

Calendar No. 115

108TH CONGRESS
1ST SESSION**S. 1160****[Report No. 108-55]**

To authorize Millennium Challenge assistance, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MAY 29, 2003

Mr. LUGAR, from the Committee on Foreign Relations, reported under the authority of the order of the Senate of May 23, 2003, the following original bill; which was read twice and placed on the calendar

A BILL

To authorize Millennium Challenge assistance, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Millennium Challenge Act of 2003”.

6 (b) TABLE OF CONTENTS.—The table of contents for
7 this Act is as follows:

Sec. 1. Short title; table of contents.

Sec. 2. Findings; purpose.

Sec. 3. Definitions.

TITLE I—MILLENNIUM CHALLENGE ASSISTANCE

- Sec. 101. Authority of the Secretary of State.
 Sec. 102. Authorization for Millennium Challenge assistance.
 Sec. 103. Candidate country.
 Sec. 104. Eligible country.
 Sec. 105. Eligible entity.
 Sec. 106. Millennium Challenge Contract.
 Sec. 107. Disclosure.
 Sec. 108. Annual report to Congress.
 Sec. 109. Millennium Challenge assistance to candidate countries.

TITLE II—THE MILLENNIUM CHALLENGE ACCOUNT AND
 AUTHORIZATION OF APPROPRIATIONS

- Sec. 201. Establishment of the Millennium Challenge Account.
 Sec. 202. Authorization of appropriations.

1 **SEC. 2. FINDINGS; PURPOSE.**

2 (a) FINDINGS.—Congress makes the following find-
 3 ings:

4 (1) On March 14, 2002, President George W.
 5 Bush stated that “America supports the inter-
 6 national development goals in the U.N. Millennium
 7 Declaration, and believes that the goals are a shared
 8 responsibility of developed and developing coun-
 9 tries.” The President also called for a “new compact
 10 for global development, defined by new account-
 11 ability for both rich and poor nations” and pledged
 12 support for increased assistance from the United
 13 States through the establishment of a Millennium
 14 Challenge Account for countries that govern justly,
 15 invest in their own people, and encourage economic
 16 freedom.

1 (2) The elimination of extreme poverty and the
2 achievement of the other international development
3 goals of the United Nations Millennium Declaration
4 adopted by the United Nations General Assembly on
5 September 8, 2000, are important objectives and it
6 is appropriate for the United States to make devel-
7 opment assistance available in a manner that will as-
8 sist in achieving such goals.

9 (3) The availability of financial assistance
10 through a Millennium Challenge Account, linked to
11 performance by developing countries, can contribute
12 significantly to the achievement of the international
13 development goals of the United Nations Millennium
14 Declaration.

15 (b) PURPOSES.—The purposes of this Act are—

16 (1) to provide United States assistance for glob-
17 al development through Millennium Challenge Con-
18 tracts, as described in section 102; and

19 (2) to provide such assistance in a manner that
20 promotes economic growth and the elimination of ex-
21 treme poverty and strengthens good governance, eco-
22 nomic freedom, and investments in people.

23 **SEC. 3. DEFINITIONS.**

24 In this Act:

1 (1) CANDIDATE COUNTRY.—The term “can-
2 didate country” means a country that meets the cri-
3 teria set out in section 103.

4 (2) ELIGIBLE COUNTRY.—The term “eligible
5 country” means a candidate country that is deter-
6 mined, under section 104, to be eligible to receive
7 assistance under this Act.

8 (3) MILLENNIUM CHALLENGE ACCOUNT.—The
9 term “Millennium Challenge Account” means the ac-
10 count established under section 201.

11 (4) SECRETARY.—The term “Secretary” means
12 the Secretary of State.

13 **TITLE I—MILLENNIUM** 14 **CHALLENGE ASSISTANCE**

15 **SEC. 101. AUTHORITY OF THE SECRETARY OF STATE.**

16 (a) IN GENERAL.—The Secretary shall, under the di-
17 rection of the President, coordinate all assistance provided
18 under this Act.

19 (b) OTHER AUTHORITIES AND POWERS.—The au-
20 thority provided to the Secretary under this Act is in addi-
21 tion to the authorities and powers provided to the Sec-
22 retary under any other provisions of law, including sec-
23 tions 101(b) and 622(c) of the Foreign Assistance Act of
24 1961 (22 U.S.C. 2151(b) and 2382(c)) and sections 1522

1 and 1523 of the Foreign Affairs Agencies Consolidation
2 Act of 1998 (22 U.S.C. 6592 and 6593).

3 (c) COORDINATOR FOR THE MILLENNIUM CHAL-
4 LENGE ACCOUNT.—

5 (1) DESIGNATION OF COORDINATOR.—The Sec-
6 retary shall designate an appropriate officer to be
7 Coordinator for the Millennium Challenge Account.
8 Such official shall be selected from among those offi-
9 cers serving in the Department of State in a position
10 requiring the advice and consent of the Senate.

11 (2) DUTIES OF THE COORDINATOR.—The Coor-
12 dinator designated under paragraph (1) shall, sub-
13 ject to the direction of the Secretary, be responsible
14 for—

15 (A) developing the indicators described in
16 section 104(b);

17 (B) ensuring program and policy coordina-
18 tion among agencies of the United States Gov-
19 ernment in carrying out this Act;

20 (C) ensuring that assistance under this Act
21 is coordinated with other United States eco-
22 nomic assistance programs;

23 (D) pursuing coordination with other coun-
24 tries and international organizations with re-

1 spect to assistance to countries receiving assist-
2 ance under this Act;

3 (E) ensuring proper management, imple-
4 mentation, and oversight by agencies of the
5 United States Government responsible for as-
6 sistance under this Act; and

7 (F) resolving policy, program, and funding
8 disputes among agencies of the United States
9 Government involved in carrying out this Act.

10 (d) CONSULTATION WITH THE SECRETARY OF THE
11 TREASURY.—The Secretary shall consult with the Sec-
12 retary of the Treasury with regard to—

13 (1) development of the indicators described in
14 section 104(b);

15 (2) determinations of eligible countries under
16 section 104;

17 (3) standards for measuring performance under
18 the Millennium Challenge Contract; and

19 (4) other appropriate matters as determined by
20 the Secretary.

21 **SEC. 102. AUTHORIZATION FOR MILLENNIUM CHALLENGE**
22 **ASSISTANCE.**

23 (a) AUTHORITY.—The Secretary is authorized to pro-
24 vide assistance to an eligible entity consistent with the
25 purposes of this Act set out in section 2(b) to conduct

1 programs or projects consistent with the objectives of a
2 Millennium Challenge Contract. Assistance provided under
3 this Act may be provided notwithstanding any other provi-
4 sion of law.

5 (b) EXCEPTION.—Assistance under this Act may not
6 be used for military assistance or training.

7 (c) FORM OF ASSISTANCE.—Assistance under this
8 Act shall be provided in the form of grants to eligible enti-
9 ties.

10 (d) COORDINATION.—The provision of assistance
11 under this Act shall be coordinated with other United
12 States foreign assistance programs.

13 (e) APPLICATIONS.—An eligible entity seeking assist-
14 ance under this Act to conduct programs or projects con-
15 sistent with the objectives of a Millennium Challenge Con-
16 tract shall submit a proposal for the use of such assistance
17 to the Secretary in such manner and accompanied by such
18 information as the Secretary may reasonably require.

19 **SEC. 103. CANDIDATE COUNTRY.**

20 (a) IN GENERAL.—A country is a candidate country
21 for the purposes of this Act—

22 (1) during fiscal year 2004, if such country is
23 eligible to receive loans from the International De-
24 velopment Association;

1 (2) during fiscal year 2005, if the per capita in-
2 come of such country is less than the historical per
3 capita income cutoff of the International Develop-
4 ment Association for that year; and

5 (3) during any fiscal year after 2005—

6 (A) for which more than \$5,000,000,000
7 has been appropriated to the Millennium Chal-
8 lenge Account, if the country is classified as a
9 lower middle income country by the World
10 Bank on the first day of such fiscal year; or

11 (B) for which not more than
12 \$5,000,000,000 has been appropriated to such
13 Millennium Challenge Account, the per capita
14 income of such country is less than the histor-
15 ical per capita income cutoff of the Inter-
16 national Development Association for that year.

17 (b) LIMITATION ON ASSISTANCE TO CERTAIN CAN-
18 DIDATE COUNTRIES.—In a fiscal year in which subpara-
19 graph (A) of subsection (a)(3) applies with respect to de-
20 termining candidate countries, not more than 20 percent
21 of the amounts appropriated to the Millennium Challenge
22 Account shall be available for assistance to countries that
23 would not be candidate countries if subparagraph (B) of
24 subsection (a)(3) applied during such year.

1 **SEC. 104. ELIGIBLE COUNTRY.**

2 (a) DETERMINATION BY THE SECRETARY.—The Sec-
3 retary shall determine whether a candidate country is an
4 eligible country by evaluating the demonstrated commit-
5 ment of the government of the candidate country to—

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

8 (A) promote political pluralism and the
9 rule of law;

10 (B) respect human and civil rights;

11 (C) protect private property rights;

12 (D) encourage transparency and account-
13 ability of government; and

14 (E) limit corruption;

15 (2) economic freedom, including a demonstrated
16 commitment to economic policies that—

17 (A) encourage citizens and firms to partici-
18 pate in global trade and international capital
19 markets;

20 (B) promote private sector growth; and

21 (C) strengthen market forces in the econ-
22 omy; and

23 (3) investments in the people of such country,
24 including improving the availability of educational
25 opportunities and health care for all citizens of such
26 country.

1 (b) ASSESSING ELIGIBILITY.—

2 (1) IN GENERAL.—To evaluate the dem-
3 onstrated commitment of a candidate country for
4 the purposes of subsection (a), the Secretary shall
5 use objective and quantifiable indicators of a can-
6 didate country's performance with respect to the cri-
7 teria described in paragraphs (1), (2), and (3) of
8 such subsection.

9 (2) ANNUAL PUBLICATION OF INDICATORS.—

10 (A) INITIAL PUBLICATION.—Not later than
11 45 days prior to the final publication of indica-
12 tors under subparagraph (B) in any year, the
13 Secretary shall publish in the Federal Register
14 and make available on the Internet the indica-
15 tors that the Secretary proposes to use for the
16 purposes of paragraph (1) in such year.

17 (B) FINAL PUBLICATION.—Not later than
18 15 days prior to the determination of eligible
19 countries in any year, the Secretary shall pub-
20 lish in the Federal Register and make available
21 on the Internet the indicators the Secretary will
22 use for the purposes of paragraph (1) in such
23 year.

24 (3) CONSIDERATION OF PUBLIC COMMENT.—

25 The Secretary shall consider any comments on the

1 proposed indicators published under paragraph
2 (2)(A) that are received within 30 days after the
3 publication of such indicators when selecting the in-
4 dicators to be used for the purposes of paragraph
5 (1).

6 **SEC. 105. ELIGIBLE ENTITY.**

7 (a) ASSISTANCE.—Any eligible entity may receive as-
8 sistance under this Act to carry out a project in an eligible
9 country for the purpose of making progress toward achiev-
10 ing an objective of a Millennium Challenge Contract.

11 (b) DETERMINATIONS OF ELIGIBILITY.—The Sec-
12 retary shall determine whether a person or governmental
13 entity is an eligible entity for the purposes of this section.

14 (c) ELIGIBLE ENTITIES.—For the purposes of this
15 section, an eligible entity is—

16 (1) a government of an eligible country, includ-
17 ing a local or regional government; or

18 (2) a nongovernmental organization or other
19 private entity.

20 **SEC. 106. MILLENNIUM CHALLENGE CONTRACT.**

21 (a) IN GENERAL.—The Secretary shall invite the gov-
22 ernment of an eligible country to enter into a Millennium
23 Challenge Contract with the United States Government.
24 A Millennium Challenge Contract shall establish a
25 multiyear plan for the eligible country to achieve specific

1 objectives consistent with the purposes set out in section
2 2(b).

3 (b) CONTENT.—A Millennium Challenge Contract
4 shall include—

5 (1) specific objectives to be achieved by the eli-
6 gible country during the term of the Contract;

7 (2) a description of the actions to be taken by
8 the government of the eligible country and the
9 United States Government for achieving such objec-
10 tives;

11 (3) the role and contribution of private entities,
12 nongovernmental organizations, and other organiza-
13 tions in achieving such objectives;

14 (4) regular benchmarks for measuring progress
15 toward achieving such objectives;

16 (5) a schedule for achieving such objectives;

17 (6) a schedule of evaluations to be performed to
18 determine whether the country is meeting its com-
19 mitments under the Contract;

20 (7) a statement that the Secretary intends to
21 consider the eligible country's performance in achiev-
22 ing such objectives in making decisions about pro-
23 viding continued assistance under the Contract;

1 (8) the strategy of the eligible country to sus-
2 tain progress made toward achieving such objectives
3 after the expiration of the Contract;

4 (9) a plan to ensure financial accountability for
5 any assistance provided to a person or government
6 in the eligible country under this Act; and

7 (10) a statement that nothing in the Contract
8 may be construed to create a legally binding or en-
9 forceable obligation on the United States Govern-
10 ment.

11 (c) REQUIREMENT FOR CONSULTATION.—The Sec-
12 retary shall seek to ensure that the government of an eligi-
13 ble country consults with private entities and nongovern-
14 mental organizations in the eligible country for the pur-
15 pose of ensuring that the terms of a Millennium Challenge
16 Contract entered into by the United States Government
17 and the eligible country—

18 (1) reflect the needs of the rural and urban
19 poor in the eligible country; and

20 (2) provide means to assist poor citizens of such
21 eligible country to escape poverty through their own
22 efforts.

23 **SEC. 107. DISCLOSURE.**

24 (a) REQUIREMENT FOR DISCLOSURE.—The Sec-
25 retary shall make available to the public on a continuous

1 basis and on the earliest possible date, but no later than
2 15 days after the information is available to the Secretary,
3 the following information:

4 (1) A list of the candidate countries determined
5 to be eligible countries during any year.

6 (2) The text of each Millennium Challenge Con-
7 tract entered into by the United States Government.

8 (3) For assistance provided under this Act—

9 (A) the name of each entity to which as-
10 sistance is provided;

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

13 (C) a description of the program or project
14 for which assistance was provided.

15 (4) For each eligible country, an assessment
16 of—

17 (A) the progress made during each year by
18 an eligible country toward achieving the objec-
19 tives set out in the Millennium Challenge Con-
20 tract entered into by the eligible country; and

21 (B) the extent to which assistance provided
22 under this Act has been effective in helping the
23 eligible country to achieve such objectives.

24 (b) DISSEMINATION.—The information required to be
25 disclosed under subsection (a) shall be made available to

1 the public by means of publication in the Federal Register
2 and posting on the Internet, as well as by any other meth-
3 ods that the Secretary determines appropriate.

4 **SEC. 108. ANNUAL REPORT TO CONGRESS.**

5 Not later than January 31 of each year, the Presi-
6 dent shall submit to Congress a report on the assistance
7 provided under this Act during the prior fiscal year. The
8 report shall include—

9 (1) information regarding obligations and ex-
10 penditures for assistance provided to each eligible
11 country in the prior fiscal year;

12 (2) a discussion, for each eligible country, of
13 the objectives of such assistance;

14 (3) a description of the coordination of assist-
15 ance under this Act with other United States foreign
16 assistance and related trade policies;

17 (4) a description of the coordination of assist-
18 ance under this Act with the contributions of other
19 donors; and

20 (5) any other information the President con-
21 siders relevant to assistance provided under this Act.

22 **SEC. 109. MILLENNIUM CHALLENGE ASSISTANCE TO CAN-**
23 **DIDATE COUNTRIES.**

24 (a) **AUTHORITY.**—Notwithstanding any other provi-
25 sion of this Act and subject to the limitation in subsection

1 (c), the Secretary is authorized to provide assistance to
 2 a candidate country that meets the conditions in sub-
 3 section (b) for the purpose of assisting such country in
 4 becoming an eligible country.

5 (b) CONDITIONS.—Assistance under subsection (a)
 6 may be provided to a candidate country that is not an
 7 eligible country under section 104 because of—

8 (1) the unreliability of data used to assess its
 9 eligibility under section 104; or

10 (2) the failure of the government of the can-
 11 didate country to perform adequately with respect to
 12 only 1 of the indicators described in subsection (a)
 13 of section 104.

14 (c) LIMITATION.—The total amount of assistance
 15 provided under subsection (a) in a fiscal year may not ex-
 16 ceed 10 percent of the funds made available to the Millen-
 17 nium Challenge Account during such fiscal year.

18 **TITLE II—THE MILLENNIUM**
 19 **CHALLENGE ACCOUNT AND**
 20 **AUTHORIZATION OF APPRO-**
 21 **PRIATIONS**

22 **SEC. 201. ESTABLISHMENT OF THE MILLENNIUM CHAL-**
 23 **LENGE ACCOUNT.**

24 There is established on the books of the Treasury an
 25 account to be known as the Millennium Challenge Ac-

1 count. All amounts made available to carry out the provi-
2 sions of this Act shall be deposited into such Account and
3 such amounts shall be available to carry out such provi-
4 sions.

5 **SEC. 202. AUTHORIZATION OF APPROPRIATIONS.**

6 (a) IN GENERAL.—There are authorized to be appro-
7 priated to carry out the provisions of this Act
8 \$1,000,000,000 for fiscal year 2004, \$2,300,000,000 for
9 fiscal year 2005, and \$5,000,000,000 for fiscal year 2006.

10 (b) AVAILABILITY.—Funds appropriated under sub-
11 section (a)—

12 (1) are authorized to remain available until ex-
13 pended; and

14 (2) are in addition to funds otherwise available
15 for such purposes.

16 (c) ALLOCATION OF FUNDS.—

17 (1) IN GENERAL.—The Secretary may allocate
18 or transfer to any agency of the United States Gov-
19 ernment any of the funds available for carrying out
20 this Act. Such funds shall be available for obligation
21 and expenditure for the purposes for which author-
22 ized, in accordance with authority granted in this
23 Act or under authority governing the activities of the
24 agencies of the United States Government to which
25 such funds are allocated or transferred.

1 (2) NOTIFICATION.—The notification require-
2 ments of section 634A(a) of the Foreign Assistance
3 Act of 1961 (22 U.S.C. 2394–1(a)) shall apply to
4 any allocation or transfer of funds made pursuant to
5 paragraph (1).

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