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Keeping PEPFAR International AIDS Relief on Target

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When President Bush proposed in 2003 to spend $15 billion over five years to fight HIV and AIDS, especially in Africa, it was justified on the grounds that combating AIDS was an important humanitarian cause with national security significance because of the potentially destabilizing impact of the disease.[1] The President recently called for expanding the initiative, known as the President's Emergency Plan for AIDS Relief (PEPFAR), while preserving the principles aimed at changing behavior that have guided it. However, the Global HIV/AIDS, Tuberculosis and Malaria Reauthorization Act of 2008, scheduled for markup in the House Committee on Foreign Affairs, threatens to strip important guidelines from the original law.

U.S. international HIV/AIDS relief funding must continue to be administered in ways that have proven effective and that preserve accountability to the U.S. government and American taxpayers. In any reauthorization of PEPFAR, Congress should (1) preserve requirements that funds are spent on effective prevention and treatment strategies and (2) focus on bilateral aid under the direction of the U.S. Congress to grantees that are operating according to the strategic vision of the original PEPFAR.

Background. PEPFAR included among its original goals providing treatment to 2 million people infected with HIV; preventing 7 million new infections; and providing care for 10 million persons, including orphans and at-risk children.[2] In his final State of the Union Address, the President urged Congress to double funding for the program to $30 billion over the next five years to meet the following goals: treatment for 2.5 million; prevention efforts for 12 million; and care for 12 million, including 5 million orphans or vulnerable children.[3] The President specified that his intention is not just to increase funding, but also to keep intact "the principles that have changed behavior"; namely, the goals and the foundation on which the original PEPFAR was constructed.

Preserve the Focus on Prevention and Treatment. PEPFAR was designed on the basis of African models that had shown success in reducing the prevalence of HIV/AIDS, but the House bill would gut these evidence-based measures and diminish the focus on preventing HIV/AIDS and related infections by adding issues such as sexuality education, gender based violence, gender equality, job training, universal basic education, property rights, and generalized family planning.[4] Prevention of the acquisition and transmission of HIV should remain the focus of the legislation. Therefore, Congress should preserve the emphasis on prevention and treatment through which the PEPFAR initiative has already saved lives.

Prevention. Prevention strategies should be targeted at reducing the rates of the several behaviors that create the highest risk of HIV transmission. The

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original PEPFAR built on the experiences of the African countries that have been most successful in fighting AIDS. Evidence from Senegal, Zambia, and especially Uganda in the 1990s had shown remarkable drops in the rate of new HIV infections following advertising campaigns that encouraged abstinence for those who were not married and fidelity for those who were married.5 Uganda achieved particular success: Between 1991 and 2001, the prevalence of HIV dropped by 71 percent. The drop was even more dramatic among the 15–24 age bracket, a fact that researchers from Cambridge University attributed to the aggressive campaign to change sexual behavior by encouraging marital fidelity and abstinence.[6]

On the basis of this track record, the original PEPFAR authorization bill reserved one-third of all prevention funding for behavioral change programs promoting abstinence and marital fidelity.[7] New research suggests that the epidemic of HIV among the heterosexual population in sub-Saharan Africa is due largely to one behavior unusually common in that part of the world: having multiple concurrent sex partners in overlapping networks.[8] Changing that behavior is crucial to controlling the epidemic.[9] Even as evidence builds in support of prevention strategies that encourage changes in sexual behavior,[10] however, the House bill would eliminate this priority.[11]

Treatment. In any future reauthorization, Congress should preserve the safeguards that prioritize life-saving treatment for those who are infected with HIV/AIDS. Current law requires a minimum allocation of funding for lifesaving medical care. Sec. 403(a) requires that no less than 55 percent of all funds be spent on medical care, with most of that amount (75 percent) spent specifically on medicine.[12] This provision ensures that the lion's share of U.S. tax dollars reaches the patients it is intended to help rather than being siphoned off into bureau-

1. See Colin Powell, remarks at the Global Business Coalition on HIV/AIDS Annual Dinner, June 13, 2003, at *www.state.gov/secretary/former/powell/remarks/2003/21542.htm* (February 5, 2008). See also Ambassador Mark Dybul, U.S. Global AIDS Coordinator, testimony before House Committee on Foreign Affairs, April 24, 2007, at *www.pepfar.gov/press/83436.htm* (February 5, 2008).
2. U.S. Department of State, Office of the United States Global AIDS Coordinator, "The President's Emergency Plan for AIDS Relief: U.S. Five-Year Global HIV/AIDS," February 23, 2004, p. 7, at *www.state.gov/documents/organization/29831.pdf*.
3. 2008 State of the Union Address, "Advancing an Agenda of Compassion Worldwide," at *www.whitehouse.gov/stateoftheunion/2008/initiatives/compassion.html* (February 5, 2008).
4. United States Global Leadership Against HIV/AIDS, Tuberculosis, and Malaria Reauthorization Act of 2008 (draft circulated by Representative Howard Berman), 110th Cong., 2nd Sess. (draft dated February 11, 2008, 2008, 11:17 a.m.). For sexuality education see p. 65. For other provisions see Section 313.
5. These countries focused on change strategies through abstinence and fidelity, while condoms were a lesser part of the strategy to contain the spread of the disease, especially among high-risk populations. See Office of Global AIDS Coordinator, "ABC Guidance #1 for United States Government In-Country Staff and Implementing Partners Applying the ABC Approach to Preventing Sexually-Transmitted HIV Infections Within the President's Emergency Plan for AIDS Relief," at *www.state.gov/documents/organization/57241.pdf*.
6. Rand L. Stoneburner and Daniel Low-Beer, "Population-Level HIV Declines and Behavioral Risk Avoidance in Uganda," *Science*, Vol. 304, No. 5671 (April 30, 2004), pp. 714–718. "Our findings indicate that substantial HIV reductions in Uganda resulted from public-health interventions that triggered a social process of risk avoidance manifested by radical changes in sexual behaviors."
7. Public Law 108-25, Sec. 403(a): "For fiscal years 2006 through 2008, not less than 33 percent of the amounts appropriated…for each such fiscal year shall be expended for abstinence-until-marriage programs."
8. See James Chin, *The AIDS Pandemic* (Oxford: Radcliffe Publishing, 2007), pp. 1–2, and Helen Epstein, *The Invisible Cure: Africa, the West, and the Fight Against AIDS* (New York: Farrar, Strauss, and Giroux, 2007), chapters 3–4.
9. See Chin, *The AIDS Pandemic*, pp. 146–148, 159–160.
10. See statement, "The Time Has Come for Common Ground on Preventing Sexual Transmission of HIV," *The Lancet*, Vol. 364, No. 9449 (November 27–December 3, 2004), pp. 1913–1915.
11. Sec. 402(3) of the second draft, January 31, 2008, 6:02 p.m.

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cratic overhead or extraneous activities. This provision not only saves lives, but reduces the infectivity of those who are infected, which can help reduce the spread of the disease.[13] Moreover, treating parents helps to prevent their children from becoming orphans. The House bill, however, would strip out this requirement.

Preserve the Initiative's Strategic Vision. Congress must maintain the policies that ensure that funds are spent in accordance with the original strategic vision for PEPFAR. That means (1) continuing to prioritize bilateral aid and maintain stipulations concerning any funds supplied to the Global Fund and (2) maintaining the design and language of current law that allows participation of faith-based service providers, in keeping with the spirit of the conscience clause.

Bilateral Aid. Since President Bush took office, the U.S. has sharply increased the funds that it provides to combat HIV/AIDS, tuberculosis, and malaria. The U.S. has provided more than 27 percent of funding for the Global Fund to Fight AIDS, Tuberculosis and Malaria.[14] However, the U.S. distributes the majority of its funding bilaterally. PEPFAR emphasized bilateral funding to maintain maximum accountability for the performance of funds and to better enforce U.S. funding priorities and strategies, including the focus on abstinence and fidelity. If the U.S. chose to focus its funding through multilateral efforts, it is unlikely that these policy priorities would be maintained, because the ability of the U.S. to influence policy, practices, and programs in multilateral organizations is limited.

For instance, U.S. influence in the Global Fund, as in most other multilateral organizations,[15] is limited. The U.S. is only one of 20 voting members on the Board (eight members from donors, seven from developing countries, and five from civil society and the private sector).[16] Even though American taxpayers have contributed up to one-third of the Global Fund's budget, it has been reported[17] that the U.S. is routinely outvoted and that U.S. priorities often are weakened or ignored. Recognizing this weakness, the U.S. capped its funding at 33 percent of total contributions to the Global Fund as a means for ensuring that the U.S. would not end up providing most of the funding for an initiative in which it had only limited influence.

The limited influence of the U.S. has blunted efforts to ensure that the Global Fund operates in a fully transparent and accountable fashion that does not harm those it seeks to help. Unlike the bilateral program, where the program coordinator is answerable

12. Public Law 108-25, Sec. 403(a): "For fiscal years 2006 through 2008, not less than 55 percent of the amounts appropriated pursuant to the authorization of appropriations under section 401 for HIV/AIDS assistance for each such fiscal year shall be expended for therapeutic medical care of individuals infected with HIV, of which such amount at least 75 percent should be expended for the purchase and distribution of antiretroviral pharmaceuticals and at least 25 percent should be expended for related care."
13. Travis C. Porco *et al*., "Decline in HIV Infectivity Following the Introduction of Highly Active Antiretroviral Treatment," *AIDS*, Vol. 18, Issue 1 (January 2, 2004), pp. 81–88, at *www.aidsonline.com/pt/re/aids/pdfhandler.00002030-200401020-00010.pdf*, and Chi-Tai Fang *et al*., "Decreased HIV Transmission After a Policy of Providing Free Access to Highly Active Antiretroviral Therapy in Taiwan," *Journal of Infectious Diseases*, Vol. 190 (2004), pp. 879–885, at *www.journals.uchicago.edu/doi/pdf/10.1086/422601*. See also Edwin J. Bernard, "Swiss Experts Say Individuals with Undetectable Viral Load and No STI Cannot Transmit HIV During Sex," January 30, 2008, at *www.aidsmap.com/en/news/4E9D555B-18FB-4D56-B912-2C28AFCCD36B.asp* (February 5, 2008; original study in French at *www.saez.ch/pdf_f/2008/2008-05/2008-05-089.PDF*).
14. Global Fund to Fight AIDS, Tuberculosis and Malaria, "Pledges," December 31, 2007, at *www.theglobalfund.org/en/files/pledges&contributions.xls*.
15. The Global Fund, created at the 2001 G-8 summit and established in 2002, is a private foundation that partners governments, civil society, the private sector, and affected communities. The U.S. is a founding member of the Global Fund and its largest contributor. Other multilateral institutions funded in part through PEPFAR include the Joint United Nations Program on HIV/AIDS (UNAIDS) and the World Health Organization.
16. Global Fund to Fight AIDS, Tuberculosis and Malaria, "By-Laws," As Amended November 12, 2007, at *www.theglobalfund.org/en/files/about/governance/Bylaws_governance.pdf*.
17. Since votes of the Board are confidential, there is no official record of votes to refute or substantiate these reports.

to the Secretary of State, the President, and the Congress, the Global Fund is not answerable to the elected leadership of the American taxpayers who support the Fund. While the Fund has voluntarily submitted to some oversight when asked by Congress, in other instances, unaccountability has prevailed.[18]

The Global Fund has also proven susceptible to corruption. For instance, a government inquiry in Uganda revealed that tens of millions of dollars in Global Fund grants to the country were plundered by high-ranking government officials, leading one source to report that "the phrase 'Global Fund' has become synonymous with graft in Uganda."[19] Allegations of corruption in Global Fund activities have arisen in other countries as well, including Burma, Kenya, and Ukraine. Reports of corruption have also surfaced among the Global Fund staff, including allegations that former Executive Director Richard G. A. Feachem "made extensive use of a little-known private bank account, spending hundreds of thousands of dollars on limousines, expensive meals, boat cruises, and other expenses."[20] Although Feachem has left the Global Fund, and although the organization belatedly took action by suspending activities in Uganda, it still lacks measures for transparency and accountability that are necessary to ensure that U.S. funds are being used as intended. For instance, the Fund lacks basic transparency measures such as making its Inspector General reports freely available to Board members and making votes of the Board public. The Fund's inadequate system of assessing and reporting on its contractors' performance undermines the quality of its grants, according to the U.S. Government Accountability Office (GAO). U.S. bilateral aid projects and programs, by contrast, are generally implemented by non-governmental organizations and private-sector contractors that must give a more stringent and frequent account and evidence of how funds were utilized and whether goals were met. These practices and others led the GAO to conclude that, despite improvements, the Global Fund still needs to improve oversight, monitoring, and assessment of its grant recipients.[21]

In addition, the Global Fund has resisted efforts to address the quality and safety of its medicines. The Fund has joined other multilateral institutions and non-governmental organizations in prioritizing copies of patented drug "generics" in its purchasing on the grounds that the high cost of patented drugs undermines access to medicines in developing nations.[22] But many of these generics are not true copies and are not subject to sufficient testing and control to ensure quality. This leads to increased drug resistance, improper treatment, and even death.[23] According to American Enterprise Institute expert Roger Bate:

> [O]nly 7% of malarial drugs on the Global Fund's list have undergone bioequivalence testing yet malaria kills more than a million people

18. U.S. Government Accountability Office, *Global Fund to Fight AIDS, TB and Malaria Has Improved Its Documentation of Funding Decisions but Needs Standardized Oversight Expectations and Assessments*, GAO-07-627, May 2007, at *www.gao.gov/new.items/d07627.pdf*.
19. Rachel Scheir, "African Graft Stings Donors," *Christian Science Monitor*, June 1, 2006, at *www.csmonitor.com/2006/0601/p06s02-woaf.html?s=hns*.
20. John Donnelly, "Disease-Fighting Fund's Expenses Hit," *The Boston Globe*, February 5, 2007, at *www.boston.com/news/nation/washington/articles/2007/02/05/disease_fighting_funds_expenses_hit/*.
21. U.S. Government Accountability Office, *Global Fund to Fight AIDS, TB and Malaria Has Improved Its Documentation of Funding Decisions but Needs Standardized Oversight Expectations and Assessments*.
22. Philip Coticelli and Roger Bate, "A Health Plan for the G8: Focus on How Funds Are Spent," *The American*, June 6, 2007, at *www.american.com/archive/2007/june-0607/a-health-plan-for-the-g8-focus-on-how-funds-are-spent*, and "Supply of Copycat Drugs Fails to Keep Pace with Demand," *Financial Times*, November 26, 2002, at *www.ft.com/cms/s/92d94ba6-24e4-11d8-81c6-08209b00dd01,id=021126005984,print=yes.html#anchor1*.
23. Andrew C. von Eschenbach and Mark Dybul, "World AIDS Milestone," *The Washington Times*, August 31, 2007, at *http://washingtontimes.com/article/20070831/COMMENTARY/108310018/1012*, and Philip Stevens, "A Deadly Double Standard in AIDS Treatment," *Medical Progress Today*, July, 13, 2007, at *www.medicalprogresstoday.com/enewsletters/mpt_ind.php?pid=1721&nid=134*.

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a year, 90% of them in Africa and most of them children…. This astonishingly low number of bioequivalent malaria drugs is the direct result of the Global Fund's decision to rely on smaller companies in developing countries—regardless of the quality of their drugs.[24]

Despite the above problems, the House bill would double the current annual authorization of funds for the Global Fund from $1 billion to $2 billion. While the Global Fund and other multilateral institutions focusing on HIV/AIDS may be worthy of funding, the U.S. can best ensure that its policy priorities are respected and that funds are subject to appropriate transparency, accountability, and oversight through a focus on bilateral aid.

Focused Aid. It is critical that PEPFAR reauthorization maintain the law's current structure and focus so that groups with unique capacities to fight HIV/AIDS[25] can continue to play a key role in the initiative. Faith-based organizations in particular have been an important part of PEPFAR implementation. According to the White House Office of National AIDS policy:

> Over 80 percent of PEPFAR partners are indigenous organizations, including faith- and community-based organizations…. These organizations are uniquely positioned to promote HIV/AIDS stigma reduction and prevention messages, as well as to provide counseling and testing, home care, clinical services, and antiretroviral treatment. These attributes make their partnership a valuable asset in the fight against HIV/AIDS.[26]

In 2005 and again in 2007, the President authorized a "New Partner Initiative" to find more indigenous groups, especially faith-based groups, that could provide "community ownership" of the fight against AIDS.[27]

Many faith-based organizations are effective in promoting abstinence and fidelity and providing treatment but object on principle to participating in the distribution of contraceptives. The original PEPFAR was written to harness the capacity of such groups toward the prevention and treatment strategies on which the program focused. In addition, a carefully crafted conscience clause in current law ensures that faith-based groups are not required to provide services they don't support.

However, language throughout the House bill would integrate current-law activities with "population programs," "family planning," and "contraceptive services." Programs would be evaluated based on their promotion of these goals and their willingness to refer patients to other groups that provide these services. Moreover, the Mexico City Policy—which prohibits federal funding for non-governmental organizations that perform or actively promote abortion as a method of family planning in other nations—does not apply to PEPFAR because it was never intended to be a family planning program, but rather an HIV/AIDS program.

While the House bill retains the "conscience clause," it is undermined by the addition of language regarding population control and family planning. The grant process will likely favor applicants that offer both family planning and HIV/AIDS programs. For example, in testimony before the Senate Foreign Relations Committee, Ken Hackett, President of Catholic Relief Services, said that his group, which runs over 250 HIV and AIDS projects in 52 countries, would be "unable to participate in PEPFAR" if family planning services were required or given preferential treatment in the grant process.[28]

Conclusion. The global fight against AIDS has been a priority of the Bush Administration. The original law established principles to guide implementa-

24. Roger Bate, "Malaria: Poor Drugs for the Poor?" American Enterprise Institute, June 22, 2007, at *www.aei.org/publications/filter.all,pubID.26383/pub_detail.asp*.
25. Edward C. Green, "Faith-Based Organizations: Contributions to HIV Prevention," USAID report, at *www.theglobalfund.org/en/files/links_resources/library/studies/SAE_PS3_full.pdf*.
26. The White House, "Fact Sheet, World AIDS Day 2007," at *www.whitehouse.gov/infocus/hivaids* (February 5, 2008).
27. United States President's Emergency Plan for AIDS Relief, New Partners Initiative homepage, at *www.pepfar.gov/c19532.htm* (February 5, 2008).
28. Ken Hackett, written testimony before Senate Foreign Relations Committee, December 13, 2007.

tion so that the compassionate goals of the policy could be accomplished without funds being misdirected toward ineffective or counterproductive strategies. The track record to date shows promising results. In reauthorizing PEPFAR, Congress should respect those principles and preserve the original structure of this innovative foreign aid policy.

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