that are separately organized shall not be considered separate, however, if one is controlled by the other. The recipient may request AID's approval to treat as separate the family planning activities of two or more organizations, which would not be considered separate under the preceding sentence, if the recipient believes, and provides a written justification to AID therefor, that the family planning activities of the organizations are sufficiently distinct as to warrant not imputing the activity of one to the other.

(15) Assistance for family planning may be furnished under this grant by a recipient, subrecipient or sub-subrecipient to a foreign government even though the government includes abortion in its family planning program, provided that no assistance may be furnished in support of the abortion activity of the government and any funds transferred to the government shall be placed in a segregated account to ensure that such funds may not be used to support the abortion activity of the government.

(e) The grantee shall insert paragraphs (a), (b), (c), and (e) of this provision in all subsequent subgrants and contracts involving family planning or population activities which will be supported in whole or part from funds under this grant. Paragraph (d) shall be inserted in subagreements and sub-subagreements in accordance with the terms of paragraph (d). The term subagreement means subgrants and subcooperative agreements.

(END OF STANDARD PROVISION)

*Policy Statement Cleared
by State & White House*

USAID Policy on Abortion

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April 1994

The Clinton Administration believes that abortion should be safe, legal and rare. USAID's voluntary family planning policies and programs do not advocate the use of abortion as a method of family planning. In addition, under existing law USAID funds may not be used either to fund abortions as a method of family planning or to motivate any person to have an abortion. Exceptions are permitted only in cases of rape, incest, or if the life of the woman is in danger, and then only in settings and institutions where such activities are legal and safe.

USAID recognizes that in many countries, as in the United States, the issue of whether a woman seeks an abortion is a matter of individual choice. USAID will not use its policies or programs to restrict that right to choose, nor will USAID refuse to support family planning organizations that use their own resources to fund or otherwise support a woman's right to choose abortion.

USAID also recognizes that unsafe abortion is a major cause of mortality and morbidity for women, leading to as many as 200,000 deaths of women every year in the developing world. USAID policy permits use of funds to provide health care to women who require treatment as the result of such unsafe abortions, including providing medical care for women who suffer from incomplete or septic abortions.

596

FA Appropriations, 1998 (P.L. 105-118)

Title II

able for such purposes, \$650,000,000, to remain available until expended: *Provided*, That this amount shall be made available for such activities as: (1) immunization programs; (2) oral rehydration programs; (3) health and nutrition programs, and related education programs, which address the needs of mothers and children; (4) water and sanitation programs; (5) assistance for displaced and orphaned children; (6) programs for the prevention, treatment, and control of, and research on, tuberculosis, HIV/AIDS, polio, malaria and other diseases; (7) up to \$98,000,000 for basic education programs for children; and (8) a contribution on a grant basis to the United Nations Children's Fund (UNICEF) pursuant to section 301 of the Foreign Assistance Act of 1961.

AGENCY FOR INTERNATIONAL DEVELOPMENT

DEVELOPMENT ASSISTANCE

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses to carry out the provisions of through 106 and chapter 10 of part I of the Foreign Assistance Act of 1961, title V of the International Security and Development Cooperation Act of 1980 (Public Law 96-533) and the section 401 of the Foreign Assistance Act of 1969, \$1 to remain available until September 30, 1999: *Provided*, That amount appropriated under this heading, up to \$22,000,000 may be made available for the Inter-American Foundation and shall be apportioned directly to that agency: *Provided further*, That of the amount appropriated under this heading, up to \$14,000,000 may be made available for the African Development Foundation and shall be apportioned directly to that agency: *Provided further*, That none of the funds made available in this Act nor any unobligated balances from prior appropriations may be made available to any organization or program which, as determined by the President of the United States, supports or participates in the management of a program of coercive abortion or involuntary sterilization: *Provided further*, That none of the funds made available under this heading may be used to pay for the performance of abortion as a method of family planning or to motivate or coerce any person to practice abortions; and that in order to reduce reliance on abortion in developing nations, funds shall be available only to voluntary family planning projects which offer, either directly or through referral to, or information about access to, a broad range of family planning methods and services: *Provided further*, That in awarding grants for natural family planning under section 104 of the Foreign Assistance Act of 1961 no applicant shall be discriminated against because of such applicant's religious or conscientious commitment to offer only natural family planning; and, additionally, all such applicants shall comply with the requirements of the previous proviso: *Provided further*, That for purposes of this or any other Act authorizing or appropriating funds for foreign operations, export financing, and related programs, the term "motivate", as it relates to family planning assistance, shall not be construed to prohibit the provision, consistent with local law, of information or counseling about all pregnancy options: *Provided further*, That nothing in this

Title II

paragraph shall be made available for such activities as: (1) immunization programs; (2) oral rehydration programs; (3) health and nutrition programs, and related education programs, which address the needs of mothers and children; (4) water and sanitation programs; (5) assistance for displaced and orphaned children; (6) programs for the prevention, treatment, and control of, and research on, tuberculosis, HIV/AIDS, polio, malaria and other diseases; (7) up to \$98,000,000 for basic education programs for children; and (8) a contribution on a grant basis to the United Nations Children's Fund (UNICEF) pursuant to section 301 of the Foreign Assistance Act of 1961.

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United States; creative development of its total resources other than the requirement Assistance Act organizations in programs Appropriation shall be superseded the authority can be exercised by of this paragraph. Funds appropriated under this Act should be made available at a level in fiscal year 1 include those contributions from public and are successful provided

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*22 U.S.C. 2151u r 98-473 (98 Stat. 188 than the U.S. Govern

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\$98,000,000 for basic education programs; (2) oral rehydration programs, and related education needs of mothers and children; (4) (5) assistance for displaced and or for the prevention, treatment, and tuberculosis, HIV/AIDS, polio, malaria \$98,000,000 for basic education contribution on a grant basis to the (UNICEF) pursuant to section 301 of 1961.

NATIONAL DEVELOPMENT

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TRANSFER OF FUNDS)

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 ived further, That nothing in this

paragraph shall be construed to alter any existing statutory prohibitions against abortion under section 104 of the Foreign Assistance Act of 1961: *Provided further*, That, notwithstanding section 109 of the Foreign Assistance Act of 1961, of the funds appropriated under this heading in this Act, and of the unobligated balances of funds previously appropriated under this heading, not to exceed \$2,500,000 shall be transferred to "International Organizations and Programs" for a contribution to the International Fund for Agricultural Development (IFAD), and that any such transfer of funds shall be subject to the regular notification procedures of the Committees on Appropriations: *Provided further*, That of the funds appropriated under this heading that are made available for assistance programs for displaced and orphaned children and victims of war, not to exceed \$25,000, in addition to funds otherwise available for such purposes, may be used to monitor and provide oversight of such programs: *Provided further*, That none of the funds made available under this heading may be used for any activity which is in contravention to the Convention on International Trade in Endangered Species of Flora and Fauna (CITES).

PRIVATE AND VOLUNTARY ORGANIZATIONS ²

None of the funds appropriated or otherwise made available by this Act for development assistance may be made available to any United States private and voluntary organization, except any cooperative development organization, which obtains less than 20 percent of its total annual funding for international activities from sources other than the United States Government; *Provided*, That the requirements of the provisions of section 123(g) of the Foreign Assistance Act of 1961 and the provisions on private and voluntary organizations in title II of the Foreign Assistance and Related Programs Appropriations Act, 1985 (as enacted in Public Law 98-473) shall be superseded by the provisions of this section, except that the authority contained in the last sentence of section 123(g) may be exercised by the Administrator with regard to the requirements of this paragraph.

Funds appropriated or otherwise made available under title II of this Act should be made available to private and voluntary organizations at a level which is at least equivalent to the level provided in fiscal year 1995. Such private and voluntary organizations shall include those which operate on a not-for-profit basis, receive contributions from private sources, receive voluntary support from the public and are deemed to be among the most cost-effective and successful providers of development assistance.

CYPRUS

Of the funds appropriated under the headings "Development Assistance" and "Economic Support Fund", not less than \$15,000,000 shall be made available for Cyprus to be used only for scholarships, administrative support of the scholarship program, bicommunal projects, and measures aimed at reunification of the island and de-

²² 22 U.S.C. 2151u note. The provisions on private and voluntary organizations in Public Law 98-473 (99 Stat. 1889) set the annual funding for international activities from sources other than the U.S. Government at not less than 25 per centum.

in an explanation of the emer-

section 506(a)(2) of the Foreign Assistance Act of 1961, as amended, may be used to pay for the performance of abortions as a method of family planning or to motivate or coerce any person to practice abortions. None of the funds made available to carry out part I of the Foreign Assistance Act of 1961, as amended, may be used to pay for the performance of involuntary sterilization as a method of family planning or to coerce or provide any financial incentive to any person to undergo sterilizations. None of the funds made available to carry out part I of the Foreign Assistance Act of 1961, as amended, may be used to pay for any biomedical research which relates in whole or in part, to methods of, or the performance of, abortions or involuntary sterilization as a means of family planning. None of the funds made available to carry out part I of the Foreign Assistance Act of 1961, as amended, may be obligated or expended for any country or organization if the President certifies that the use of these funds by any such country or organization would violate any of the above provisions related to abortions and involuntary sterilizations: *Provided*, That none of the funds made available under this Act may be used to lobby for or against abortion.

FUNDS FOR INTERNATIONAL AND PROGRAMS

other provision of law or of this or "International Organizations for the United States" proposed in section 307(c) of the Foreign Assistance Act of 1961, as amended, identified in section 307, or of the President, Communist Party of the United States, subject to the regular notification of appropriations, funds appropriated under the Foreign Assistance Act of 1961, as amended, may be obligated or expended for any country or organization if the President certifies that the use of these funds by any such country or organization would violate any of the above provisions related to abortions and involuntary sterilizations: *Provided*, That none of the funds made available under this Act may be used to lobby for or against abortion.

ASSISTANCE FOR ISRAEL

that progress on the peace process is important to United States security. Congress recognizes that, in fulfillment of the Peace Between the Arab Republic of Israel, done at Washington on September 17, 1948, and the economic burdens. Furthermore, an economically and militarily interests of the United States, for as the incentive and confidence assistance. Therefore, the Congress hereby directs that, in the event of appropriations, it is the policy of the United States that the funds provided for the Economic Support Fund shall not be less than the annual debt from Israel to the United States and such a principle serves United

which was first enacted as sec. 154 of the Foreign Assistance Act of 1961, as amended, referred to the Palestine Liberation Organization (SWAPO), and Cuba. Referring to the Foreign Assistance Appropriations Act, 1985. Language in the Foreign Assistance Appropriations Act, 1991, which provided that the President shall submit to the Committees on Appropriations the reports required by section 25(a)(1) of the Arms Export Control Act.

included a subsec. (b), which prohibited U.S. funds from being used to grant "full membership as a state to any entity that is not internationally recognized as a state." Similarly, the Foreign Assistance Appropriations Act, 1991, provided that the President shall submit to the Committees on Appropriations the reports required by section 25(a)(1) of the Arms Export Control Act.

PROHIBITION ON FUNDING FOR ABORTIONS AND INVOLUNTARY STERILIZATION

SEC. 518.³³ None of the funds made available to carry out part I of the Foreign Assistance Act of 1961, as amended, may be used to pay for the performance of abortions as a method of family planning or to motivate or coerce any person to practice abortions. None of the funds made available to carry out part I of the Foreign Assistance Act of 1961, as amended, may be used to pay for the performance of involuntary sterilization as a method of family planning or to coerce or provide any financial incentive to any person to undergo sterilizations. None of the funds made available to carry out part I of the Foreign Assistance Act of 1961, as amended, may be used to pay for any biomedical research which relates in whole or in part, to methods of, or the performance of, abortions or involuntary sterilization as a means of family planning. None of the funds made available to carry out part I of the Foreign Assistance Act of 1961, as amended, may be obligated or expended for any country or organization if the President certifies that the use of these funds by any such country or organization would violate any of the above provisions related to abortions and involuntary sterilizations: *Provided*, That none of the funds made available under this Act may be used to lobby for or against abortion.

REPORTING REQUIREMENT

SEC. 519.³⁴ Section 25 of the Arms Export Control Act is amended—

(1) in subsection (a), by striking "Congress" and inserting in lieu thereof "appropriate congressional committees";

(2) in subsection (b), by striking "the Committee on Foreign Relations of the Senate or the Committee on Foreign Affairs of the House of Representatives" and inserting in lieu thereof "any of the congressional committees described in subsection (e)"; and

(3) by adding the following subsection:

"(c) As used in this section, the term 'appropriate congressional committees' means the Committee on Foreign Relations and the Committee on Appropriations of the Senate and the Committee on International Relations and the Committee on Appropriations of the House of Representatives."

SPECIAL NOTIFICATION REQUIREMENTS

SEC. 520.³⁵ None of the funds appropriated in this Act shall be obligated or expended for Colombia, Haiti, Liberia, Pakistan, Pan-

³³ Similar language, excluding the proviso, was first enacted as sec. 541 of the Foreign Assistance Appropriations Act, 1986. See also sec. 104(f) of the Foreign Assistance Act of 1961.

³⁴ Sec. 25 of the Arms Export Control Act is at 22 U.S.C. 2765. Foreign Assistance Appropriations Acts, fiscal years 1993 through 1997, included a section requiring that: "The President shall submit to the Committees on Appropriations the reports required by section 25(a)(1) of the Arms Export Control Act."

³⁵ The following countries have been listed in similar sections in recent previous fiscal years: Fiscal year 1997—Colombia, Guatemala (except development assistance for Guatemala), Dominican Republic, Haiti, Liberia, Pakistan, Peru, Serbia, Sudan, or Zaire;

Fiscal year 1996—Colombia, Dominican Republic, Guatemala, Haiti, Liberia, Nicaragua (with exception), Pakistan, Peru, Russia, Sudan, or Zaire;

Continued

\$500,000 of the funds appropriated by this Act under the heading "Operating Expenses of the Agency for International Development" may be made available for administrative expenses to carry out such programs: *Provided further*, That the provisions of section 107A(d) (relating to general provisions applicable to development credit authority) of the Foreign Assistance Act of 1961, as added by section 306 of H.R. 1486 as reported by the House Committee on International Relations on May 9, 1997, shall be applicable to direct loans and loan guarantees provided under this paragraph: *Provided further*, That direct loans or loan guarantees under this paragraph may not be provided until the Director of the Office of Management and Budget has certified to the Committees on Appropriations that the Agency for International Development has established a credit management system capable of effectively managing the credit programs funded under this heading, including that such system: (1) can provide accurate and timely provision of loan and loan guarantee data; (2) contains information control systems for loan and loan guarantee data; (3) is adequately staffed; and (4) contains appropriate review and monitoring procedures.

... AUTHORIZATION FOR POPULATION PLANNING

SEC. 592.⁹⁸ (a) 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) Such funds may be apportioned only on a monthly basis, and such monthly apportionments may not exceed 8.34 percent of the total available for such activities.

This Act may be cited as the "Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1998".

⁹⁸ Provisions similar to this were first enacted in sec. 518A of the Foreign Assistance Appropriations Act, 1996, as amended.

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(5)

**FOREIGN OPERATIONS, EXPORT FINANCING, AND RELATED PROGRAMS
APPROPRIATIONS ACT, 1998 (House of Representatives - September 04, 1997)**

AMENDMENT NO. 1 OFFERED BY MR. SMITH OF NEW JERSEY

Mr. SMITH of New Jersey. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 1 printed in House Report 105-184 offered by Mr. Smith of New Jersey:

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

**FOREIGN ORGANIZATIONS THAT PERFORM OR PROMOTE ABORTION
OVERSEAS; FORCED ABORTION IN THE PEOPLE'S REPUBLIC OF CHINA**

Sec. 572. (a) Section 104 of the Foreign Assistance Act of 1961 is amended by adding at the end the following new subsection.

'(h) Restriction on Assistance to Foreign Organizations That Perform or Actively Promote Abortions:

'(1) Performance of abortions:

'(A) Notwithstanding section 614 of this Act or any other provision of law, no funds appropriated 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, 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 this Act or any other provision of law, no funds appropriated for population **planning** activities or other population assistance may be made available for any foreign private, non-governmental, 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 any activity or effort 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 of this subsection apply to funds made available to a foreign organization either directly or as a subcontractor or subgrantee, and the certifications required by paragraphs (1) and (2) apply to activities in which the organization engages either directly or through a subcontractor or subgrantee.'

(b) Section 301 of the Foreign Assistance Act of 1961 is amended by adding at the end the following new subsection:

'(i) **Limitation Relating to Forced Abortions in the People's Republic of China:** Notwithstanding section 614 of this Act or any other provision of law, no funds may be made available for the United Nations Population Fund (UNFPA) in any fiscal year unless the President certifies that--

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

'(2) during the 12 months proceeding such certification there have been no abortions as the result of coercion associated with the **family planning** policies of the national government or other governmental entities within the People's Republic of China.

As used in this section, the term 'coercion' includes physical duress or abuse, destruction or confiscation of property, loss of means of livelihood, or severe psychological pressure.'

The CHAIRMAN. Pursuant to the order of the House of Thursday, July 24, 1997, the gentleman from New Jersey [Mr. Smith] and the gentlewoman from California [Ms. Pelosi] will each control 20 minutes.

THIS SEARCH	THIS DOCUMENT	THIS CR ISSUE	GO TO
Next Hit	Forward	Next Document	New CR Search
Prev Hit	Back	Prev Document	HomePage
Hit List	Best Sections	Daily Digest	Help
	Doc Contents		

6

March 10, 1998

CONGRESSIONAL RECORD—HOUSE

H1001

jobs, including the expansion of existing programs and the creation of new programs to train, upgrade and improve the skills of minority employees.

(8) Establishing procedures to assess, identify and actively recruit minority employees with the potential for further advancement, and

(9) Proving for the appointment of a senior management staff member to be responsible for the employment efforts of the entity and, within a reasonable period of time, the implementation of the principles described above.

The section also includes the principles of economic justice to insure that these principles should be applied by those individuals or entities who receive any portion of the U.S. contribution to the International Fund for Ireland.

In addition a new provision was added to insure nothing shall require quotas or reverse discrimination, which is consistent with the intent and purpose of the MacBride principles.

The Senate amendment has no comparable provision.

The conference substitute (sec. 1811) is similar to the House bill except the mandatory requirement that the US contributions shall be used in a manner that effectively increases employment opportunities in communities with rates of unemployment "significantly" higher than the local or urban average of unemployment in Northern Ireland (defined as the counties of Antrim, Armagh, Derry, Down, Tyrone, and Fermanagh) is changed to "should".

US POLICY WITH RESPECT TO JERUSALEM AS THE CAPITAL OF ISRAEL

The House bill (sec. 1709) contains four provisions which together reaffirm and strengthen U.S. policy as reflected in the Jerusalem Embassy Act of 1995 (P.L. 104-45) that Jerusalem should remain the undivided capital of Israel.

The Senate amendment (sec. 1603) similar to the House bill.

The conference substitute sec. 1812(a) authorizes the appropriation of \$25,000,000 for fiscal year 1998 and \$75,000,000 for fiscal year 1999 for the construction of a U.S. Embassy in Jerusalem. This subsection restates and updates the Jerusalem Embassy Act of 1995 (P.L. 104-45). It reiterates Congressional intent concerning the establishment of the U.S. Embassy in Jerusalem, Israel, no later than May 31, 1999.

Subsection (b) urges the President to correct the current anomalous situation in which the United States Ambassador to Israel, currently resident in Tel Aviv, does not supervise all U.S. diplomatic and consular activities in the State of Israel, and particularly, does not supervise the Consul General and consular personnel in Jerusalem, Israel.

Subsection (c) requires new public documents to describe Jerusalem as Israel's capital as a prerequisite for funding under the bill. This requirement follows State Department practice in such publications as the "Background Notes" for Israel.

Subsection (d) requires that for purposes of registration of birth, certification of nationality, or issuance of a passport, that the Secretary of State, upon the request of a U.S. citizen born in Jerusalem, record the place of birth as Israel. The section does not constitute a requirement that U.S. citizens born in Jerusalem have Israel recorded as their place of birth.

A reporting requirement pertaining to subsection (a) is required by P.L. 104-45. The committee of conference recommends that that report also include information pertaining to subsections (b), (c), and (d). Accord-

ingly, the commitment to implement subsection (b) should be detailed, the new public documents referred to in subsection (c) should be included with the report, and the Department of State should indicate the steps taken to inform U.S. citizens born in Jerusalem of the option they may exercise in seeking implementation of subsection (d). The Department of State should also include the number of citizens requesting the change permitted by subsection (d).

SUPPORT FOR DEMOCRATIC OPPOSITION IN IRAQ

The conference substitute (sec. 1813) adds a new section on Iraq. The committee of conference notes that bringing Saddam Hussein and other Iraqi officials to justice for war crimes has been a stated goal of President Clinton's administration since 1993. Legislation encouraging the Administration to pursue this course has passed the House (H. Con. Res. 137) and is pending in the Senate (S. Con. Res. 78). Secretary of State Albright's statement of February 26, 1998 is noted: "We look forward to working effectively with them in the future." The overt support for political activities and broadcasting by opposition forces can have a significant impact inside Iraq. In addition, the committee of conference notes that disparate Kurdish, Shiite, and Sunni groups have in the past been willing to set aside their differences and unite under the umbrella of the Iraqi National Congress (INC) to effectively challenge Saddam Hussein. The committee of conference recommends supporting efforts to reunite these disparate groups under a unified umbrella, whether it be the INC or another opposition group, to present a solid,

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report language on Mexico City

The conference substitute (sec. 1814) is similar to the House bill with modifications to consolidate the findings.

CUBA ASSISTANCE

The House bill (sec. 1901) makes \$2 million available for democracy programs in Cuba under chapter 4 part II of the Foreign Assistance Act of 1961.

The Senate amendment has no comparable provision.

The conference substitute (sec. 1815) is the same as the House bill.

FOREIGN ORGANIZATIONS THAT PERFORM OR PROMOTE ABORTION; FORCED ABORTION IN CHINA

The House bill (sec. 2101) The Senate amendment had no comparable provision.

The conference substitute (sec. 1816) combines House bill sections 2101 and 2102. Section 2101 concerns U.S. population assistance to foreign organizations that perform or promote abortions. Section 2102 concerns UN Population Fund (UNFPA) activities in the People's Republic of China in relation to forced abortions carried out in connection with the Chinese government's population program.

The conference substitute prohibits, inter alia, population assistance to foreign organizations that "engage in any activity or effort to alter the laws or governmental policies of any foreign country concerning the circumstances under which abortion is permitted, regulated, or prohibited." Such prac-

tices include not only overt lobbying for such changes, but also such other activities as sponsoring, rather than merely attending, conferences and workshops on the alleged defects of the abortion laws, as well the drafting and distribution of materials or public statements calling attention to such alleged defects.

DIVISION C—UNITED NATIONS REFORM GENERAL PROVISIONS

Short title

The House bill has no similar section. The Senate bill (Sec. 2001) names this division the "United Nations Reform Act of 1997."

The conference substitute (Sec. 2001) is identical to the Senate bill.

DEFINITIONS

The House bill has no similar section. The Senate bill (Sec. 2002) defines the terms: appropriate congressional committee, designated specialized agency, secretary general, United Nations member, United Nations peacekeeping operation.

The conference substitute (Sec. 2002) is nearly identical to the Senate bill.

NONDELEGATION OF CERTIFICATION REQUIREMENTS

The House bill has no similar section. The Senate bill (Sec. 2003) expresses that the Secretary of State may not delegate the authority in this chapter to make any certification.

The conference substitute (Sec. 2003) is identical to the Senate bill.

TITLE XXI—AUTHORIZATION OF APPROPRIATIONS

ASSESSED CONTRIBUTIONS TO THE UNITED NATIONS AND AFFILIATED ORGANIZATIONS

The House bill (Sec. 1102) provides for \$90,389,000 in fiscal year 1998 and \$97,590,000 in fiscal year 1999 for assessed contributions to the United Nations and affiliated organizations.

The Senate bill (Sec. 2101) provides for \$938,000,000 in fiscal year 1998 and \$900,000,000 in fiscal year 1999 for assessed contributions to the United Nations and affiliated organizations, subject to certifications and conditions enumerated below.

The conference substitute (Sec. 2101) provides \$901,000,000 for fiscal year 1998 and \$900,000,000 for fiscal year 1999.

NO GROWTH BUDGET

The House bill has no similar provision.

Of the funds authorized, the Senate bill (Sec. 2101) makes available in fiscal years 1998 and 1999, \$80,000,000 on a semi-annual basis only when the Secretary of State certifies to the Congress that no action has been taken by the United Nations to increase the United Nations 1998-99 budget of \$2,533,000,000 during that period without finding an offset elsewhere in the United Nations budget during that period.

The conference substitute (Sec. 2101) amends the certification for a no growth budget to become an annual rather than a semi-annual certification.

INSPECTOR GENERAL

The House bill has no similar provision.

The Senate bill (Sec. 2101) withholds 20 percent of the funds made available for the United Nations until the Secretary of State certifies that the Office of Internal Oversight Services (OIOS) continues to function as an independent inspector general. This section requires the Director of the OIOS to report directly to the Secretary General on the adequacy of his resources and to notify in writing each program, project, or activity funded by the United Nations that it has the authority to audit, inspect, or investigate it.

The conference substitute (Sec. 2101) makes several technical and conforming

March 10, 1998

CONGRESSIONAL RECORD—HOUSE

H1001

Jobs, including the expansion of existing programs and the creation of new programs to train, upgrade and improve the skills of minority employees.

(8) Establishing procedures to assess, identify and actively recruit minority employees with the potential for further advancement, and

(9) Proving for the appointment of a senior management staff member to be responsible for the employment efforts of the entity and, within a reasonable period of time, the implementation of the principles described above.

The section also includes the principles of economic justice to insure that these principles should be applied by those individuals or entities who receive any portion of the U.S. contribution to the International Fund for Ireland.

In addition a new provision was added to insure nothing shall require quotas or reverse discrimination, which is consistent with the intent and purpose of the MacBride principles.

The Senate amendment has no comparable provision.

The conference substitute (sec. 1811) is similar to the House bill except the mandatory requirement that the US contributions shall be used in a manner that effectively increases employment opportunities in communities with rates of unemployment "significantly" higher than the local or urban average of unemployment in Northern Ireland (defined as the counties of Antrim, Armagh, Derry, Down, Tyrone, and Fermanagh) is changed to "should".

US POLICY WITH RESPECT TO JERUSALEM AS THE CAPITAL OF ISRAEL

The House bill (sec. 1709) contains four provisions which together reaffirm and strengthen U.S. policy as reflected in the Jerusalem Embassy Act of 1995 (P.L. 104-45) that Jerusalem should remain the undivided capital of Israel.

The Senate amendment (sec. 1699) similar to the House bill.

The conference substitute sec. 1812(a) authorizes the appropriation of \$25,000,000 for fiscal year 1998 and \$75,000,000 for fiscal year 1999 for the construction of a U.S. Embassy in Jerusalem. This subsection restates and updates the Jerusalem Embassy Act of 1995 (P.L. 104-45). It reiterates Congressional intent concerning the establishment of the U.S. Embassy in Jerusalem, Israel, no later than May 31, 1999.

Subsection (b) urges the President to correct the current anomalous situation in which the United States Ambassador to Israel, currently resident in Tel Aviv, does not supervise all U.S. diplomatic and consular activities in the State of Israel, and particularly, does not supervise the Consul General and consular personnel in Jerusalem, Israel.

Subsection (c) requires new public documents to describe Jerusalem as Israel's capital as a prerequisite for funding under the bill. This requirement follows State Department practice in such publications as the "Background Notes" for Israel.

Subsection (d) requires that for purposes of registration of birth, certification of nationality, or issuance of a passport, that the Secretary of State, upon the request of a U.S. citizen born in Jerusalem, record the place of birth as Israel. The section does not constitute a requirement that U.S. citizens born in Jerusalem have Israel recorded as their place of birth.

A reporting requirement pertaining to subsection (a) is required by P.L. 104-45. The committee of conference recommends that that report also include information pertaining to subsections (b), (c), and (d). Accord-

ingly, the commitment to implement subsection (b) should be detailed, the new public documents referred to in subsection (c) should be included with the report, and the Department of State should indicate the steps taken to inform U.S. citizens born in Jerusalem of the option they may exercise in seeking implementation of subsection (d). The Department of State should also include the number of citizens requesting the change permitted by subsection (d).

SUPPORT FOR DEMOCRATIC OPPOSITION IN IRAQ

The conference substitute (sec. 1813) adds a new section on Iraq. The committee of conference notes that bringing Saddam Hussein and other Iraqi officials to justice for war crimes has been a stated goal of President Clinton's administration since 1993. Legislation encouraging the Administration to pursue this course has passed the House (H. Con. Res. 137) and is pending in the Senate (S. Con. Res. 78). Secretary of State Albright's statement of February 26, 1998 is noted: "We look forward to working effectively with them in the future." The overt support for political activities and broadcasting by opposition forces can have a significant impact inside Iraq. In addition, the committee of conference notes that disparate Kurdish, Shiite, and Sunni groups have in the past been willing to set aside their differences and unite under the umbrella of the Iraqi National Congress (INC) to effectively challenge Saddam Hussein. The committee of conference recommends supporting efforts to reunite these disparate groups under a unified umbrella, whether it be the INC or another opposition group, to present a solid, pro-democracy, Iraqi front against Saddam Hussein. The Administration is expected to work closely with the Committee on Foreign Relations and the Committee on International Relations in the development of the program, including the selection of grantees.

DEVELOPMENT OF DEMOCRACY IN SERBIA

The House bill (sec. 1713) expresses a sense of Congress regarding the various methods and actions that can be taken to support the development of democracy in the Republic of Serbia. The Senate amendment has no comparable provision.

The conference substitute (sec. 1814) is similar to the House bill with modifications to consolidate the findings.

CUBA ASSISTANCE

The House bill (sec. 1901) makes \$2 million available for democracy programs in Cuba under chapter 4 part II of the Foreign Assistance Act of 1961.

The Senate amendment has no comparable provision.

The conference substitute (sec. 1815) is the same as the House bill.

FOREIGN ORGANIZATIONS THAT PERFORM OR PROMOTE ABORTION; FORCED ABORTION IN CHINA

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The conference substitute (sec. 1816) combines House bill sections 2101 and 2102. Section 2101 concerns U.S. population assistance to foreign organizations that perform or promote abortions. Section 2102 concerns UN Population Fund (UNFPA) activities in the People's Republic of China in relation to forced abortions carried out in connection with the Chinese government's population program.

The conference substitute prohibits, inter alia, population assistance to foreign organizations that "engage in any activity or effort to alter the laws or governmental policies of any foreign country concerning the circumstances under which abortion is permitted, regulated, or prohibited." Such prac-

tices include not only overt lobbying for such changes, but also such other activities as sponsoring, rather than merely attending, conferences and workshops on the alleged defects of the abortion laws, as well as the drafting and distribution of materials or public statements calling attention to such alleged defects.

DIVISION C—UNITED NATIONS REFORM GENERAL PROVISIONS

Short title

The House bill has no similar section. The Senate bill (Sec. 2001) names this division the "United Nations Reform Act of 1997."

The conference substitute (Sec. 2001) is identical to the Senate bill.

DEFINITIONS

The House bill has no similar section. The Senate bill (Sec. 2002) defines the terms: appropriate congressional committee, designated specialized agency, secretary general, United Nations member, United Nations peacekeeping operation. The conference substitute (Sec. 2002) is nearly identical to the Senate bill.

NONDELEGATION OF CERTIFICATION REQUIREMENTS

The House bill has no similar section. The Senate bill (Sec. 2003) expresses that the Secretary of State may not delegate the authority in this chapter to make any certification.

The conference substitute (Sec. 2003) is identical to the Senate bill.

TITLE XXI—AUTHORIZATION OF APPROPRIATIONS

ASSESSED CONTRIBUTIONS TO THE UNITED NATIONS AND AFFILIATED ORGANIZATIONS

The House bill (Sec. 2102) provides for \$90,389,000 in fiscal year 1998 and \$97,590,000 in fiscal year 1999 for assessed contributions to the United Nations and affiliated organizations.

The Senate bill (Sec. 2101) provides for \$938,000,000 in fiscal year 1998 and \$900,000,000 in fiscal year 1999 for assessed contributions to the United Nations and affiliated organizations, subject to certifications and conditions enumerated below.

The conference substitute (Sec. 2101) provides \$901,000,000 for fiscal year 1998 and \$900,000,000 for fiscal year 1999.

NO GROWTH BUDGET

The House bill has no similar provision. Of the funds authorized, the Senate bill (Sec. 2101) makes available in fiscal years 1998 and 1999, \$90,000,000 on a semi-annual basis only when the Secretary of State certifies to the Congress that no action has been taken by the United Nations to increase the United Nations 1998-99 budget of \$2,533,000,000 during that period without finding an offset elsewhere in the United Nations budget during that period.

The conference substitute (Sec. 2101) amends the certification for a no growth budget to become an annual rather than a semi-annual certification.

INSPECTOR GENERAL

The House bill has no similar provision. The Senate bill (Sec. 2101) withholds 20 percent of the funds made available for the United Nations until the Secretary of State certifies that the Office of Internal Oversight Services (OIOS) continues to function as an independent inspector general. This section requires the Director of the OIOS to report directly to the Secretary General on the adequacy of his resources and to notify in writing each program, project, or activity funded by the United Nations that it has the authority to audit, inspect, or investigate it.

The conference substitute (Sec. 2101) makes several technical and conforming



United States Department of State

Washington, D.C. 20520

INFORMATION MEMORANDUM
S/S

JUL 29 1999

(7)

TO: The Secretary

FROM: H - Barbara Larkin *J. E. L.*

SUBJECT: Mexico City Language on
Foreign Operations Bill

The Foreign Operations Appropriations Bill will be on the floor of the House late today, July 29. The bill as reported out of Committee does not contain Mexico City language. Chris Smith (R-NJ) will offer his Mexico City language as an amendment on the floor. Unfortunately, the Rules Committee again shut Nancy Pelosi (D-CA) out of the process. However, to accommodate pro-choice Republicans, an amendment sponsored by Jim Greenwood (R-PA), which we support, will also be permitted. However, the Greenwood provision is not a substitute for Smith, but a parallel amendment. It is therefore possible for members to vote yes to both bills and for both to pass, which is our desired result. This is obviously not an ideal situation. However, since the Republican leadership continues to link Mexico City language and UN arrears and since this is likely to be the only Mexico City vote in the House this year, this will be our only opportunity to break that link.

The Smith Amendment continues the Mexico City "Gag Rule" but contains a waiver on the performance of abortions with no reduction in funding, a change from his previous legislation. There is no waiver for lobbying. The Greenwood Amendment, co-sponsored by **Nita Lowey (D-NY)**, **Carolyn Maloney (D-NY)**, **Tom Campbell (R-CA)** and **Ben Gilman (R-NY)**, prohibits the use of U.S. funds for abortions or for lobbying for abortions, but permits organizations to use their own funds for these activities in accordance with local laws. The amendment also contains a self-certification procedure.

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- 2 -

It is unlikely that Smith can be defeated, so our strategy is to obtain a majority for the Greenwood Amendment to demonstrate that the full House supports a more reasonable alternative that could then be used on UN arrears.

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Talking Points

- Calling to ask for your support for the Greenwood amendment on international family planning.
- The Greenwood Amendment restates long-standing U.S. law prohibiting funding of abortions overseas. It also bars lobbying for or promoting abortions with U.S. funds.
- It further prohibits the use of U.S. funds to engage in activities that are illegal in the recipient's country.
- The Smith Amendment, however, would also limit how international family planning spend their own funds.
- The Smith Amendment would cripple the work of many private organizations doing the most effective work in family planning and maternal and child health. The consequences are clear - an increased number of unintended pregnancies, unsafe abortions, and maternal and child deaths.
- These restrictions are unnecessary since long-standing U.S. law prohibits the use of our funds for abortion as a method of family planning or abortion-related lobbying.
- The Smith Amendment would not only ban overt lobbying by organizations but also bar their participation in other activities such as conferences and workshops on the alleged defects in abortion laws, as well as the drafting and distribution of materials or public statements calling attention to such defects.
- Smith has repeatedly stated that he links Mexico City to payment of our UN arrears. While the two issues are unrelated, if the Smith Amendment wins and Greenwood loses, Smith will continue to make the case that this provision should be tied to UN arrears.
- A vote for Greenwood will help break this linkage. This is likely to be the only House vote on Mexico City this year. To enable the UN to carry out its mandates, such as in Kosovo, we must pay our arrears and retain our influence in the Security Council and the General Assembly.
- The UN is taking on more and more critical issues and we can't afford not to pay our dues.

- Passage of the Greenwood Amendment breaks the logjam on Foreign Ops since the President will veto a bill containing Mexico City language.
- Hope I can count on you.

**AMENDMENT TO H.R. 2606, AS REPORTED
OFFERED BY MR. GREENWOOD OF PENNSYLVANIA**

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

1 RESTRICTION ON POPULATION PLANNING ACTIVITIES OR
2 OTHER POPULATION ASSISTANCE

3 SEC. _____. (a) None of the funds appropriated or
4 otherwise made available for population planning activities
5 or other population assistance under title II of this Act
6 may be made available to a foreign nongovernmental orga-
7 nization unless the organization certifies that—

8 (1) it will not use such funds to promote abor-
9 tion as a method of family planning or to lobby for
10 or against abortion;

11 (2) it will use such funds that are made avail-
12 able for family planning services to reduce the inci-
13 dence of abortion as a method of family planning;

14 (3) it will not violate the laws or policies of the
15 foreign government relating to the circumstances
16 under which abortion is permitted, regulated, or pro-
17 hibited; and

18 (4) it will not engage in any activity or effort
19 in violation of applicable laws or policies of the for-
20 eign government to alter the laws or policies of such

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1 foreign government relating to the circumstances
2 under which abortion is permitted, regulated, or pro-
3 hibited, except with respect to activities in opposition
4 to coercive abortion or involuntary sterilization.

5 (b) The limitation on availability of funds to a foreign
6 nongovernmental organization under subsection (a) shall
7 apply—

8 (1) to funds made available to an organization
9 either directly or indirectly as a subcontractor or
10 subgrantee; and

11 (2) to activities in which the organization en-
12 gages either directly or indirectly through a sub-
13 contractor or subgrantee.

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**AMENDMENT TO H.R. _____, AS REPORTED
(FOREIGN OPERATIONS APPROPRIATIONS, 2000)
OFFERED BY MR. SMITH OF NEW JERSEY**

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

1 LIMITATION ON FUNDS FOR FOREIGN ORGANIZATIONS

2 THAT PERFORM OR PROMOTE ABORTION

3 SEC. _____. (a) Section 104 of the Foreign Assistance
4 Act of 1961 (22 U.S.C. 2151b) is amended by adding at
5 the end the following:

6 “(h) RESTRICTION ON ASSISTANCE TO FOREIGN OR-
7 GANIZATIONS THAT PERFORM OR ACTIVELY PROMOTE
8 ABORTIONS.—

9 “(1) PERFORMANCE OF ABORTIONS.—(A) Not-
10 withstanding section 614 of this Act or any other
11 provision of law, no funds appropriated for popu-
12 lation planning activities or other population assist-
13 ance may be made available for any foreign private,
14 nongovernmental, or multilateral organization until
15 the organization certifies that it will not, during the
16 period for which the funds are made available, per-
17 form abortions in any foreign country, except where
18 the life of the mother would be endangered if the

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1 pregnancy were carried to term or in cases of fore-
2 ible rape or incest.

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

7 “(2) LOBBYING ACTIVITIES.—(A) Notwith-
8 standing section 614 of this Act or any other provi-
9 sion of law, no funds appropriated for population
10 planning activities or other population assistance
11 may be made available for any foreign private, non-
12 governmental, or multilateral organization until the
13 organization certifies that it will not, during the pe-
14 riod for which the funds are made available, violate
15 the laws of any foreign country concerning the cir-
16 cumstances under which abortion is permitted, regu-
17 lated, or prohibited, or engage in any activity or ef-
18 fort to alter the laws or governmental policies of any
19 foreign country concerning the circumstances under
20 which abortion is permitted, regulated, or prohibited.

21 “(B) Subparagraph (A) shall not apply to ac-
22 tivities in opposition to coercive abortion or involun-
23 tary sterilization.

24 “(3) APPLICATION TO FOREIGN ORGANIZA-
25 TIONS.—The prohibitions of this subsection apply to

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1 funds made available to a foreign organization either
2 directly or as a subcontractor or subgrantee, and the
3 certifications required by paragraphs (1) and (2)
4 apply to activities in which the organization engages
5 either directly or through a subcontractor or sub-
6 grantee.".

7 (b) The President may waive the provisions of section
8 104(h)(1) of the Foreign Assistance Act of 1961 (relating
9 to population assistance to foreign organizations that per-
10 form abortions in foreign countries), as added by sub-
11 section (a), for any fiscal year.

(9)

Holt, Victoria K.

From: Petroni, Suzanne D
Sent: Thursday, September 16, 1999 2:10 PM
To: Holt, Victoria K.
Subject: Mexico City language

Tori: Margaret wrote up these points for our Bureau last October:

Q: What's the history of this language?

A: This language was named for the site of the 1984 international population conference where the U.S. announced that President Reagan, by Executive Order, would end support to those foreign organizations which, with their own private funds, provided legal abortion services or lobbied for changes in national abortion policies. This policy continued under President Bush, and was repealed by President Clinton his first week in office.

Q: Is this language the same language that Congress and the Administration have currently been debating?

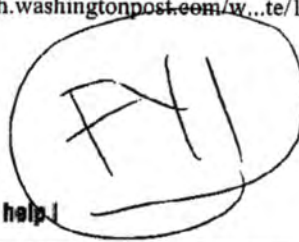
A: Not exactly. Besides the prohibition on providing legal abortion services and lobbying for changes in national abortion policies, the foreign ops legislation passed by the House would, by force of law in the statute itself, define lobbying far more broadly than any existing understanding of the term. As a condition of eligibility for receiving USG funds, foreign NGOs--using their own non-U.S. funds, would be barred not only from overt lobbying as we know it (e.g., buttonholing a Congressman) but also from sponsoring "conferences and workshops on the alleged defects of the abortion laws, as well as drafting and distribution of materials or public statements calling attention to such alleged defects."

Consider what this would mean. For example,

- If an NGO in Bolivia is receiving U.S. funds and published a paper noting that Bolivia has the highest maternal mortality rate in Latin America, largely as the result of illegal, unsafe, botched abortions, it would amount to drafting a paper "calling attention" to "defects" in Bolivia's abortion law.
- If the head of a foreign NGO receiving U.S. funds that offers only natural family planning gave a radio interview urging opposition to her country's plan to liberalize its abortion law, she would be violating the ban on a "public statement."
- In South Africa, where under apartheid safe, legal abortions were available to white women, but black women had to obtain the approval of two doctors, one of whom must have been in practice for at least four years, President Mandela asked the Director of the Planned Parenthood Association of South Africa (PPASA) to help him in drafting a law that would make the requirements for safe and legal abortion the same for all South African women. She helped draft that law, and it was enacted. Under the House proposal, PPASA would have lost its U.S. funding because they responded to President Mandela's request.
- And in Mexico--where 1500 maternal deaths are attributed to illegal abortion annually--a national debate on reforming the law on abortion is occurring. Mexican NGOs would be disqualified from U.S. funding if they dare to participate in the national debate. Even Guadalajara's Cardinal Juan Sandoval commented that, while he does not wish to see the law changed, "it's good to raise the discussion. We are a democratic society..." The debate is going on in Mexico, among Mexicans, with non-USG funds.



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Blank in a White House Briefing Book

First Lady Lauds Mexican Program, Unaware U.S. Will Cut Its Funding

By Molly Moore

Washington Post Foreign Service
Wednesday, May 7 1997; Page A24
The Washington Post

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MEXICO CITY, May 6 -- Hillary Rodham Clinton had high praise today for the U.S. government's role in helping finance a family-planning program she visited in a middle-income neighborhood of Mexico City.

There was just one glitch. The U.S. government has decided to cut off funding for the private program, but nobody told the first lady or her staff. In fact, the program director said that the U.S. Embassy had ordered him not to bring up the money issue during her visit.

"We were asked by the embassy not to touch the subject," said Alfonso Lopez Juarez, director of the Mexican Family Planning Foundation, which hosted Clinton for a frank discussion with teenagers on the issues of sex, teenage pregnancy and family planning.

So, in front of an audience of about 250 residents of the Alvaro Obregon district in central Mexico City, Clinton declared herself "proud of the role [the U.S. Agency for International Development] has played in supporting" the family-planning group, and White House aides passed out briefing papers describing the agency's contribution -- about \$800,000 this year -- as "instrumental" in the program's success, since its survival "depends on [its] ability to mobilize financial support."

Prior to the event, there had been much hand-wringing and concern among Mexican officials that the outspoken first lady might say something too controversial for Mexican sensibilities in her appearance under a white tent set up in the midst of a forest of drab, boxy apartment buildings.

No problem. Clinton remained well within diplomatic bounds as she continued what has become over the last two years a global tour of programs promoting women and children's rights. In her first two days in Mexico, she has met with indigenous women entrepreneurs in the Yucatan Peninsula, as well as with Mexico City teens enduring many of the same social pressures felt by their adolescent counterparts in the United States.

As in her visits through South Asia, Africa and South America, Clinton's

three-day Mexico tour -- most of it separate from the president's agenda -- has been fraught with a smattering of foibles. An AID official attempted to dismiss the funding cuts for the family-planning program by saying it was a sign of the project's success that it could carry on through its own fund-raising efforts. He conceded, however, that cuts in the U.S. federal budget were forcing the agency to pull the plug on its donations a few years earlier than planned.

As for the U.S. Embassy's gag order on the subject, spokesman Don Hamilton allowed that he "wouldn't be surprised if someone said it would be an inappropriate thing to be raised with the first lady."

The trip produced a few other awkward moments. Two years ago, Clinton met with poor women entrepreneurs on straw mats under a makeshift tent on her trip to India; here, the Mexican government gathered Mayan women basket weavers and farmers -- 45 percent of whom do not have toilets in their homes -- in the ballroom of a five-star hotel in Merida, the Yucatan capital, to describe their lives to the first lady.

The women -- clad in brilliantly embroidered blouses and lace-fringed white skirts -- told of eking out livings for their families as they sat under chandeliers at a hotel where the daily rate for a single room -- \$102 -- is as much as any of the women earns in more than two months. Before the event, one of its Mexican organizers assured the White House staff that "the women's speeches will be very warm and spontaneous. They have been practicing for two days."

A poignant moment came during a lunch with accomplished women representing the arts, publishing, politics and human rights groups. Olivia Barclay Jones, wife of U.S. Ambassador James Robert Jones, introduced Clinton to the group, noting that she admired the first lady for "doing so many of the things I dreamed of doing but never did. I respectfully retired from having any life of my own when my husband entered politics." Jones said that, like Clinton, she had earned a law degree; unlike Clinton, she said, she had never practiced law.

On Monday, as perhaps the most prominent advocate for children's rights in the United States, Clinton seemed more than a little taken aback during a tour of ancient Mayan ruins on the Yucatan peninsula when her archeologist guide told her that children were sometimes offered for human sacrifice in centuries past by people who thought "the universe was nourished" by such rituals.

At that, Mexican first lady Patricia Velasco de Zedillo, Clinton's hostess, remarked: "They thought it was an honor to be sacrificed. . . . They had a different idea of life and death."

Clinton made no comment.

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[Back to the top](#)