The Mexico City Policy: An Explainer

Key Points

• On January 23, President Donald Trump reinstated the Mexico City Policy via presidential memorandum. This explainer provides an overview of the policy’s history and how it has been applied in the past. It will be updated as more details become available.

• The policy requires foreign non-governmental organizations (NGOs) to certify that they will not “perform or actively promote abortion as a method of family planning,” using funds from any source (including non-U.S. funds), as a condition for receiving U.S. government global family planning assistance and, as of Jan. 23, 2017, any other U.S. global health assistance.

• First announced in 1984 by the Reagan administration, the policy has been rescinded and reinstated by subsequent administrations along party lines. It has been in effect for approximately 17 of the past 32 years.

What is the Mexico City Policy?

The Mexico City Policy is a U.S. government policy that – when in effect – has required foreign NGOs to certify that they will not “perform or actively promote abortion as a method of family planning” with non-U.S. funds as a condition for receiving U.S. global family planning assistance and, as of Jan. 23, 2017, any other U.S. global health assistance, including U.S. global HIV (under PEPFAR) and maternal and child health (MCH) assistance.

The policy was first announced by the Reagan administration at the 2nd International Conference on Population, which was held in Mexico City, Mexico, on August 6-14, 1984 (hence its name). The policy has also been called the “Global Gag Rule” by its opponents, because among other activities, it prohibits foreign NGOs from using non-U.S. funds to provide information about abortion as a method of family planning and to lobby a foreign government to legalize abortion.

The Mexico City Policy marked an expansion of existing legislative restrictions that already prohibited U.S. funding for abortion internationally, with some exceptions (see below). Whereas prior to the policy foreign NGOs could use non-U.S. funds to engage in voluntary abortion-related activities as long as they maintained segregated accounts for any U.S. money received, the Mexico City Policy no longer permitted them to do so if they wanted to receive U.S. family planning assistance.

Box 1: The Original Language of the Mexico City Policy, 1984

“[T]he United States does not consider abortion an acceptable element of family planning programs and will no longer contribute to those of which it is a part. …[T]he United States will no longer contribute to separate nongovernmental organizations which perform or actively promote abortion as a method of family planning in other nations.”
**When has it been in effect?**

The Mexico City Policy has been in effect for approximately 17 of the past 32 years, primarily through executive action, and has been instated, rescinded, and reinstated by presidential administrations along party lines (see Table 1).

The policy was first instituted in 1984 (taking effect in 1985) by President Ronald Reagan and continued to be in effect through President George H.W. Bush’s administration. It was rescinded by President Bill Clinton in 1993 (although it was reinstated legislatively for one year during his second term; see below). The policy was reinstated by President George W. Bush in 2001 and then rescinded by President Barack Obama in 2009. It is currently in effect, having been reinstated by President Trump in 2017.

**How is it instituted (and rescinded)?**

The Mexico City Policy has, for the most part, been instituted or rescinded through executive branch action (typically via presidential memoranda). While Congress has the ability to institute the policy through legislation, this has happened only once in the past: a modified version of the policy was briefly applied by Congress during President Clinton’s last year in office as part of a broader arrangement to pay the U.S. debt to the United Nations. (At that time, President Clinton was able to partially waive the policy’s restrictions.) Other attempts to institute the policy through legislation have not been passed, nor have legislative attempts to overturn the policy. See Table 1.

**Who has it been applied to?**

Historically, the policy, when in effect, has applied to foreign NGOs as a condition for receiving U.S. family planning support either directly (as the main – or prime – recipient of U.S. funding) or indirectly (as a recipient of U.S. funding through an agreement with the prime recipient; referred to as a sub-recipient). Foreign NGOs include:

- international NGOs that are based outside the U.S.,
- regional NGOs that are based outside the U.S., and
- local NGOs in assisted countries.
U.S. NGOs, while not directly subject to the Mexico City Policy, must also agree to ensure that they do not provide family planning assistance to any foreign NGO sub-recipients unless those sub-recipients have first certified adherence to the policy.

Under the latest reinstatement, the policy again applies to foreign NGOs; however, it will be a condition for receiving not only U.S. family planning support but also any other U.S. global health assistance, including funding for global HIV programs (under PEPFAR) and global maternal and child health (MCH) programs. It is unclear whether it will apply to any other organizations, such as multilateral organizations. See below.

**To Which U.S. Funding Streams Has It Been Applied?**

In the past, foreign NGOs have been required to adhere to the Mexico City Policy – when it was in effect – as a condition of receiving support through certain U.S. international funding streams: family planning assistance through the U.S. Agency for International Development (USAID) and, beginning in 2003, family planning assistance through the U.S. Department of State. In the memorandum announcing the policy’s expansion to include the department in 2003, President Bush stated that the policy did not apply to funding for global HIV/AIDS programs and that multilateral organizations that are associations of governments are not included among “foreign NGOs.”

The current application of the policy states that it will include all U.S. global health assistance (to the extent allowable by law), including but not limited to family planning assistance, and extends prior policy to include all agencies and departments. This would include funding through, among others:

- USAID;
- the Department of State, including the Office of the Global AIDS Coordinator, which oversees and coordinates U.S. global HIV funding under the U.S. President’s Emergency Plan for AIDS Relief (PEPFAR);
- the Department of Health and Human Services and its operating divisions:
  - the Centers for Disease Control and Prevention (CDC);
  - the National Institutes of Health (NIH);
  - the Food and Drug Administration (FDA); and
  - the HHS Office of Global Affairs;
- the Peace Corps;
- the Millennium Challenge Corporation (MCC); and
- the Department of Defense (DOD).

It is unclear whether multilateral organizations will be included among “foreign NGOs.”

**What Activities Has It Prohibited?**

The policy has prohibited foreign NGOs that receive U.S. family planning assistance and, now, any other U.S. global health assistance from using non-U.S. funds to “perform or actively promote abortion as a method of
family planning.” In addition to providing abortions with non-U.S. funds, restricted activities also include the following:

- providing advice and information about and offering referral for abortion – where legal – as part of the full range of family planning options,
- promoting changes in a country’s laws or policies related to abortion as a method of family planning (i.e., engaging in lobbying), and
- conducting public information campaigns about abortion as a method of family planning.

These activities are why the policy has been referred to by its critics as the “Global Gag Rule.”

The policy, however, has not prohibited foreign NGOs from:

- providing advice and information about, performing, or offering referral for abortion in cases where the pregnancy has either posed a risk to the life of the mother or resulted from incest or rape;¹⁷ and
- responding to a question about where a safe, legal abortion may be obtained when a woman who is already pregnant clearly states that she has already decided to have a legal abortion (passively providing information, versus actively providing medically-appropriate information).

**Has it restricted direct U.S. funding for abortion overseas?**

Direct U.S. funding for abortion is already restricted under several provisions that were enacted into U.S. law before the Mexico City Policy.¹⁸ Specifically, U.S. law already prohibited the use of U.S. aid:

- to pay for the performance of abortion as a method of family planning or to motivate or coerce any person to practice abortion (the *Helms Amendment*, 1973, to the Foreign Assistance Act);
- for biomedical research related to methods of or the performance of abortion as a means of family planning (the *Biden Amendment*, 1981, to the Foreign Assistance Act); and
- to lobby for or against abortion¹⁹ (the *Siljander Amendment*, first included in annual appropriations in 1981 and included each year thereafter).

Shortly after the Mexico City Policy was first announced, the *Kemp-Kasten Amendment* was passed in 1985, prohibiting the use of U.S. aid to fund any organization or program, as determined by the president, that supports or participates in the management of a program of coercive abortion or involuntary sterilization (it is now included in annual appropriations). In the 2017 reinstatement of the Mexico City Policy, the memo included, for the first time, directions to the Secretary of State to enforce the Kemp-Kasten Amendment. Such directions had been provided separately in the past.

Before the Mexico City Policy, U.S. aid recipients could use non-U.S. funds to engage in abortion-related activities but were required to maintain segregated accounts for U.S. assistance.²⁰
The Mexico City Policy reversed this practice: no longer were foreign NGOs allowed to use non-U.S. funds, maintained in segregated accounts, for voluntary abortion-related activities if they wished to continue to receive or be able to receive U.S. family planning funds.

**Has it prohibited post-abortion care?**

The Mexico City Policy, in the past, has not restricted the provision of post-abortion care, which was a supported activity of U.S. family planning assistance. Whether or not the Mexico City Policy was in effect, recipients of U.S. family planning assistance have been allowed to use U.S. and non-U.S. funding to support post-abortion care,¹ no matter the circumstances of the abortion (whether it was legal or illegal).

It is unclear whether the current application of the policy will continue to allow recipients of U.S. global health assistance to support post-abortion care with U.S. and non-U.S. funding.²²

**What has been the impact of this policy?**

There has been some research and anecdotal information published about the policy’s impact. Most notably, a 2011 quantitative analysis by Bendavid, et. al, found a strong association between the Mexico City Policy and abortion rates in sub-Saharan Africa. Specifically, the study found that abortion rates rose in countries with high exposure to the Mexico City Policy compared to those with low exposure, while the use of modern contraceptives declined over the same period in high exposure compared to low exposure countries. In other words, it found patterns “suggesting that the Mexico City Policy is associated with increases in abortion rates in sub-Saharan African countries,” likely because foreign NGOs that declined U.S. funding as a result of the Mexico City Policy – often key providers of women’s health services in these areas – had fewer resources to support family planning services, particularly contraceptives.²³ Increased access to and use of contraception has been shown to be key to preventing unintended pregnancies and thereby reducing abortion, including unsafe abortion.²⁴

Additionally, there has been anecdotal evidence and qualitative data on the impact of the policy on the work of organizations that have chosen in the past to not agree to the policy and, therefore, forgo U.S. funding that had previously supported their activities.²⁵ For example, they have reported that they have fewer resources to support family planning and reproductive health services, including family planning counseling, contraceptive commodities, condoms, and reproductive cancer screenings.²⁶

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¹ “Policy Statement of the United States of America at the United Nations International Conference on Population (Second Session), Mexico City, Mexico, August 6-14, 1984,” undated.
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health assistance. The president did exercise the waiver option.

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organizations until they certified that during the period for which the funding was made available 1) they would not perform abortions as a method of family planning in any foreign country and 2) they would not violate the laws of any foreign country regarding abortion and would not engage in lobbying any foreign country regarding abortion. FY 2000 Consolidated Appropriations Act, P.L. 106-113.


10 Presidential memoranda “are often used to carry out routine executive decisions and determinations, or to direct agencies to perform duties consistent with the law or implement laws that are presidential priorities” and are not required to be published in the Federal Register (although those pertaining to the Mexico City Policy sometimes have been). These presidential instruments or directives “may have the force and effect of law only if the presidential action is based on power vested in the President by the U.S. Constitution or delegated to the President by Congress.” Memoranda have the same legal authority as executive orders, although the latter is always required to be published in the Federal Register. Quotes as published in Congressional Research Service (CRS), Executive Orders: Issuance, Modification, and Revocation, April 16, 2014, RS20846.

11 The legislative application of the policy – applying to FY 2000, which was from Oct. 1, 1999, until Sept. 30, 2000 – included language that prohibited USAID from providing family planning assistance to any foreign private, nongovernmental, or multilateral organizations until they certified that during the period for which the funding was made available 1) they would not perform abortions as a method of family planning in any foreign country and 2) they would not violate the laws of any foreign country regarding abortion and would not engage in lobbying any foreign country regarding abortion. FY 2000 Consolidated Appropriations Act, P.L. 106-113; PAI, Global Gag Rule Timeline, July 12, 2011; and Richard Cincotta and Barbara Crane, “The Mexico City Policy and U.S. Family Planning Assistance,” Science, Oct. 19, 2001, Vol. 294: pp. 525-526.

12 The legislation included an option for the president to waive these restrictions; however, if he exercised the waiver option (for no more than $15 million in family planning assistance), then $12.5 million of this funding would be transferred to maternal and child health assistance. The president did exercise the waiver option. FY 2000 Consolidated Appropriations Act, P.L. 106-113.


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16 George W. Bush Administration, “Subject: Assistance for Voluntary Population Planning,” Memorandum for the Secretary of State, August 29, 2003, Bush Administration White House Archives, http://georgewbush-whitehouse.archives.gov/news/releases/2003/08/20030829-3.html. In other words, when President Bush extended the policy to include funding at the Department of State, he stated in the memorandum that the policy did not apply to foreign aid funding for global HIV/AIDS, malaria, and tuberculosis programs (including those under the U.S. President’s Emergency Plan for AIDS Relief or PEPFAR). He also stated that “foreign NGOs” do not include multilateral organizations that are associations of governments, such as the U.N. Population Fund (UNFPA) and the Global Fund to Fight AIDS, Tuberculosis and Malaria. For more information about PEPFAR, see the KFF fact sheet.

17 While the policy allows exceptions for foreign NGOs that perform abortions with non-U.S. funds in the cases of a pregnancy that threatens the life of the woman or was a result of rape or incest, long-standing USAID interpretation of the Helms Amendment to the Foreign Assistance Act has not permitted U.S. funding to support the performance of abortions in these exceptional cases.


19 When initially introduced, the amendment prohibited only lobbying for abortion, but in subsequent years Congress modified the language to include lobbying against abortion as well.


21 Post-abortion care is the treatment of injuries or illnesses caused by legal or illegal abortions.


23 The study stated, “Although we are unable to draw definitive conclusions about the underlying cause of this increase, the complex interrelationships between family planning services and abortion may be involved. In particular, if women consider abortion as a way to prevent unwanted births, then policies curtailling the activities of organizations that provide modern contraceptives may inadvertently lead to an increase in the abortion rate.” Eran Bendavid, Patrick Avila, and Grant Miller, “United States aid policy and induced abortion in sub-Saharan Africa,” Bulletin of the World Health Organization, Sept. 27, 2011 (online publish date): Vol. 89, pp. 873-880C, http://www.who.int/bulletin/volumes/89/12/11-091660/en/.

