

Congress of the United States

Washington, DC 20515

June 18, 2004

The Honorable Colin Powell
Secretary
U.S. Department of State
2201 C Street, NW
Washington, D.C. 20520-0001

Dear Secretary Powell:

We write to seek immediate clarification regarding the U.S. Department of State's legal interpretation of Kemp-Kasten which has resulted in the United States' defunding of the life saving work of the United Nations Population Fund (UNFPA), the apparent defunding of the Global Health Council's 31st Annual Conference, and now the threatened defunding of the World Health Organization (WHO) and the United Nations Children's Fund (UNICEF).

We firmly believe that UNFPA is doing life-saving work in China and around the world and deserves the moral and financial support of the United States government. As such, we were extremely disappointed when, two years ago, you decided to invoke Kemp-Kasten on UNFPA, claiming that you had no choice due to the legal constraints of the Kemp-Kasten provision. This action was particularly surprising after your public statements in support of the invaluable work UNFPA does to help save the lives of women around the world.

Further, we are growing increasingly alarmed at the apparent application of Kemp-Kasten to other agencies that work with UNFPA. As you know, USAID invoked Kemp-Kasten as a reason for withdrawing financing for the Global Health Council's 31st Annual Meeting. An April 27, 2004 letter from USAID grants officer Anne Quinlan informed the Global Health Council that their conference funding would be revoked because UNFPA was a participant in the conference. We strongly support the work of the Global Health Council and find the withdrawal of funds for their conference troubling.

In addition, we understand that State Department representatives have begun to inform both the WHO and UNICEF that if these United Nations' organizations do any joint project with UNFPA, they run the risk that association will jeopardize their United States funding as well.

We are shocked by this new interpretation of Kemp-Kasten and ask that you immediately provide us with a comprehensive description of the Administration's current interpretation of Kemp-Kasten and how this new interpretation came into being. Clearly, this new interpretation could have a serious impact on U.S. funding for the UN itself, as the UN provides support to UNFPA. If this new interpretation were applied, we believe that the UN would be in violation of this new, creative interpretation of Kemp-Kasten and therefore the State Department would be required to cease funding for the UN.

On its own, this recent action is extremely disturbing. When coupled with recent statements made by Assistant Secretary Arthur E. "Gene" Dewey, it is very alarming. At a March 25, 2004

meeting with non-governmental organizations we understand that Assistant Secretary Dewey repeatedly stated that your July 2002 determination to invoke Kemp-Kasten on UNFPA was a "purely legal" decision and that politics played no role.

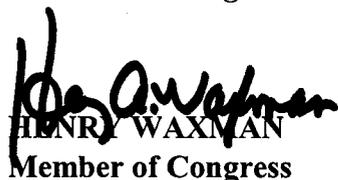
However, Assistant Secretary Dewey appeared to contradict his own statement when he intimated to the organizations present that there was inconsistent application of the Kemp-Kasten law but urged that the organizations not "tar and feather" UNICEF, WHO, and "other agencies that are doing good work in China." The implication was to drop this line of questioning because groups would not like the potential outcome.

These statements and the recent actions restricting funding to the Global Health Council and threatening WHO and UNICEF raise concerns that the application Kemp-Kasten is not being applied based on a consistent legal interpretation. In other words, it appears that the interpretation of Kemp-Kasten changes to suit the political needs of the Administration. We are concerned that this new and evolving interpretation will adversely affect millions of women and children around the world who are not receiving the proper healthcare they so desperately need and our relationship with the world community at a time when we need its help and support more and more.

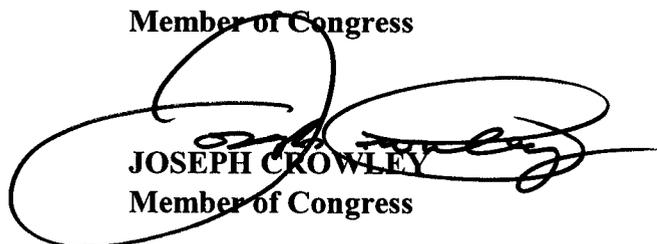
We ask for an immediate written clarification of the U.S. Department of State's process for making the Kemp-Kasten determination for the FY04 funds for UNFPA and a list of criteria under which other agencies would be subject to Kemp-Kasten.

Sincerely,


CAROLYN B. MALONEY
Member of Congress


HENRY WAXMAN
Member of Congress


BARBARA LEE
Member of Congress


JOSEPH CROWLEY
Member of Congress

cc: Gene Dewey, Assistant Secretary of State for Population, Refugees, and Migration, United States Department of State

Paula Dobriansky, Under Secretary of State for Global Affairs, United States Department of State

Andrew Natsios, Administrator, U.S. Agency for International Development