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International Family Planning: The "Mexico City" Policy

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Updated April 2, 2001

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International Family Planning: The “Mexico City” Policy

Summary

At an August 1984 International Conference on Population held in Mexico City, Reagan Administration officials announced a new U.S. family planning policy requiring all nongovernmental organizations (NGOs) receiving population aid from the United States to agree that they would not perform or actively promote abortion as a method of family planning in other countries. The policy continued through early 1993 when President Clinton removed it.

On January 22, 2001, President George W. Bush issued a Memorandum directing the USAID Administrator “to reinstate in full all of the requirements of the Mexico City Policy in effect on January 19, 1993.” Subsequently, USAID issued contract guidelines for restoring the Mexico City policy. Congressional opponents of the policy are attempting to force an early vote to overturn the policy (S.J.Res. 9) using expedited procedures under the Congressional Review Act regarding agency rules. In order to try to head off this effort, President Bush re-issued his Memorandum, including full contract guidelines, on March 28.

On January 1, 1985, USAID began to apply the new Mexico City policy. Under terms of the policy, a U.S. NGO had to agree not to provide any USAID funds to a foreign NGO, as a subgrantee, unless the foreign NGO certified in writing that it did not, and would not during the time of the aid agreement, perform or actively promote abortion as a method of family planning or provide financial assistance to any NGO that engages in such activities. A foreign organization that was a direct recipient of USAID grants, such as International Planned Parenthood, London, (IPPF/London) was required to make the same certification. These same conditions, however, did not apply to aid provided directly to foreign governments.

Although many major NGOs protested the Mexico City policy, most reluctantly accepted it in order to remain eligible for U.S. funding. The major exceptions were IPPF/ London and Family Planning International Assistance. Three court challenges in the late 1980s to reverse the policy failed. Administration officials said that there would be no reduction in the U.S. commitment to international family planning efforts; that money withheld from IPPF and other groups would be re-directed to those that complied with the policy. That appears to have been the case to some extent, although no specific documentation exists. Critics expressed concern not only about the amount of money available, but also about the loss of “quality” providers that resulted from the Mexico City policy.

A 1990 study commissioned by USAID found that recipients and subrecipients of U.S. family planning grants had fully complied with the Mexico City policy. They also concluded that subrecipients did not adequately understand the fine points of the contract clauses and applied unnecessary restrictions on their operations. This was due primarily to deliberate application of excessive restrictions in order to avoid any inadvertent action that might risk the loss of funding.

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International Family Planning: The “Mexico City” Policy

At the August 1984 second International Conference on Population held in Mexico City, Reagan Administration officials announced a new policy regarding U.S. support for international family planning programs and abortion. The “Mexico City” policy, as it became known, required all non-governmental organizations (NGOs) that received population assistance grants from the United States to agree that they would not perform or actively promote abortion as a method of family planning in other countries. The policy, which continued through early 1993 when President Clinton removed it, was highly controversial and resulted in several failed attempts by Members of Congress to reverse the restrictions.

New Mexico City Policy Guidelines Issued

On January 22, 2001, two days after taking office, President George W. Bush issued a Memorandum to the USAID Administrator rescinding the 1993 memorandum from President Clinton and directing the Administrator to “reinstate in full all of the requirements of the Mexico City Policy in effect on January 19, 1993.” President Bush further said that it was his “conviction that taxpayer funds should not be used to pay for abortions or advocate or actively promote abortion, either here or abroad.”¹ A separate statement from the President’s press secretary stated that President Bush was “committed to maintaining the \$425 million funding level” for population assistance “because he knows that one of the best ways to prevent abortion is by providing quality voluntary family planning services.” The press secretary further emphasized that it was the intent that any restrictions “do not limit organizations from treating injuries or illnesses caused by legal or illegal abortions, for example, post abortion care.”²

Following several weeks of inter-agency consultations, USAID released on February 15, 2001, specific contract clauses necessary to implement the President’s directive.³ Under the terms of the Foreign Operations Appropriations Act, FY2001,

¹ White House. Memorandum for the Administrator of the United States Agency for International Development. January 22, 2001. Found at [<http://www.whitehous.gov/press/releases/20010123-5.html>]

² White House. Restoration of the Mexico City Policy. January 22, 2001. Found at [<http://www.whitehous.gov/press/releases/20010123.html>]

³ President Bush re-issued his Memorandum to USAID, including identical contract guidelines, on March 28 in an effort to avoid a vote in Congress to overturn his policy under provisions of the Congressional Review Act (CRA) (P.L. 104-121). The CRA, enacted in 1996, established a mechanism by which Congress can review and disapprove, using
(continued...)

(P.L. 106-429) USAID could not obligate any population assistance funds until February 15. As a result, all FY2001 population assistance appropriations will fall under the provisions of the Mexico City policy.⁴

The new Administration Mexico City guidelines state that U.S. NGOs receiving USAID grants cannot furnish assistance to foreign NGOs which perform or actively promote abortion as a method of family planning in USAID-recipient countries, or that furnish assistance to other foreign NGOs that conduct such activities. When USAID provides assistance directly to a foreign NGO, the organization must certify that it does not now or will not during the term of the grant perform or actively promote abortion as a method of family planning in USAID-recipient countries or provide financial support to other foreign NGOs that carry out such activities. Abortion is defined as a “method of family planning when it is for the purpose of spacing births,” including (but not limited to) abortions performed for the physical or mental health of the mother. To perform abortions is defined as the operation of a “facility where abortions are performed as a method of family planning.”⁵

Promoting abortion is defined as an organization committing resources “in a substantial or continuing effort to increase the availability or use of abortion as a method of family planning.” Examples of what constitutes the promotion of abortion include: operating a family planning counseling service that includes information regarding the benefits and availability of abortion; providing advice that abortion is an available option or encouraging women to consider abortion; lobbying a foreign government to legalize or to continue the legality of abortion as a method of family planning; and conducting a public information campaign in a USAID-recipient country regarding the benefits and/or availability of abortion as a method of family planning.

The regulations also contain exceptions to these policies:

- ! abortions may be performed if the life of the mother would be endangered if the fetus were carried to term or abortions performed following rape or incest.
- ! health care facilities may treat injuries or illnesses caused by legal or illegal abortions (post-abortion care).

³ (...continued)

expedited procedures, federal agency rules. S.J.Res. 9, introduced by Senator Boxer and others on March 20, states congressional disapproval of the February 15 USAID rule regarding the Mexico City Policy. By re-issuing the Memorandum to USAID complete with policy guidelines, the White House hopes that the Mexico City Policy will not fall within the parameters of the CRA.

⁴ Congress enacted modified “Mexico City” abortion restrictions that applied only to funds appropriated in FY2000. For a discussion of that policy and its implications, see CRS Issue Brief IB026, *Population Assistance and Family Planning Programs: Issues for Congress*.

⁵ These and other definitions of terms under the new Mexico City policy are taken from a USAID memorandum to all contracting officers and negotiators, titled *Voluntary Population Activities – Restoration of the Mexico City Policy*, dated February 15, 2001. These are identical to those included in the President’s March 28, 2001 Memorandum to USAID.

- ! “passive” responses by family planning counselors to questions about abortion from pregnant women who have already decided to have a legal abortion is not considered an act of promoting abortion.
- ! referrals for abortion as a result of rape, incest, or where the mother’s life would be endangered, or for post-abortion care are permitted.

USAID will further be able to continue support, either directly or through a grantee, to foreign governments, even in cases where the government includes abortion in its family planning program. Money provided to such governments, however, must be placed in a segregated account and none of the funds may be drawn to finance abortion activities.

As context for the new policy standards and regulations, this report reviews the experience of the original “Mexico City” policy between 1984 and early 1993. It provides background on the 1984 decision, how the policy was implemented, legal challenges lodged against the Administration, funding reallocation issues, an assessment of the impact and implications of the Mexico City policy, and a summary account of congressional efforts to modify the policy.

Background of the 1984 Mexico City Policy

A prohibition on the use of U.S. federal funds for abortion activities has been in place since the early 1970s when the United States established a separate foreign aid account specifically for population assistance. Under the 1973 “Helms amendment,”⁶ no U.S. aid could be used directly to pay for the performance of an abortion as a method of family planning or for involuntary sterilizations. Recipients of USAID grants, however, could use their own funds to engage in abortion-related activities, but were required to maintain segregated accounts for U.S. money in order to show evidence they were in compliance with the abortion restrictions.

At the August 1984 U.N. International Conference on Population, held in Mexico City, the United States unveiled a broad new policy position on population and family planning assistance, including more restrictive conditions relating to abortions. According to the new policy, USAID would terminate support to NGOs which perform or actively promote abortion as a method of family planning in foreign countries, irrespective of whether such activities were funded with money from non-U.S. sources. Although these restrictions did not apply to family planning aid provided directly to foreign governments, in countries where abortion was legal, USAID would make contributions to governments in those countries through segregated accounts to ensure the funds would not be used for abortions. These new restrictions became known as the “Mexico City Policy.”

⁶ Sec. 104(f) of the Foreign Assistance Act of 1961, as amended.

Implementation of Mexico City Abortion Restrictions

On January 1, 1985, USAID began to apply the new Mexico City policy. Over the next several months, the agency drafted clauses that would be included in each new grant agreement with a Cooperating Agency (CA), also referred to as a direct recipient or grantee.⁷ The restrictive Mexico City clauses actually applied only to foreign NGOs which received USAID population funds, either as a direct recipient or as a subrecipient receiving grants through an American NGO recipient. Under terms of the clauses, a U.S. cooperating agency had to agree not to provide any USAID funds to a foreign NGO, as a subgrantee, unless the foreign NGO certified in writing that it did not, and would not during the time of the aid agreement, perform or actively promote abortion as a method of family planning or provide financial assistance to any NGO that engaged in such activities. A foreign organization that was a direct recipient of USAID grants, such as International Planned Parenthood, London, (IPPF/London) was required to make the same certification that it did not, and would not during the period of the agreement, perform or actively promote abortion as a method of family planning.

American NGOs that were the direct recipients of USAID population grants, however, were not required to make similar certifications regarding their own abortion-related activities. As had been the case under the Helms amendment, they could perform or promote abortions so long as they used money from non-U.S. sources. According to critics of the Mexico City policy, U.S. government lawyers had advised policymakers that requirements for American NGOs to make the certifications required of foreign NGOs would almost certainly be challenged successfully in the courts on constitutional grounds as a violation of free speech.⁸ These U.S. NGOs, however, were required to monitor the use of the money and to terminate the subgrant to a foreign NGO if the terms of the Mexico City clauses were violated.

The Mexico City clauses further did not restrict grants to foreign governments in the same way as funds for foreign NGOs, causing many critics to charge inconsistency in the new U.S. policy. As noted above, USAID could disburse funds for family planning programs in countries where abortion was legal and managed by foreign governments or government-sponsored entities if the grants were held in

⁷ Prohibited abortion-related activities included no funding for 1) procurement or distribution of equipment intended to be used for inducing abortions as a method of family planning; 2) special fees or incentives to women to coerce or motivate them to have abortions; 3) payments to persons to perform abortions or to solicit persons to undergo abortions; 4) information, education, training, or communication programs that seek to promote abortion as a method of family planning; and 5) lobbying for abortion. Also prohibited was funding for biomedical research relating to abortions or involuntary sterilizations. Epidemiologic or descriptive research to assess the incidence, extent, or consequences of abortions, however, was not banned, nor was the performance of an abortion in cases where the life of the mother would be endangered if the fetus was carried to term or following rape or incest.

⁸ See, for example, testimony of Sharon Camp, Population Crisis Committee, *Foreign Assistance and Related Programs Appropriations, FY1986, part 1*. U.S. Congress. Senate. Committee on Appropriations. Hearings, March 27, 1985, p. 1105.

segregated accounts and not used to perform or promote abortions. Administration officials justified the different restrictions applied to foreign governments, asserting that it was a matter of accommodating a country's sovereign prerogatives. They argued that to withhold funds might appear to be an attempt to use financial pressure to change domestic laws of a foreign nation.⁹

Although many major American CAs protested the inclusion of the Mexico City clauses in new agreements, most reluctantly signed in order to remain eligible for U.S. funding.¹⁰ How many foreign NGOs refused to sign the clauses, however, is unclear. IPPF/London, as a direct foreign recipient of USAID grants averaging \$11-\$12 million annually, was the most widely publicized group that did not sign the clauses and became ineligible for further funding in early 1985. Although IPPF/London strongly opposed the Mexico City policy, its officials stated that, even if they wanted to, the organization could not have complied with the clauses. As a federation of autonomous family planning associations, the IPPF/London constitution barred the central organization from setting service policies for its independent associations. When the new Mexico City restrictions were applied, IPPF/London said its abortion-related work involved about \$400,000, or 0.77% of its entire budget.¹¹

Because it was the responsibility of the American recipient (and not USAID) to obtain the certification from its foreign subgrantee, USAID, in most cases, did not have direct knowledge of other possible foreign NGOs that refused to comply with the Mexico City clauses. USAID Administrator Peter McPherson told a House panel in 1986 that in addition to IPPF/London, there were a "few other cases" of foreign organizations that would not make the necessary certification. SOS, a Brazilian subgrantee for The Pathfinder Fund, was the only organization he could cite by name.¹² Although it remains unclear how many foreign NGOs did not sign the Mexico City clauses, in 1991, Congressman Chris Smith (N.J.) said USAID reported that about 400 foreign organizations had signed, including 44 IPPF affiliates.¹³

⁹ Testimony of Richard Bissell, USAID, *The Effect of the Mexico City Policy on International Family Planning*, U.S. Congress. House. Committee on Foreign Affairs. Hearings, Sept. 21, 1989, p. 6.

¹⁰ For a sample of such views expressed by The Pathfinder Fund, The Population Council, Association of Voluntary Sterilization, Family Planning International Assistance/Planned Parenthood Federation of America, Family Health International, Johns Hopkins University, and Columbia University, see *Foreign Assistance and Related Programs Appropriations, FY1986*, op. cit., p. 1110.

¹¹ Testimony of Dr. Pramilla Senanayake, Assistant Secretary General, IPPF/London. *The Effect of the Mexico City Policy on International Family Planning*, op. cit. pp. 139-141.

¹² *Foreign Assistance and Related Programs Appropriations for 1987*. U.S. Congress. House. Committee on Appropriations. Hearings, March 5, 1986, p. 168.

¹³ *The International Family Planning Protection Act*. U.S. Congress. House. Committee on Foreign Affairs. Hearings, June 4, 1991, p.15.

Court Challenges to the Mexico City Policy

One American recipient – Planned Parenthood Federation of America’s (PPFA) international division, Family Planning International Assistance (FPIA) – also did not sign the Mexico City clauses, but remained eligible through FY1990 for USAID grants largely because of its pending lawsuit against the agency. The Mexico City policy was challenged in U.S. courts in three separate suits. These were brought by DXT Memorial Fund Ltd.; The Pathfinder Fund, together with The Population Council and the Association for Voluntary Surgical Contraception; and by PPFA. In May 1983, prior to the Mexico City policy, FPIA had signed a cooperative agreement with USAID that extended through December 1987, a period in which the organization received about \$14 million annually from USAID. Because of its newly signed agreement in 1983, FPIA did not face the requirement to abide by the Mexico City clauses until it negotiated a new cooperative agreement with USAID. In the meantime, PPFA filed a suit against USAID charging violations of Federal statutes and the Constitution. A district court dismissed the legal challenge, but a court of appeals subsequently ruled that the case did in fact raise constitutional issues, and referred it back to the district court. The appeals court further directed USAID and PPFA to negotiate a new grant agreement, excluding the Mexico City clauses, that would continue in effect until the case was settled. As a result, FPIA received USAID funds ranging annually from \$4.7 million to \$9.4 million through FY1990, without application of Mexico City. (See Table 1, below.) When the court rejected PPFA’s constitutional claims in September 1990, USAID terminated FPIA’s eligibility for population funds.¹⁴

Reallocation of Funds Withheld Because of Mexico City

U.S. officials asserted that whatever funds were denied or withheld from organizations not willing to sign the Mexico City clauses would be reallocated to other family planning programs. In other words, there would be no reduction in the U.S. commitment and amount of funding for international population assistance. At the time IPPF/London lost its eligibility for USAID funds in early 1985, the agency had anticipated obligating \$11.5 million in FY1985 under its grant agreement with the organization. In addition, IPPF/London had expected to obtain contracts from USAID of \$5 million in family planning commodities. This combined \$16.5 million represented roughly 25% of IPPF/London’s total budget. While the commodities eventually were delivered, IPPF/London lost the \$11.5 million grant, funds USAID said it would redirect to other family planning programs administered through “new intermediary relationships.” USAID Administrator McPherson further said that as a result of the reprogramming, African countries would receive about \$1 million more in family planning aid from the United States than if IPPF/London had administered the funds.¹⁵ In addition, USAID withheld \$10 million of the earmarked \$46 million

¹⁴ USAID also won the other two cases in 1989 and 1990. While their case was pending, Pathfinder Fund and other plaintiffs continued to receive USAID grants because they had signed the Mexico City clauses.

¹⁵ *Foreign Assistance and Related Programs Appropriations for 1986*, op. cit., p. 355.

U.S. contribution to the U.N. Population Fund (UNFPA), funds that would also be reprogrammed for other family planning programs.¹⁶

Documentation about how these IPPF/London, UNFPA, and (beginning in FY1991), FPIA funds were reallocated, however, does not appear to be available. Congressman Smith, in a 1991 hearing, said he would make part of the record USAID annual reprogramming notifications concerning where the money had been distributed. The published hearing, however, does not include such information.¹⁷ USAID officials interviewed for this report also could not produce reprogramming notifications during this period, although they insisted that all withheld funds were applied to family planning purposes and not diverted for other development programs.

A close examination of USAID congressional justification documents showing proposed population aid obligations for FY1985 (drafted in early 1984 prior to Mexico City) and actual obligation amounts that appeared in the FY1987 congressional presentation (prepared in early 1986) indicate there were several significant increases among USAID population projects and grants to selected organizations issued by the agency's central population office. The Pathfinder Fund, for example, received \$12 million in FY1985 compared with a \$7 million estimate projected by USAID in early 1984. Family Health International received \$8.7 million rather than the \$6.4 million originally requested for FY1985. USAID obligated \$13.9 million for FPIA in FY1985, up from the \$12.8 million proposed earlier. The Population Council received \$5.8 million rather than the \$3.4 million requested. USAID further obligated funds in FY1985 for about five projects that were not among those listed in its FY1985 congressional presentation, including \$2.3 million for natural family planning, \$3.5 million for family planning management training, and \$5 million for expansion and improvement of family planning programs.¹⁸ USAID sent to Congress a number of Congressional Notifications (CNs) in March and June 1985, informing lawmakers of population aid projects, including those noted above, that would receive obligations exceeding the amounts originally justified in early 1984.

Although the timing of these CNs coincided with the period during which USAID said it was making decisions on how to reprogram funds withheld from IPPF/London and UNFPA, factors other than the Mexico City restrictions apparently played a role in agency decisions to increase obligations for certain population projects and organizations. Congress, for example, appropriated \$290 million for population assistance in FY1985, \$40 million more than USAID requested. This required the agency to obligate funds it had not sought or previously justified to Congress. Moreover, reprogrammings and the submission of Congressional

¹⁶ UNFPA lost the \$10 million not because the Administration determined that it performed or promoted abortions in violation of the Mexico City policy, but because it continued operations in China. Many believed that the Chinese government applied coercive family planning practices and U.S. officials said that "any support for that country's program gives the appearance of condoning its practices." *Foreign Assistance and Related Programs Appropriations for 1986*, p. 422.

¹⁷ *The International Family Planning Protection Act*, op. cit., p. 32.

¹⁸ Data drawn from USAID Congressional Presentations for FY1985 and FY1987.

Notifications are routine actions frequently taken by USAID for its development assistance programs as the agency adjusts its current year activities to changing circumstances that have emerged during the 12-18 months since submitting its congressional presentation. Although there appear to be no means to precisely document the shifts in funding allocations during FY1985, the increases for projects and organizations noted above most likely resulted from a combination of congressional add-ons for population aid, routine adjustments made by USAID in the distribution of its new appropriation, and additional funds that became available because of the Mexico City restrictions.

Table 1. U.S. Obligations for Selected Family Planning Organizations
(\$s - millions)

Fiscal Year	IPPF/London	FPIA	UNFPA
81	\$12.0	\$12.542	\$35.0
82	\$12.0	\$12.548	\$33.7
83	\$11.0	\$12.245	\$33.8
84	\$11.0	\$14.6	\$40.2
Mexico City Policy Implemented			
85	\$0	\$13.87	\$36.0*
86	\$0	\$16.0	\$0
87	\$0	\$6.4	\$0
88	\$0	\$4.725	\$0
89	\$0	\$9.425	\$0
90	\$0	\$8.85	\$0
91	\$0	\$0	\$0
92	\$0	\$0	\$0
Mexico City Policy Terminated mid-FY1993			
93	\$13.2	\$0	\$14.5
94	\$13.9	\$0	\$40.0

* Congress earmarked \$46 million for UNFPA. USAID withheld \$10 million because of UNFPA's program in China.

Source: USAID.

Some critics of Mexico City, citing declining appropriation levels for population assistance after FY1985, charged that, in fact, the Administration was cutting family planning funds after the Mexico City policy went into effect. Although funding fell to \$250 million in FY1986 and to \$235 million in FY1987, it came at a time of overall foreign aid reductions following enactment of the Gramm-Rudman-Hollings deficit reduction plan. Moreover, USAID had requested \$250 million for each year, a level reduced by Congress in FY1987, possibly to accommodate a tripling – to \$75 million – of funding for child survival programs at a time of intense budget reduction pressure. Despite the appropriation reductions, population aid as a proportion of USAID development assistance spending remained at 16.3% in FY1986, about the same share family planning programs received during the early 1980s.

For other Mexico City critics, the issue was not one of funding levels, but of the quality of implementing organizations. To them, the Mexico City restrictions excluded the most experienced and effective international family planning NGOs. Sharon Camp of the Population Crisis Committee, for example, told a Senate committee that IPPF/London was not just one of many private intermediaries used by USAID, but represented “*the* worldwide network of indigenous national family planning associations.”¹⁹

Monitoring and Oversight of Mexico City Policy

In addition to the normal oversight tools available to USAID for monitoring effective and appropriate program implementation by its recipients and subrecipients, the Mexico City clauses afforded agency officials additional means for scrutinizing the work of its family planning grantees. The clauses permitted USAID to inspect foreign subrecipient documents, observe and discuss with their staff their family planning activities, and review audited financial statements. If USAID had reasonable cause to believe that a foreign subrecipient had violated the prohibition on performing or promoting abortions, officials could inspect appropriate books and records of the subrecipient. USAID further could ask recipients to take additional steps to verify the certification that subrecipients were not engaged in abortion work. Finally, agency officials could undertake an independent investigation in the community served by a subrecipient to ascertain whether the group performed or promoted abortion as a method of family planning.

It appears, however, that USAID monitored these programs in a routine manner similar to its other agreements, making little use of the additional oversight tools for managing family planning programs between 1985 and 1993. Assistant Administrator Richard Bissell told a House panel in 1989 that he did not believe that agency oversight was especially rigorous.²⁰ Likewise, Faye Wattleton of Planned Parenthood testified that USAID had never contacted PPFA regarding any concerns over violations of the Mexico City clauses. Agency officials familiar with Mexico City policy implementation also do not recall any special or extraordinary procedures taken by USAID to monitor adherence by recipients or subrecipients to the restrictions.

¹⁹ *Foreign Assistance and Related Programs Appropriations*, FY1986, op cit, p. 1100.

²⁰ *The Effect of the Mexico City Policy on International Family Planning*, op cit, p. 46.

USAID, however, commissioned and published a report – *Mexico City Policy Implementation Study*²¹ – in 1990 to examine what impact the Mexico City restrictions might be having on agency-funded family planning programs. The report also appeared at a time when several population groups were arguing that the Mexico City clauses had been confused and mis-interpreted by many subrecipients in a way that diminished the effectiveness of their programs. Mexico City critics claimed that this had led some foreign NGOs to terminate the collection of any abortion-related data, to abandon the use of medical textbooks or professional journals that discussed abortion, and to end certain types of biomedical research due to fear of losing USAID funds, even though these activities were not barred by the Mexico City restrictions.²²

The findings of the 1990 study generally confirmed the views of several U.S. family planning organizations that the Mexico City regulations were unclear and misunderstood, especially by foreign NGOs. While the authors found that recipients and subrecipients they studied had reasonably and fully complied with the Mexico City policy, they also concluded that subrecipients did not adequately understand the fine points of the standard clauses and had difficulty in passing on information to clinic staff, particularly those at a low literacy level. Although the study found that this had not had a significant impact on most subprojects, especially in countries where abortion was illegal and ran counter to religious beliefs and cultural attitudes, the authors found evidence in some locations (Bangladesh, Turkey, Brazil, Pakistan and Kenya) that project managers had applied unnecessary restrictions on their operations. This was due, they said, in part to misunderstanding of the Mexico City policy, but more often because of the deliberate application of excessive restrictions in order to avoid any inadvertent action that might risk the loss of funding. To remedy the overcautious tendency of subproject management, the authors made four recommendations for USAID to: 1) clarify the standard clause by stating what is permitted in areas such as research and the treatment of septic abortion cases; 2) revise the standard clause to state that if a violation was inadvertent, the subrecipient could correct it without losing its access to funding; 3) require that Cooperating Agencies extend more help to subrecipients in understanding the standard clause; and 4) publish a short, easy to read pamphlet explaining what is and is not permitted under the standard clause.

Although USAID took no direct action on these recommendations, in 1991 the agency sponsored the publication of a four page document prepared by the Population Crisis Committee entitled, *US Government Clarifies Implementation of Mexico City Policy Abortion Restriction*.²³ The publication stated that during challenges to the Mexico City policy in the courts and before Congress by U.S. family planning groups, USAID had clarified specific restrictions and acknowledged “that foreign NGOs may use funds from non-USAID sources for certain types of abortion-related activities and still remain eligible for U.S. population assistance.” The pamphlet stated that USAID

²¹ *Mexico City Policy Implementation Study*, by John Blane and Matthew Friedman. Population Technical Assistance Project, Occasional Paper No. 5, Nov. 21, 1990.

²² *The Effect of the Mexico City Policy on International Family Planning*, op cit, p. 119.

²³ Prepared by the Population Crisis Committee, under the sponsorship of USAID’s Office of Population.

policy specified that foreign NGOs could: 1) conduct demographic and health research on abortion or septic and incomplete abortion; 2) perform abortions to save the life of the mother or in the case of rape and incest; 3) provide training and equipment to treat septic and incomplete abortions; and 4) offer, with USAID funds, post-abortion contraceptive counseling and services.

Legislative Challenges to the Mexico City Policy

Within months of Administration implementation of the Mexico City policy, lawmakers opposed to the restrictions attempted to reverse them. In April 1985, the House Foreign Affairs Committee voted to prohibit the Administration from denying funds to NGOs that supported voluntary family planning programs (H.R. 1555). During House debate, however, lawmakers voted 234-189 in favor of an amendment deleting the Committee's position with language allowing the President to deny population aid to any country or organization because of the types of family planning programs that were promoted. The Senate adopted a different approach that was not supportive of President Reagan's Mexico City policy. As approved, the provision (S. 960) stipulated that NGOs and international organizations could not be subject to conditions that were more restrictive than those applied to foreign governments. Since foreign governments were not subject to the Mexico City terms, the Administration would either be forced to broaden the policy to direct government aid or drop the restrictions on NGOs and international organizations. Congress, however, could not resolve these differences and decided to drop all references to the Mexico City policy in the enacted bill (P.L. 99-83).

In subsequent years, Mexico City policy critics introduced numerous bills and amendments attempting to alter the Administration directives on international family planning and abortion. None of these initiatives, however, were enacted, and if they had been, Presidents Reagan and Bush would almost certainly have vetoed the bills. With Congress closely split on the issue, it was unlikely that lawmakers could have over-ridden a veto.

The closest Congress came to legislating a change in the Mexico City policy came in 1991 (H.R. 2508). The House and Senate each adopted provisions similar to what had passed the Senate in 1985. The House stated that population aid funds could not be denied to NGOs or international organizations on the basis of a condition that did not also apply to foreign governments. The Senate bill followed the 1985 model that funding for NGOs and international organizations could not be conditioned on more restrictive conditions than those applied to foreign governments. Under the threat of a veto from President Bush, conferees nevertheless adopted the Senate language. The conference report, however, was rejected by the House and the legislation was never presented to the President.

Removal of the Mexico City Policy

In one of his first actions at the White House, President Clinton, on January 22, 1993, issued a memorandum to USAID instructing the Administrator to lift the Mexico City restrictions and remove their terms from current agency grants to NGOs and to exclude them in the future. In August 1993, USAID initiated a new grant

agreement with IPPF/London to support the organization's efforts to "introduce, expand, and improve family planning and reproductive health information and services through its extensive affiliated network of indigenous family planning associations."²⁴ Under the five-year grant, IPPF/London received \$13.2 million during the final two months of FY1993, followed by another \$13.9 million obligation the following year. Levels fell to around \$7 million in FY1995-96. Approximately \$50 million was obligated overall during the first four years of the grant. USAID's ability to fund IPPF/London within months after Mexico City restrictions were removed without causing a disruption to continuing population programs was eased by Congress appropriating \$100 million more (\$350 million) for family planning than the agency had proposed for FY1993. FPIA, Planned Parenthood's international division and the other principal organizations that had lost funding because of Mexico City restrictions, did not seek USAID grants after the restrictions were removed.

²⁴ *User's Guide to the Center for Population, Health, and Nutrition*, USAID, Center for Population Health and Nutrition, Jan. 1996, p. 38.