

MILLENNIUM CHALLENGE ACT OF 2003¹

Pub. L. 108-199, Div. D, Title VI, as amended from time to time, through and including the AGOA and MCA Modernization Act, Pub. L. 115-167, Title II

SEC. 601. SHORT TITLE.

This title may be cited as the “Millennium Challenge Act of 2003”.

SEC. 602. PURPOSES.

The purposes of this title are—

- (1) to provide United States assistance for global development through the Millennium Challenge Corporation, as described in section 604; and
- (2) to provide such assistance in a manner that promotes economic growth and the elimination of extreme poverty and strengthens good governance, economic freedom, and investments in people.

SEC. 603. DEFINITIONS.

In this title:

- (1) **APPROPRIATE CONGRESSIONAL COMMITTEES.**—The term “appropriate congressional committees” means—
 - (A) the Committee on International Relations and the Committee on Appropriations of the House of Representatives; and
 - (B) the Committee on Foreign Relations and the Committee on Appropriations of the Senate.
- (2) **BOARD.**—The term “Board” means the Board of Directors of the Corporation established pursuant to section 604(c).
- (3) **CANDIDATE COUNTRY.**—The term “candidate country” means a country that meets the requirements of section 606.
- (4) **CHIEF EXECUTIVE OFFICER.**—The term “Chief Executive Officer” means the chief executive officer of the Corporation appointed pursuant to section 604(b).
- (5) **COMPACT.**—The term “Compact” means a Millennium Challenge Compact described in section 609.
- (6) **CORPORATION.**—The term “Corporation” means the Millennium Challenge Corporation established by section 604(a).
- (7) **ELIGIBLE COUNTRY.**—The term “eligible country” means a candidate country that is determined, under section 607, to be an eligible country to receive assistance under section 605.

¹ 22 U.S.C. §§7701-7718. Caveat: This document is an unofficial, reference version of the amended Millennium Challenge Act of 2003 and should not be used for legal citation. Amendments to the Millennium Challenge Act of 2003, as of April 23, 2018, are as indicated by the relevant footnotes.

(8) **INVESTMENTS IN THE PEOPLE.**—The term “investments in the people” means government policies or programs of an eligible country that promote the health, education, and other factors which contribute to the well-being and productivity of their people, such as decent, affordable housing for all.²

SEC. 604. ESTABLISHMENT AND MANAGEMENT OF THE MILLENNIUM CHALLENGE CORPORATION.

(a) **ESTABLISHMENT.**—There is established in the executive branch a corporation to be known as the “Millennium Challenge Corporation” that shall be responsible for carrying out this title. The Corporation shall be a government corporation, as defined in section 103 of title 5, United States Code.

(b) **CHIEF EXECUTIVE OFFICER.**—

(1) **IN GENERAL.**—There shall be in the Corporation a Chief Executive Officer who shall be responsible for the management of the Corporation.

(2) **APPOINTMENT.**—

(A) **IN GENERAL.**—Except as provided in subparagraph (B), the Chief Executive Officer shall be appointed by the President, by and with the advice and consent of the Senate.

(B) **INTERIM CEO.**—The members of the Board of Directors described in subsection (c)(3)(A) may designate by unanimous consent in writing an individual who is an officer within any Federal department or agency (and who has been appointed to such position by the President, by and with the advice and consent of the Senate) to carry out the duties described in this subsection until the Chief Executive Officer is appointed pursuant to subparagraph (A).

(3) **RELATIONSHIP TO BOARD.**—The Chief Executive Officer shall report to and be under the direct authority of the Board.

(4) **COMPENSATION AND RANK.**—

(A) **IN GENERAL.**—The Chief Executive Officer shall be compensated at the rate provided for level II of the Executive Schedule under section 5313 of title 5, United States Code, and shall have the equivalent rank of Deputy Secretary.

(B) **AMENDMENT.**—Section 5313 of title 5, United States Code, is amended by adding at the end the following:
“Chief Executive Officer, Millennium Challenge Corporation.”.

(5) **AUTHORITIES AND DUTIES.**—The Chief Executive Officer shall be responsible for the management of the Corporation and shall exercise the powers and discharge the duties of the Corporation.

(6) **AUTHORITY TO APPOINT OFFICERS.**—In consultation and with approval of the Board, the Chief Executive Officer shall appoint all officers of the Corporation.

(c) **BOARD OF DIRECTORS.**—

(1) **ESTABLISHMENT.**—There shall be in the Corporation a Board of Directors.

² Amended 2004—Par. (8). Pub. L. 108–447 added par. (8).

(2) **DUTIES.**—The Board shall perform the functions specified to be carried out by the Board in this title and may prescribe, amend, and repeal bylaws, rules, regulations, and procedures governing the manner in which the business of the Corporation may be conducted and in which the powers granted to it by law may be exercised.

(3) **MEMBERSHIP.**—The Board shall consist of—

(A) the Secretary of State, the Secretary of the Treasury, the Administrator of the United States Agency for International Development, the Chief Executive Officer of the Corporation, and the United States Trade Representative; and

(B) four other individuals with relevant international experience who shall be appointed by the President, by and with the advice and consent of the Senate, of which—

(i) one individual should be appointed from among a list of individuals submitted by the majority leader of the House of Representatives;

(ii) one individual should be appointed from among a list of individuals submitted by the minority leader of the House of Representatives;

(iii) one individual should be appointed from among a list of individuals submitted by the majority leader of the Senate; and

(iv) one individual should be appointed from among a list of individuals submitted by the minority leader of the Senate.

(4) **TERMS.**—

(A) **OFFICERS OF THE FEDERAL GOVERNMENT.**—Each member of the Board described in paragraph (3)(A) shall serve for a term that is concurrent with the term of service of the individual's position as an officer within the other Federal department or agency.

(B) **OTHER MEMBERS.**—Each member of the Board described in paragraph (3)(B)—

(i) shall be appointed for a term of 3 years;

(ii) may be reappointed for a term of an additional 2 years; and

(iii) may continue to serve in each such appointment until the earlier of—

(I) the date on which his or her successor is appointed; or

(II) the date that is 1 year after the expiration of his or her appointment or reappointment, as the case may be.³

(C) **VACANCIES.**—A vacancy in the Board shall be filled in the manner in which the original appointment was made.

³ Amended 2018—Section 202 of Pub. L. 115-167 revised section 604(c)(4)(B) to read as indicated. Section 604(c)(4)(B) formerly read as follows:

“(B) **OTHER MEMBERS.**—Each member of the Board described in paragraph (3)(B) shall be appointed for a term of 3 years and may be reappointed for a term of an additional 2 years.”

(5) **CHAIRPERSON.**—There shall be a Chairperson of the Board. The Secretary of State shall serve as the Chairperson.

(6) **QUORUM.**—A majority of the members of the Board shall constitute a quorum, which, except with respect to a meeting of the Board during the 135-day period beginning on the date of the enactment of this Act, shall include at least one member of the Board described in paragraph (3)(B).

(7) **MEETINGS.**—The Board shall meet at the call of the Chairperson.

(8) **COMPENSATION.**—

(A) **OFFICERS OF THE FEDERAL GOVERNMENT.**—

(i) **IN GENERAL.**—A member of the Board described in paragraph (3)(A) may not receive additional pay, allowances, or benefits by reason of the member's service on the Board.

(ii) **TRAVEL EXPENSES.**—Each such member of the Board shall receive travel expenses, including per diem in lieu of subsistence, in accordance with applicable provisions under subchapter I of chapter 57 of title 5, United States Code.

(B) **OTHER MEMBERS.**—

(i) **IN GENERAL.**—Except as provided in clause (ii), a member of the Board described in paragraph (3)(B)—

(I) shall be paid compensation out of funds made available for the purposes of this title at the daily equivalent of the highest rate payable under section 5332 of title 5, United States Code, for each day (including travel time) during which the member is engaged in the actual performance of duties as a member of the Board; and

(II) while away from the member's home or regular place of business on necessary travel in the actual performance of duties as a member of the Board, shall be paid per diem, travel, and transportation expenses in the same manner as is provided under subchapter I of chapter 57 of title 5, United States Code.

(ii) **LIMITATION.**—A member of the Board may not be paid compensation under clause (i)(II) for more than 90 days in any calendar year.

SEC. 605. AUTHORIZATION OF ASSISTANCE.

(a) **ASSISTANCE.**—Notwithstanding any other provision of law (other than a provision of this title), the Board, acting through the Chief Executive Officer, is authorized to provide assistance under this section for each country that enters into a Millennium Challenge Compact with the United States pursuant to section 609 to support policies and programs that advance the progress of the country in achieving lasting economic growth and poverty reduction and are in furtherance of the purposes of this title.

(b) **FORM OF ASSISTANCE.**—Assistance under this section may be provided in the form of grants, cooperative agreements, or contracts to or with eligible entities described in subsection (c). Assistance under this section may not be provided in the form of loans.

(c) **ELIGIBLE ENTITIES.**—An eligible entity referred to in subsection (b) is —

(1) the national government of the eligible country;

- (2) regional or local governmental units of the country; or
- (3) a nongovernmental organization or a private entity.

(d) **APPLICATION.**—The Chief Executive Officer, in consultation with the Board and working with eligible countries selected by the Board for negotiation of Compacts, should develop and recommend procedures for considering solicited and unsolicited proposals in Compacts prior to an approval of the Compacts by the Board.

(e) **LIMITATIONS.**—

(1) **PROHIBITION ON MILITARY ASSISTANCE AND TRAINING.**—Assistance under this section may not include military assistance or military training for a country.

(2) **PROHIBITION ON ASSISTANCE RELATING TO UNITED STATES JOB LOSS OR PRODUCTION DISPLACEMENT.**—Assistance under this section may not be provided for any project that is likely to cause a substantial loss of United States jobs or a substantial displacement of United States production.

(3) **PROHIBITION ON ASSISTANCE RELATING TO ENVIRONMENTAL, HEALTH, OR SAFETY HAZARDS.**—Assistance under this section may not be provided for any project that is likely to cause a significant environmental, health, or safety hazard.

(4) **PROHIBITION ON USE OF FUNDS FOR ABORTIONS AND INVOLUNTARY STERILIZATIONS.**—The prohibitions on use of funds contained in paragraphs (1) through (3) of section 104(f) of the Foreign Assistance Act of 1961 (22 U.S.C. 2151b(f)(1)-(3)) shall apply to funds made available to carry out this section to the same extent and in the same manner as such prohibitions apply to funds made available to carry out part I of such Act. The prohibition on use of funds contained in any provision of law comparable to the eleventh and fourteenth provisos under the heading “Child Survival and Health Programs Fund” of division E of Public Law 108-7 (117 Stat. 162) shall apply to funds made available to carry out this section for fiscal year 2004.

(f) **COORDINATION.**—The provision of assistance under this section shall be coordinated with other United States foreign assistance programs.

SEC. 606. CANDIDATE COUNTRIES.

(a) **LOW INCOME COUNTRIES.**—

(1) **FISCAL YEAR 2004.**—A country shall be a candidate country for purposes of eligibility for assistance for fiscal year 2004 if—

(A) the country is eligible for assistance from the International Development Association, and the per capita income of the country is equal to or less than the historical ceiling of the International Development Association for that year, as defined by the International Bank for Reconstruction and Development; and

(B) subject to paragraph (4)⁴, the country is not ineligible to receive United States economic assistance under part I of the Foreign Assistance Act of 1961 by reason of the application of any provision of the Foreign Assistance Act of 1961 or any other provision of law.

⁴ Amended 2018—Section 201(a)(1) of Pub. L. 115-167 amended paragraph (1)(B) by striking “(3)” and inserting “(4)”.

(2) **FISCAL YEARS 2005 THROUGH 2012**⁵.—A country shall be a candidate country for purposes of eligibility for assistance for each of the fiscal years 2005 through 2012⁶ if—

(A) the per capita income of the country is equal to or less than the historical ceiling of the International Development Association for the fiscal year involved, as defined by the International Bank for Reconstruction and Development; and

(B) the country meets the requirements of paragraph (1)(B).

(3) **FISCAL YEAR 2013 AND SUBSEQUENT FISCAL YEARS**.—A country shall be a candidate country for purposes of eligibility for assistance for fiscal year 2013 or a subsequent fiscal year if the country—

(A) has a per capita income not greater than the lower middle income country threshold established by the International Bank for Reconstruction and Development for such fiscal year;

(B) is among the 75 countries identified by the International Bank for Reconstruction and Development as having the lowest per capita income; and

(C) meets the requirements under paragraph (1)(B).⁷

(4)⁸ **RULE OF CONSTRUCTION**.—For the purposes of determining whether a country is eligible for receiving assistance under section 605 pursuant to paragraph (1)(B), the exercise by the President, the Secretary of State, or any other officer or employee of the United States of any waiver or suspension of any provision of law referred to in such paragraph, and notification to the appropriate congressional committees in accordance with such provision of law, shall be construed as satisfying the requirement of such paragraph.

(b) **LOWER MIDDLE INCOME COUNTRIES**.—

(1) **FISCAL YEARS 2006 THROUGH 2012**.⁹—In addition to countries described in subsection (a), a country shall be a candidate country for purposes of eligibility for assistance for fiscal years 2006 through 2012¹⁰ if the country—

(A) is classified as a lower middle income country in the then most recent edition of the World Development Report for Reconstruction and Development published by the International Bank for Reconstruction and Development and has an income greater than the historical ceiling for International Development Association eligibility for the fiscal year involved; and

(B) meets the requirements of subsection (a)(1)(B).

(2) **FISCAL YEAR 2013 AND SUBSEQUENT FISCAL YEARS**.—In addition to the countries described in subsection (a), a country shall be a candidate country for purposes of eligibility for assistance for fiscal year 2013 or a subsequent fiscal year if the country—

⁵ Amended 2018—Section 201 of Pub. L. 115-167 revised the heading of section 606(a)(2) to read as indicated. It formerly read, “FISCAL YEAR 2005 AND SUBSEQUENT FISCAL YEARS”.

⁶ Amended 2018—Section 201 of Pub. L. 115-167 revised section 606(a)(2) by substituting “each of the fiscal years 2005 through 2012” for “fiscal year 2005 or a subsequent fiscal year”.

⁷ Amended 2018—Section 201(a)(4) of Pub. L. 115-167 added this new paragraph (3),

⁸ Amended 2018—Section 201(a)(3) of Pub. L. 115-167 redesignated former paragraph (3) as paragraph (4).

⁹ Amended 2018—Section 201(b)(1)(A) of Pub. L. 115-167 revised the heading of section 606(b)(1), which formerly read, “IN GENERAL.”

¹⁰ Amended 2018—Section 201 of Pub. L. 115-167 revised section 606(a)(2) by substituting “each of the fiscal years 2006 through 2012” for “fiscal year 2006 or a subsequent fiscal year”.

(A) has a per capita income not greater than the lower middle income country threshold established by the International Bank for Reconstruction and Development for the fiscal year;

(B) is not among the 75 countries identified by the International Bank for Reconstruction and Development as having the lowest per capita income; and

(C) meets the requirements under subsection (a)(1)(B).¹¹

(3)¹² **LIMITATION.**—The total amount of assistance provided to countries described in paragraph (1) for fiscal year 2006 or any subsequent fiscal year may not exceed 25 percent of the total amount of assistance provided to all countries under section 605 for fiscal year 2006 or the subsequent fiscal year, as the case may be.

(c) **TREATMENT OF COUNTRIES WITH PER CAPITA INCOME CHANGES.**—A country qualifying for candidate status under this section with a per capita income that changes during the fiscal year such that the country would be reclassified from a low income country to a lower middle income country or from a lower middle income country to a low income country shall retain its candidacy status in its former income classification for such fiscal year and the 2 subsequent fiscal years.¹³

(d)¹⁴ **IDENTIFICATION BY THE BOARD.**—The Board shall identify whether a country is a candidate country for purposes of this section.

SEC. 607. ELIGIBLE COUNTRIES.

(a) **DETERMINATION BY THE BOARD.**—The Board shall determine whether a candidate country is an eligible country for purposes of this section. Such determination shall be based, to the maximum extent possible, upon objective and quantifiable indicators of a country's demonstrated commitment to the criteria in subsection (b), and shall, where appropriate, take into account and assess the role of women and girls. A determination whether a country is eligible for a subsequent, non-concurrent Millennium Challenge Compact shall also be based, to the extent practicable, on significantly improved performance across the criteria in subsection (b) that, at a minimum, are relevant to the preceding Compact, compared to the country's performance with respect to such criteria when selected for such preceding Compact.¹⁵

(b) **CRITERIA.**—A candidate country should be considered to be an eligible country for purposes of this section if the Board determines that the country has demonstrated a commitment to—

(1) just and democratic governance, including a demonstrated commitment to—

(A) promote political pluralism, equality, and the rule of law;

(B) respect human and civil rights, including the rights of people with disabilities;

(C) protect private property rights;

(D) encourage transparency and accountability of government;¹⁶

¹¹ Amended 2018—Section 201(b)(3) of Pub. L. 115-167 added this new paragraph (2).

¹² Amended 2018—Section 201(b)(3) of Pub. L. 115-167 redesignated paragraph (2) as paragraph (3).

¹³ Amended 2018—Section 201(c)(2) of Pub. L. 115-167 inserted this new subsection (c).

¹⁴ Amended 2018—Section 201(c)(1) of Pub. L. 115-167 redesignated subsection (c) as subsection (d).

¹⁵ Amended 2018—Section 203 of Pub. L. 115-167 added this final sentence of subsection (a).

¹⁶ Amended 2018—Section 203 of Pub. L. 115-167 struck “and” at the end of subparagraph (D).

- (E) combat corruption; and¹⁷
 - (F) the quality of the civil society enabling environment;¹⁸
- (2) economic freedom, including a demonstrated commitment to economic policies that—
- (A) encourage citizens and firms to participate in global trade and international capital markets;
 - (B) promote private sector growth¹⁹;
 - (C) strengthen market forces in the economy; and
 - (D) respect worker rights, including the right to form labor unions; and
- (3) investments in the people of such country, particularly women and children, including programs that—
- (A) promote broad-based primary education;
 - (B) strengthen and build capacity to provide quality public health and reduce child mortality; and
 - (C) promote the protection of biodiversity and the transparent and sustainable management and use of natural resources.²⁰

(c) **SELECTION BY THE BOARD.**—

(1) **IN GENERAL.**—At the time the Board determines eligible countries under this section for a fiscal year, the Board shall select those eligible countries with respect to which the United States will initially seek to enter into a Millennium Challenge Compact pursuant to section 609.

(2) **FACTORS.**—In selecting eligible countries under paragraph (1), the Board shall consider the following factors:

- (A) The extent to which the country clearly meets or exceeds the eligibility criteria.
- (B) The opportunity to reduce poverty and generate economic growth in the country.
- (C) The availability of amounts to carry out this title.

¹⁷ Amended 2018—Section 203 of Pub. L. 115-167 added “and” at the end of subparagraph (E).

¹⁸ Amended 2018—Section 203 of Pub. L. 115-167 added new subparagraph (F).

¹⁹ Amended 2008—Section 699I, Division J of Pub. L. 110-161, amended section 607(b)(2)(B) by striking “and the sustainable management of natural resources”.

²⁰ Amended 2008—Section 699I, Division J of Pub. L. 110-161, amended section 607(b)(3) as follows:

- (A) in subparagraph (A), by striking “and”;
- (B) in subparagraph (B), by striking the period and inserting “; and”; and
- (C) by adding the following subparagraph: “(C) promote the protection of biodiversity and the transparent and sustainable management and use of natural resources.”.

(d) **REPORTING ON TREATMENT OF CIVIL SOCIETY.**—For the 7-year period beginning on the date of the enactment of this subsection, before the Board selects an eligible country for a Compact under subsection (c), the Corporation shall provide information to the Board regarding the country’s treatment of civil society, including classified information, as appropriate. The information shall include an assessment and analysis of factors including—

- (1) any relevant laws governing the formation or establishment of a civil society organization, particularly laws intended to curb the activities of foreign civil society organizations;
- (2) any relevant laws governing the operations of a civil society organization, particularly those laws seeking to define or otherwise regulate the actions of foreign civil society organizations;
- (3) laws relating to the legal status of civil society organizations, including laws which effectively discriminate against foreign civil society organizations as compared to similarly situated domestic organizations;
- (4) laws regulating the freedom of expression and peaceful assembly; and
- (5) laws regulating the usage of the Internet, particularly by foreign civil society organizations.²¹

(e)²² **ESTABLISHMENT OF CRITERIA AND METHODOLOGY.**—The criteria and methodology submitted by the Board to Congress and published in the Federal Register under section 608(b)(2) with respect to a fiscal year shall remain fixed for purposes of eligibility determinations for such year.

(f)²³ **ANNUAL MODIFICATION OF CRITERIA AND METHODOLOGY.**—As appropriate, the Board, acting through the Chief Executive Officer, shall review the eligibility criteria and methodology and modify such criteria and methodology in subsequent years consistent with section 608(b).

SEC. 608. CONGRESSIONAL AND PUBLIC NOTIFICATION OF CANDIDATE COUNTRIES, ELIGIBILITY CRITERIA, AND ELIGIBLE COUNTRIES.

(a) **IDENTIFICATION OF CANDIDATE COUNTRIES.**—Not later than 90 days prior to the date on which the Board determines eligible countries under section 607 for a fiscal year, the Chief Executive Officer—

- (1) shall prepare and submit to the appropriate congressional committees a report that contains a list of all candidate countries identified under section 606, and all countries that would be candidate countries if the countries met the requirement contained in section 606(a)(1)(B), for the fiscal year; and
- (2) shall publish in the Federal Register the information contained in the report described in paragraph (1).

(b) **IDENTIFICATION OF ELIGIBILITY CRITERIA AND METHODOLOGY.**—Not later than 60 days prior to the date on which the Board determines eligible countries under section 607 for a fiscal year, the Chief Executive Officer—

- (1) shall prepare and submit to the appropriate congressional committees a report that contains a list of the criteria and methodology described in subsections (a) and (b) of section 607 that will be used to determine eligibility for each candidate country identified under subsection (a);
- (2) shall publish in the Federal Register the information contained in the report described in paragraph (1); and

²¹ Amended 2018—Section 203 of Pub. L. 115-167 added a new subsection (d).

²² Amended 2018—Section 203 of Pub. L. 115-167 redesignated former subsection (d) as subsection (e).

²³ Amended 2018—Section 203 of Pub. L. 115-167 redesignated former subsection (e) as subsection (f).

(3) may conduct one or more public hearings on the eligibility criteria and methodology.

(c) **PUBLIC COMMENT AND CONGRESSIONAL CONSULTATION.—**

(1) **PUBLIC COMMENT.**—The Chief Executive Officer shall, for the 30-day period beginning on the date of publication in the Federal Register of the information contained in the report described in subsection (b)(1), accept public comment and consider such comment for purposes of determining eligible countries under section 607.

(2) **CONGRESSIONAL CONSULTATION.**—The Chief Executive Officer shall consult with the appropriate congressional committees on the extent to which the candidate countries meet the criteria described in section 607(b).

(d) **IDENTIFICATION OF ELIGIBLE COUNTRIES.**—Not later than 5 days after the date on which the Board determines eligible countries under section 607 for a fiscal year, the Chief Executive Officer--

(1) shall prepare and submit to the appropriate congressional committees a report that contains a list of all such eligible countries, an identification of those countries on such list with respect to which the Board will seek to enter into a Compact under section 609, and a justification for such eligibility determination and selection for Compact negotiation; and

(2) shall publish in the Federal Register the information contained in the report described in paragraph (1).

SEC. 609. MILLENNIUM CHALLENGE COMPACT.

(a) **COMPACT.**—The Board, acting through the Chief Executive Officer of the Corporation, may provide assistance for an eligible country only if the country enters into an agreement with the United States, to be known as a “Millennium Challenge Compact”, that establishes a multi-year plan for achieving shared development objectives in furtherance of the purposes of this title.

(b) **ELEMENTS.—**

(1) **IN GENERAL.**—The Compact should take into account the national development strategy of the eligible country and shall contain—

(A) the specific objectives that the country and the United States expect to achieve during the term of the Compact;

(B) the responsibilities of the country and the United States in the achievement of such objectives;

(C) regular benchmarks to measure, where appropriate, progress toward achieving such objectives;

(D) an identification of the intended beneficiaries, disaggregated by income level, gender, and age, to the maximum extent practicable;

(E) a multi-year financial plan, including the estimated amount of contributions by the Corporation and the country and proposed mechanisms to implement the plan and provide oversight, that describes how the requirements of subparagraphs (A) through (D) will be met, including identifying the role of civil society in the achievement of such requirements;

(F) where appropriate, a description of the current and potential participation of other donors in the achievement of such objectives;

(G) a plan to ensure appropriate fiscal accountability for the use of assistance provided under section 605;

(H) where appropriate, a process or processes for consideration of solicited proposals under the Compact as well as a process for consideration of unsolicited proposals by the Corporation and national, regional, or local units of government;

(I) a requirement that open, fair, and competitive procedures are used in a transparent manner in the administration of grants or cooperative agreements or the procurement of goods and services for the accomplishment of objectives under the Compact;

(J) the strategy of the eligible country to sustain progress made toward achieving such objectives after expiration of the Compact; and

(K) a description of the role of the United States Agency for International Development in any design, implementation, and monitoring of programs and activities funded under the Compact.

(2) **LOWER MIDDLE INCOME COUNTRIES.**—In addition to the elements described in subparagraphs (A) through (K) of paragraph (1), with respect to a lower middle income country described in section 606(b), the Compact shall identify a contribution, as appropriate, from the country relative to its national budget, taking into account the prevailing economic conditions, toward meeting the objectives of the Compact. Any such contribution should be in addition to government spending allocated for such purposes in the country's budget for the year immediately preceding the establishment of the Compact and should continue for the duration of the Compact.

(3) **DEFINITION.**—In this subsection, the term “national development strategy” means any strategy to achieve market-driven economic growth and eliminate extreme poverty that has been developed by the government of the country in consultation with a wide variety of civic participation, including nongovernmental organizations, private and voluntary organizations, academia, women's and student organizations, local trade and labor unions, and the business community.

(c) **ADDITIONAL PROVISION RELATING TO PROHIBITION ON TAXATION.**—In addition to the elements described in subsection (c), each Compact shall contain a provision that states that assistance provided by the United States under the Compact shall be exempt from taxation by the government of the eligible country.

(d) **LOCAL INPUT.**—In entering into a Compact, the United States shall seek to ensure that the government of an eligible country—

(1) takes into account the local-level perspectives of the rural and urban poor, including women, in the eligible country; and

(2) consults with private and voluntary organizations, the business community, and other donors in the eligible country.

(e) **CONSULTATION.**—During any discussions with a country for the purpose of entering into a Compact with the country, officials of the Corporation participating in such discussions shall, at a minimum, consult with appropriate officials of the United States Agency for International Development, particularly with those officials responsible for the appropriate region or country on development issues related to the Compact.

(f) **COORDINATION WITH OTHER DONORS.**—To the maximum extent feasible, activities undertaken to achieve the objectives of the Compact shall be undertaken in coordination with the assistance activities of other donors.

(g) **ASSISTANCE FOR DEVELOPMENT OF COMPACT.**—Notwithstanding subsection (a), the Chief Executive Officer may enter into contracts or make grants for any eligible country for the purpose of facilitating the development and implementation of the Compact between the United States and the country.

(h) **REQUIREMENT FOR APPROVAL BY THE BOARD.**—Each Compact shall be approved by the Board before the United States enters into the Compact.

(i) **INCREASE OR EXTENSION OF ASSISTANCE UNDER A COMPACT.**—Not later than 15 days after making a determination to increase or extend assistance under a Compact with an eligible country, the Board, acting through the Chief Executive Officer—

(1) shall prepare and transmit to the appropriate congressional committees a written report and justification that contains a detailed summary of the proposed increase in or extension of assistance under the Compact and a copy of the full text of the amendment to the Compact; and

(2) shall publish a detailed summary, full text, and justification of the proposed increase in or extension of assistance under the Compact in the Federal Register and on the Internet website of the Corporation.

(j) **DURATION OF COMPACT.**—The duration of a Compact shall not exceed 5 years.

(k) **CONCURRENT COMPACTS.**—An eligible country that has entered into and has in effect a Compact under this section may enter into and have in effect at the same time not more than one additional Compact in accordance with the requirements of this title if—

(1) one or both of the Compacts are or will be for purposes of regional economic integration, increased regional trade, or cross-border collaborations; and

(2) the Board determines that the country is making considerable and demonstrable progress in implementing the terms of the existing Compact and supplementary agreements thereto.²⁴

(l)²⁵ **SUBSEQUENT COMPACTS.**²⁶—An eligible country and the United States may enter into one or more subsequent Compacts in accordance with the requirements of this title after the expiration of the existing Compact.

²⁴ Amended 2018—Section 204(a)(3) of Pub. L. 115-167 inserted the new text for subsection (k).

²⁵ Amended 2018—Section 204(a)(2) of Pub. L. 115-167 redesignated subsection (k) (as amended) as subsection (l).

²⁶ Amended 2018—Section 204(a)(1) of Pub. L. 115-167 struck the first sentence of redesignated subsection (l), which previously stated, “An eligible country and the United States may enter into and have in effect only one Compact at any given time under this section.”

SEC. 610. CONGRESSIONAL AND PUBLIC NOTIFICATION²⁷.—

(a) CONGRESSIONAL CONSULTATIONS AND NOTIFICATIONS.—

(1) **IN GENERAL.**—The Board, acting through the Chief Executive Officer, shall consult with and notify the appropriate congressional committees not later than 15 days before taking any of the actions described in paragraph (2).

(2) **ACTIONS DESCRIBED.**—The actions described in this paragraph are—

- (A) providing assistance for an eligible country under section 609(g);
- (B) commencing negotiations with an eligible country to provide assistance for—
 - (i) a Compact under section 605; or
 - (ii) an agreement under section 616;
- (C) signing such a Compact or agreement; and
- (D) terminating assistance under such a Compact or agreement.

(3) **ECONOMIC JUSTIFICATION.**—Any notification relating to the intent to negotiate or sign a Compact shall include a report describing the projected economic justification for the Compact, including, as applicable—

- (A) the expected economic rate of return of the Compact;
- (B) a cost-benefit analysis of the Compact;
- (C) a description of the impact on beneficiary populations;
- (D) the likelihood that the investment will catalyze private sector investments; and
- (E) any other applicable economic factors that justify each project to be funded under such a Compact to the extent practicable and appropriate.

²⁷ Amended 2018—Section 205 of Pub. L. 115-167 revised section 610 to read as stated. Section 610 previously read as follows:

SEC. 610. CONGRESSIONAL AND PUBLIC NOTIFICATION OF COMPACT.

(a) CONGRESSIONAL CONSULTATION PRIOR TO COMPACT NEGOTIATIONS.—Not later than 15 days prior to the start of negotiations of a Compact with an eligible country, the Board, acting through the Chief Executive Officer—

(1) shall consult with the appropriate congressional committees with respect to the proposed Compact negotiation; and

(2) shall identify the objectives and mechanisms to be used for the negotiation of the Compact.

(b) CONGRESSIONAL AND PUBLIC NOTIFICATION AFTER ENTERING INTO A COMPACT.—Not later than 10 days after entering into a Compact with an eligible country, the Board, acting through the Chief Executive Officer—

(1) shall provide notification of the Compact to the appropriate congressional committees, including a detailed summary of the Compact and a copy of the text of the Compact; and

(2) shall publish such detailed summary and the text of the Compact in the Federal Register and on the Internet website of the Corporation.

(4) **RISK MANAGEMENT PLAN.**—Not later than 60 days before signing each concurrent Compact, as authorized under section 609, the Board, acting through the Chief Executive Officer, shall consult with and provide to the appropriate congressional committees—

(A) an assessment and, as appropriate, the identification of potential measures to mitigate risks, of—

- (i) the countries' commitment to regional integration and cross-border cooperation and capacity to carry out commitments;
- (ii) political and policy risks, including risks that could affect country eligibility;
- (iii) risks associated with realizing economic returns;
- (iv) time and completion risks; and
- (v) cost and financial risks; and

(B) an assessment of measures to be taken to mitigate any identified risks, including—

- (i) securing other potential donors to finance projects or parts of projects as needed;
- (ii) partnering with regional organizations to support and oversee effective cross-border cooperation.

(b) **CONGRESSIONAL AND PUBLIC NOTIFICATION AFTER ENTERING INTO A COMPACT.**—Not later than 10 days after entering into a Compact with an eligible country, the Board, acting through the Chief Executive Officer, shall—

- (1) publish the text of the Compact on the website of the Corporation;
- (2) provide the appropriate congressional committees with a detailed summary of the Compact and, upon request, the text of the Compact; and
- (3) publish in the Federal Register a detailed summary of the Compact and a notice of availability of the text of the Compact on the website of the Corporation.

SEC. 611. SUSPENSION AND TERMINATION OF ASSISTANCE.

(a) **SUSPENSION AND TERMINATION OF ASSISTANCE.**—After consultation with the Board, the Chief Executive Officer may suspend or terminate assistance in whole or in part for a country or entity under section 605 if the Chief Executive Officer determines that—

- (1) the country or entity is engaged in activities which are contrary to the national security interests of the United States;
- (2) the country or entity has engaged in a pattern of actions inconsistent with the criteria used to determine the eligibility of the country or entity, as the case may be; or
- (3) the country or entity has failed to adhere to its responsibilities under the Compact.

(b) **REINSTATEMENT.**—The Chief Executive Officer may reinstate assistance for a country or entity under section 605 only if the Chief Executive Officer determines that the country or entity has demonstrated a commitment to correcting each condition for which assistance was suspended or terminated under subsection (a).

(c) **CONGRESSIONAL NOTIFICATION.**—Not later than 3 days after the date on which the Chief Executive Officer suspends or terminates assistance under subsection (a) for a country or entity, or reinstates assistance under subsection (b) for a country or entity, the Chief Executive Officer shall submit to the appropriate congressional committees a report that contains the determination of the Chief Executive Officer under subsection (a) or subsection (b), as the case may be.

(d) **RULE OF CONSTRUCTION.**—The authority to suspend or terminate assistance under this section includes the authority to suspend or terminate obligations and sub-obligations.

SEC. 612. DISCLOSURE.

(a) **REQUIREMENT FOR TIMELY DISCLOSURE.**—Not later than 90 days after the last day of each fiscal quarter, the Corporation shall make available to the public the following information:²⁸

(1) For assistance provided under section 605—

(A) the name of each entity to which assistance is provided;

(B) the amount of assistance provided to the entity; and

(C) a description of the program or project, including—

(i) a description of whether the program or project was solicited or unsolicited; and

(ii) a detailed description of the objectives and measures for results of the program

or project.

(2) For funds allocated or transferred under section 619(b)—

(A) the name of each United States Government agency to which such funds are transferred or allocated;

(B) the amount of funds transferred or allocated to such agency; and

(C) a description of the program or project to be carried out by such agency with such funds.

(b) **DISSEMINATION.**—The Board, acting through the Chief Executive Officer, shall make the information required to be disclosed under subsection (a) available to the public—

(1) by publishing it on the website of the Corporation;

(2) by providing notice of the availability of such information in the Federal Register; and

(3) by any other methods that the Board determines to be appropriate.²⁹

²⁸ Amended 2018—Section 206(a) of Pub. L. 115-167 revised the heading of subsection 612(a) and the matter preceding paragraph (1) of section 612(a) to read as stated. They previously read as follows:

(a) **REQUIREMENT FOR DISCLOSURE.**—The Corporation shall make available to the public on at least a quarterly basis, the following information:

²⁹ Amended 2018—Section 206(b) of Pub. L. 115-167 revised subsection 612(b) to read as stated above. Subsection 612(b) previously read as follows:

(b) **DISSEMINATION.**—The information required to be disclosed under subsection (a) shall be made available to the public by means of publication in the Federal Register and on the Internet website of the Corporation, as well as by any other methods that the Board determines appropriate.

SEC. 613. ANNUAL REPORT.

(a) **REPORT.**--Not later than March 31, 2005, and each March 31 thereafter, the President shall submit to Congress a report on the assistance provided under section 605 during the prior fiscal year.

(b) **CONTENTS.**--The report shall include the following:

(1) The amount of obligations and expenditures for assistance provided to each eligible country during the prior fiscal year.

(2) For each eligible country, an assessment of—

(A) the progress made during each year by the country toward achieving the objectives set out in any³⁰ Compact entered into by the country; and

(B) the extent to which assistance provided under section 605 has been effective in helping the country to achieve such objectives.

(3) A description of the coordination of assistance provided under section 605 with other United States foreign assistance and related trade policies.

(4) A description of the coordination of assistance provided under section 605 with assistance provided by other donor countries.

(5) Any other information the President considers relevant with respect to assistance provided under section 605.

SEC. 614. POWERS OF THE CORPORATION; RELATED PROVISIONS.

(a) **POWERS.**—The Corporation—

(1) shall have perpetual succession unless dissolved by a law enacted after the date of the enactment of this Act;

(2) may adopt, alter, and use a seal, which shall be judicially noticed;

(3) may make and perform such contracts, grants, and other agreements with any person or government however designated and wherever situated, as may be necessary for carrying out the functions of the Corporation;

(4) may determine and prescribe the manner in which its obligations shall be incurred and its expenses allowed and paid, including expenses for representation;

(5) may lease, purchase, or otherwise acquire, improve, and use such real property wherever situated, as may be necessary for carrying out the functions of the Corporation;

(6) may accept cash gifts or donations of services or of property (real, personal, or mixed), tangible or intangible, for the purpose of carrying out the provisions of this title;

³⁰ Amended 2018—Section 204(b) of Pub. L. 115-167 revised “the Compact” to read “any Compact”.

(7) may use the United States mails in the same manner and on the same conditions as the Executive departments;

(8) may contract with individuals for personal services, who shall not be considered Federal employees for any provision of law administered by the Office of Personnel Management;

(9) may hire or obtain passenger motor vehicles; and

(10) shall have such other powers as may be necessary and incident to carrying out this title.

(b) **PRINCIPAL OFFICE.**—The Corporation shall maintain its principal office in the metropolitan area of Washington, District of Columbia.

(c) **POSITIONS WITH FOREIGN GOVERNMENTS.**—When approved by the Chief Executive Officer, for purposes of implementing a Compact, employees of the Corporation (including individuals detailed to the Corporation) may accept and hold offices or positions to which no compensation is attached with governments or governmental agencies of foreign countries or with international organizations.

(d) **OTHER AUTHORITIES.**—Except to the extent inconsistent with the provisions of this title, the administrative authorities contained in the State Department Basic Authorities Act of 1956 (22 U.S.C. 2651a et seq.) and the Foreign Assistance Act of 1961 (22 U.S.C. 2151 et seq.) shall apply to the implementation of this title to the same extent and in the same manner as such authorities apply to the implementation of those Acts.

(e) **APPLICABILITY OF GOVERNMENT CORPORATION CONTROL ACT.**—

(1) **IN GENERAL.**—The Corporation shall be subject to chapter 91 of subtitle VI of title 31, United States Code, except that the Corporation shall not be authorized to issue obligations or offer obligations to the public.

(2) **CONFORMING AMENDMENT.**—Section 9101(3) of title 31, United States Code, is amended by adding at the end the following: “(Q) the Millennium Challenge Corporation.”.

(f) **INSPECTOR GENERAL.**—

(1) **IN GENERAL.**—The Inspector General of the United States Agency for International Development shall serve as Inspector General of the Corporation, and, in acting in such capacity, may conduct reviews, investigations, and inspections of all aspects of the operations and activities of the Corporation.

(2) **AUTHORITY OF THE BOARD.**—In carrying out the responsibilities under this subsection, the Inspector General shall report to and be under the general supervision of the Board.

(3) **REIMBURSEMENT AND AUTHORIZATION OF SERVICES.**—

(A) **REIMBURSEMENT.**—The Corporation shall reimburse the United States Agency for International Development for all expenses incurred by the Inspector General in connection with the Inspector General's responsibilities under this subsection.

(B) **AUTHORIZATION FOR SERVICES.**—Of the amount authorized to be appropriated under section 619(a) for a fiscal year, up to \$5,000,000 is authorized to be made available to the Inspector General of the United States Agency for International Development to conduct reviews, investigations, and inspections of operations and activities of the Corporation.

(g) **SPECIAL ASSISTANCE.**—

(1) **IN GENERAL.**—The Chief Executive Officer is authorized to contract with any nongovernmental organization (including a university, independent foundation, or other organization) in the United States or in a candidate country, and, where appropriate, directly with a governmental agency of any such country, that is undertaking research aimed at improving data related to eligibility criteria under this title with respect to the country.

(2) **FUNDING.**—Of the amount authorized to be appropriated under section 619(a) for a fiscal year, up to \$5,000,000 is authorized to be made available to carry out paragraph (1).

SEC. 615. COORDINATION WITH UNITED STATES AGENCY FOR INTERNATIONAL DEVELOPMENT.

(a) **REQUIREMENT FOR COORDINATION.**—The Chief Executive Officer shall consult with the Administrator of the United States Agency for International Development in order to coordinate the activities of the Corporation with the activities of the Agency.

(b) **USAID PROGRAMS.**—The Administrator of the United States Agency for International Development shall seek to ensure that appropriate programs of the Agency play a primary role in preparing candidate countries to become eligible countries.

SEC. 616. ASSISTANCE TO CERTAIN CANDIDATE COUNTRIES.

(a) **AUTHORIZATION.**—The Board, acting through the Chief Executive Officer, is authorized to provide assistance to a candidate country described in subsection (b) for the purpose of assisting such country to become an eligible country.

(b) **CANDIDATE COUNTRY DESCRIBED.**—A candidate country referred to in subsection (a) is a candidate country that—

(1) satisfies the requirements contained in subsection (a) or (b) of section 606³¹; and

(2) demonstrates a significant commitment to meet the requirements of section 607(b) but fails to meet such requirements (including by reason of the absence or unreliability of data).

(c) **ADMINISTRATION.**—Assistance under this section may be provided through the United States Agency for International Development.

(d) **FUNDING.**—

(1) **LIMITATION.**—Not more than 10 percent of the amounts made available to carry out this Act for a fiscal year may be made available to carry out this section.

(2) **RESTRICTION RELATING TO ASSISTANCE.**—None of the funds authorized to carry out the purposes of this Act shall be available for assistance under this section to a country that does not qualify as a candidate country under section 606 for the fiscal year during which such assistance is provided.³²

³¹ Amended 2005—Subsection (b)(1) of Pub. L. 109–13 substituted “subsection (a) or (b) of section 606” for “subparagraphs (A) and (B) of section 606(a)(1)”.

³² Amended 2018—Section 207 of Pub. L. 115–167 revised subsection 616(d) to read as stated. Subsection 616(d) previously read as follows:

(d) **FUNDING.**—Not more than 10 percent of the amount appropriated pursuant to the authorization of appropriations under section 619(a) for fiscal year 2004 is authorized to be made available to carry out this section.

SEC. 617. GENERAL PERSONNEL AUTHORITIES.

(a) **DETAIL OF PERSONNEL.**—Upon request of the Chief Executive Officer, the head of an agency may detail any employee of such agency to the Corporation on a reimbursable basis. Any employee so detailed remains, for the purpose of preserving such employee's allowances, privileges, rights, seniority, and other benefits, an employee of the agency from which detailed.

(b) **REEMPLOYMENT RIGHTS.**—

(1) **IN GENERAL.**—An employee of an agency who is serving under a career or career conditional appointment (or the equivalent), and who, with the consent of the head of such agency, transfers to the Corporation, is entitled to be reemployed in such employee's former position or a position of like seniority, status, and pay in such agency, if such employee—

(A) is separated from the Corporation for any reason, other than misconduct, neglect of duty, or malfeasance; and

(B) applies for reemployment not later than 90 days after the date of separation from the Corporation.

(2) **SPECIFIC RIGHTS.**—An employee who satisfies paragraph (1) is entitled to be reemployed (in accordance with such paragraph) within 30 days after applying for reemployment and, on reemployment, is entitled to at least the rate of basic pay to which such employee would have been entitled had such employee never transferred.

(c) **HIRING AUTHORITY.**—Of persons employed by the Corporation, not to exceed 30 persons may be appointed, compensated, or removed without regard to the civil service laws and regulations.

(d) **BASIC PAY.**—The Chief Executive Officer may fix the rate of basic pay of employees of the Corporation without regard to the provisions of chapter 51 of title 5, United States Code (relating to the classification of positions), subchapter III of chapter 53 of such title (relating to General Schedule pay rates), except that no employee of the Corporation may receive a rate of basic pay that exceeds the rate for level II of the Executive Schedule under section 5313 of such title.

(e) **DEFINITIONS.**—In this section—

(1) the term “agency” means an Executive agency, as defined by section 105 of title 5, United States Code; and

(2) the term “detail” means the assignment or loan of an employee, without a change of position, from the agency by which such employee is employed to the Corporation.

SEC. 618. PERSONNEL OUTSIDE THE UNITED STATES.

(a) **ASSIGNMENT TO UNITED STATES EMBASSIES.**—An employee of the Corporation, including an individual detailed to or contracted by the Corporation, may be assigned to a United States diplomatic mission or consular post or a United States Agency for International Development field mission.

(b) **PRIVILEGES AND IMMUNITIES.**—The Secretary of State shall seek to ensure that an employee of the Corporation, including an individual detailed to or contracted by the Corporation, and the members of the family of such employee, while the employee is performing duties in any country or place outside the United States, enjoy the privileges and immunities that are enjoyed by a member of the Foreign Service, or the family of a member of the

Foreign Service, as appropriate, of comparable rank and salary of such employee, if such employee or a member of the family of such employee is not a national of or permanently resident in such country or place.

(c) **RESPONSIBILITY OF CHIEF OF MISSION.**—An employee of the Corporation, including an individual detailed to or contracted by the Corporation, and a member of the family of such employee, shall be subject to section 207 of the Foreign Service Act of 1980 (22 U.S.C. 3927) in the same manner as United States Government employees while the employee is performing duties in any country or place outside the United States if such employee or member of the family of such employee is not a national of or permanently resident in such country or place.

SEC. 619. AUTHORIZATION OF APPROPRIATIONS.

(a) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated to carry out this title such sums as may be necessary for each of the fiscal years 2004 and 2005.

(b) **ALLOCATION OF FUNDS.**—

(1) **IN GENERAL.**—The Corporation may allocate or transfer to any agency of the United States Government any of the funds available for carrying out this title. Such funds shall be available for obligation and expenditure for the purposes for which the funds were authorized, in accordance with authority granted in this title or under authority governing the activities of the United States Government agency to which such funds are allocated or transferred.

(2) **NOTIFICATION.**—The Corporation shall notify the appropriate congressional committees not less than 15 days prior to an allocation or transfer of funds pursuant to paragraph (1).

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