

108TH CONGRESS
1ST SESSION

S. 571

To establish the Millennium Challenge Account and the Millennium Challenge Corporation in order to reduce global poverty through increased economic growth by supporting a new compact for global development.

IN THE SENATE OF THE UNITED STATES

MARCH 6, 2003

Mr. LUGAR (by request) introduced the following bill; which was read twice and referred to the Committee on Foreign Relations

A BILL

To establish the Millennium Challenge Account and the Millennium Challenge Corporation in order to reduce global poverty through increased economic growth by supporting a new compact for global development.

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.**

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

1 **TITLE I—THE MILLENNIUM**
2 **CHALLENGE ACCOUNT**

3 **SEC. 101. STATEMENT OF POLICY.**

4 It is the policy of the United States to reduce global
5 poverty through increased economic growth by supporting
6 a new compact for global development in which increased
7 support is provided by developed countries to those devel-
8 oping countries that are ruling justly, fostering economic
9 freedom, and investing in their citizens.

10 **SEC. 102. ELIGIBILITY CRITERIA.**

11 To be eligible for assistance under this Act, a country
12 (“eligible country”)—

13 (1) must suffer from significant poverty;

14 (2) must have a demonstrated commitment
15 to—

16 (A) just and democratic governance, in-
17 cluding political pluralism and the rule of law,
18 and respect for human and civil rights of all
19 citizens, protect private property rights, encour-
20 age transparency and accountability of govern-
21 ance, and limit corruption;

22 (B) economic freedom, including economic
23 policies that encourage citizens and firms to
24 participate in the global product and capital
25 markets, promote private sector growth, and

1 avoid direct government participation in the
2 economy; and

3 (C) investing in its own people, including
4 improving the availability of educational oppor-
5 tunities and health care for all citizens; and

6 (3) must have entered into a Millennium Chal-
7 lenge Contract, as defined in section 103, with the
8 United States.

9 **SEC. 103. MILLENNIUM CHALLENGE CONTRACT.**

10 (a) **IN GENERAL.**—A Millennium Challenge Contract
11 is an agreement between the United States and an eligible
12 country that establishes a multi-year plan of partnership
13 for achieving shared development objectives in furtherance
14 of the purposes of this Act.

15 (b) **ELEMENTS.**—The Millennium Challenge Contract
16 shall contain—

17 (1) the specific objectives that the eligible coun-
18 try and the United States expect to achieve;

19 (2) the responsibilities of the eligible country
20 and the United States in the achievement of those
21 objectives;

22 (3) regular benchmarks to measure progress to-
23 wards achieving the agreed upon objectives and a
24 description of how the objectives will be sustained

1 once assistance under this Millennium Challenge
2 Contract ends;

3 (4) a plan and a timeframe that describes how
4 and when those objectives will be met;

5 (5) the role and contribution of the business
6 community, private and voluntary organizations, and
7 other members of civil society in designing that plan
8 and achieving the objectives;

9 (6) where appropriate, the contribution of other
10 donors in the achievement of those objectives; and

11 (7) a plan to ensure financial accountability of
12 funds used to achieve those objectives.

13 (c) LOCAL INPUT.—The Millennium Challenge Con-
14 tract should take into account the perspectives of the rural
15 and urban poor in an eligible country, and should reflect
16 consultation with private and voluntary organizations, and
17 the business community in the country.

18 (d) OTHER DONORS.—To the maximum extent fea-
19 sible, activities undertaken to achieve the objectives of the
20 Millennium Challenge Contract should be undertaken in
21 coordination with the assistance activities of other donors.

22 **SEC. 104. MILLENNIUM CHALLENGE ASSISTANCE.**

23 The President is authorized to provide assistance for
24 eligible countries to support policies and programs that
25 are in furtherance of the purposes of this Act. The goal

1 of the Millennium Challenge Account is to reduce poverty
2 by significantly increasing the economic growth trajectory
3 of recipient countries. This requires an emphasis on in-
4 vestments that raise the productive potential of a coun-
5 try's citizens and firms and help integrate its economy into
6 the global product and capital markets. Key areas of focus
7 for Millennium Challenge Assistance will include:

- 8 (1) Agricultural development.
- 9 (2) Education.
- 10 (3) Enterprise and private sector development.
- 11 (4) Governance.
- 12 (5) Health.
- 13 (6) Trade and investment capacity building.

14 **SEC. 105. AUTHORIZATION OF THE MILLENNIUM CHAL-**
15 **LENGE ACCOUNT AND AUTHORITIES.**

16 (a) AUTHORIZATION OF MILLENNIUM CHALLENGE
17 ACCOUNT.—

18 (1) AUTHORIZATION.—There are authorized to
19 be appropriated to the President to carry out this
20 Act \$1,300,000,000 for fiscal year 2004, and such
21 sums as may be necessary for subsequent fiscal
22 years.

23 (2) AVAILABILITY.—Funds appropriated under
24 paragraph (1)—

1 (A) may be referred to as the “Millennium
2 Challenge Account”;

3 (B) are authorized to remain available
4 until expended; and

5 (C) are in addition to funds otherwise
6 available for such purposes.

7 (b) APPLICABILITY OF PROVISIONS OF LAW.—

8 (1) Funds made available to carry out the pur-
9 poses of this Act may be made available notwith-
10 standing any other provision of law, except the pro-
11 visions of the Anti-Deficiency Act.

12 (2) Notwithstanding paragraph (1), a country,
13 including the government of a country, that is ineli-
14 gible to receive assistance under provisions of law
15 that would prohibit assistance under Part I of the
16 Foreign Assistance Act of 1961 shall not be eligible
17 to receive assistance under this Act. If the President
18 waives the provisions of Part I of the Foreign As-
19 sistance Act of 1961, such country could receive as-
20 sistance under this Act.

21 (c) USE OF OTHER FUNDS.—Any funds allocated
22 from funds appropriated to carry out any other Act may
23 be made available, if used in conjunction with funds appro-
24 priated to carry out this Act, under the authority and sub-

1 ject to the limitations applicable to funds made available
2 to carry out this Act.

3 **SEC. 106. EVALUATION AND ACCOUNTABILITY.**

4 All concluded Millennium Challenge Contracts and
5 performance evaluations of activities under these contracts
6 shall be made available to the public on the Internet, un-
7 less the Board makes a specific finding that a performance
8 evaluation or contract should not be posted.

9 **SEC. 107. GRADUATION.**

10 The Millennium Challenge Contract will provide
11 funds for limited purposes, projects, and terms.

12 **TITLE II—THE MILLENNIUM**
13 **CHALLENGE CORPORATION**

14 **SEC. 201. ESTABLISHMENT OF THE MILLENNIUM CHAL-**
15 **LENGE CORPORATION.**

16 (a) ESTABLISHMENT OF THE MILLENNIUM CHAL-
17 LENGE CORPORATION.—There is hereby established in the
18 executive branch, a corporation to be known as the Millen-
19 nium Challenge Corporation (hereinafter in this Act re-
20 ferred to as the “Corporation”).

21 (b) RESPONSIBILITY OF THE CORPORATION.—It
22 shall be the responsibility of the Corporation to implement
23 title I of this Act, consistent with the direction of the
24 President.

1 **SEC. 202. MANAGEMENT OF THE CORPORATION.**

2 (a) BOARD OF DIRECTORS.—The management of the
3 Corporation shall be vested in a board of directors (herein-
4 after in this title referred to as the “Board”) composed
5 of the Secretary of State, who shall Chair, the Secretary
6 of the Treasury, and the Director of the Office of Manage-
7 ment and Budget, and may include individuals serving in
8 such positions in an acting capacity.

9 (b) FUNCTIONS OF THE BOARD.—

10 (1) The Board shall direct the exercise of all
11 the functions and powers of the Corporation, includ-
12 ing the authority to review and approve the eligi-
13 bility of countries for assistance.

14 (2) The Board may prescribe, amend, and re-
15 peal bylaws, rules, regulations, and procedures gov-
16 erning the manner in which the business of the Cor-
17 poration may be conducted and in which the powers
18 granted to it by law may be exercised and enjoyed.

19 (3) Members of the Board shall serve without
20 additional compensation, but may be reimbursed for
21 travel expenses, including per diem, in lieu of sub-
22 sistence, while engaged in their duties on behalf of
23 the Corporation.

24 (c) CHIEF EXECUTIVE OFFICER OF THE CORPORA-
25 TION.—

1 (1) The chief executive officer of the Corpora-
2 tion (hereafter referred to in this title as the
3 “CEO”) shall be appointed by the President, by and
4 with the advice and consent of the Senate, and shall
5 exercise the functions and powers vested in the CEO
6 by the President and the Board.

7 (2) The CEO shall receive compensation at the
8 rate provided for level II of the Executive Schedule
9 under section 5313 of title 5, United States Code.

10 (d) Functions of, and actions by, the Corporation,
11 Board, CEO, or an officer of the United States under this
12 act are vested in their discretion.

13 **SEC. 203. FUNCTIONS OF THE CORPORATION.**

14 In order to carry out programs in furtherance of the
15 purposes and policies of this Act, and in accordance with
16 the provisions of Title I of this Act, the Corporation may
17 make grants for any eligible country, including to any pri-
18 vate or public entity, and including for the purpose of pro-
19 viding technical assistance to any such country for the de-
20 velopment of the Millennium Challenge Contract and the
21 management, including financial management, and eval-
22 uation of programs for which assistance is provided pursu-
23 ant to this Act.

24 **SEC. 204. POWERS OF THE CORPORATION.**

25 (a) **POWERS.**—The Corporation—

1 (1) shall have perpetual succession unless dis-
2 solved by an Act of Congress;

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

5 (3) may prescribe, amend, and repeal such
6 rules, regulations, and procedures as may be nec-
7 essary for carrying out the functions of the Corpora-
8 tion;

9 (4) may make and perform such contracts,
10 grants, and other agreements with any individual,
11 corporation, or other private or public entity however
12 designated and wherever situated, as may be nec-
13 essary for carrying out the functions of the Corpora-
14 tion and all Millennium Challenge Contracts;

15 (5) may determine and prescribe the manner in
16 which its obligations shall be incurred and its ex-
17 penses allowed and paid, including expenses for rep-
18 resentation not exceeding \$95,000 in any fiscal year;

19 (6) may lease, purchase, or otherwise acquire,
20 improve, and use such real property wherever situ-
21 ated, as may be necessary for carrying out the func-
22 tions of the Corporation;

23 (7) may accept cash gifts or donations of serv-
24 ices or of property (real, personal, or mixed), tan-

1 gible or intangible, in furtherance of the purposes of
2 this Act;

3 (8) may use the United States mails in the
4 same manner and on the same conditions as the ex-
5 ecutive departments of Government;

6 (9) may, with the consent of any agency of the
7 United States, use the information, services, facili-
8 ties, and personnel of that agency on a full or par-
9 tial reimbursement or on a non-reimbursable basis
10 in carrying out the purposes of this Act;

11 (10) may contract with individuals for personal
12 services, who shall not be considered federal employ-
13 ees for any provision of law administered by the Of-
14 fice of Personnel Management;

15 (11) hire or obtain passenger motor vehicles;
16 and

17 (12) shall have such other powers as may be
18 necessary and incident to carrying out this Act.

19 (b) PRINCIPAL OFFICE.—

20 (1) The Corporation shall maintain its principal
21 office in the metropolitan Washington, D.C. area.

22 (2) The Corporation may establish other offices
23 in any place including places outside the United
24 States, in which the Corporation may carry on all or
25 any of its operations and business.

1 (c) POSITIONS WITH FOREIGN GOVERNMENTS.—

2 When approved by the Corporation, in furtherance of its
3 purposes, employees of the Corporation (including individ-
4 uals detailed to the Corporation) may accept and hold of-
5 fices or positions to which no compensation is attached
6 with governments or governmental agencies of foreign
7 countries or international organizations.

8 (d) COMMITMENT AUTHORITY.—Subject to the provi-
9 sions of the Anti-Deficiency Act, a contract, grant, or
10 other agreement which entails commitments for the ex-
11 penditure of funds available under this Act may commit
12 such expenditures for such period of time as is deemed
13 necessary to carrying out this Act.

14 (e) CONTRACTING AUTHORITY.—In furtherance of
15 the purposes of this Act, functions and powers authorized
16 by this Act may be performed without regard to any provi-
17 sion of law regulating the making, performance, amend-
18 ment, or modification of contracts, grants, and other
19 agreements.

20 (f) TAXATION OF THE CORPORATION.—The Corpora-
21 tion, including all its assets and property, shall be exempt
22 from taxation now or hereafter imposed by the United
23 States, or any territory or possession thereof, or by any
24 State, county, municipality, or local taxing authority.

1 **SEC. 205. PERSONNEL AND ADMINISTRATIVE AUTHORI-**
2 **TIES.**

3 (a) PERSONNEL AUTHORITIES.—Notwithstanding
4 any provision of title 5, United States Code or of the For-
5 eign Service Act of 1980, as amended, the CEO of the
6 Millennium Challenge Corporation may, in regulations
7 prescribed jointly with the Director of the Office of Per-
8 sonnel Management, establish, and from time to time ad-
9 just, a human resources management system, including a
10 retirement benefits program.

11 (1) Any system established under this sub-
12 section shall not waive, modify, or otherwise affect,
13 with respect to Civil Service and Foreign Service
14 employees—

15 (A) the public employment principles of
16 merit and fitness set forth in section 2301 of
17 title 5, including the principles of hiring based
18 on merit, fair treatment without regard to polit-
19 ical affiliation or other non-merit consider-
20 ations, equal pay for equal work, and protection
21 of employees against reprisal for whistle blow-
22 ing,

23 (B) section 2302(b) of title 5,

24 (C) chapters 72 and 73 of title 5, and

25 (D) the conflict of interest provisions in
26 title 18, chapter 11 of the United States Code.

1 (2) The CEO of the Corporation may, without
2 regard to the civil service and foreign service laws
3 and regulations, appoint and terminate personnel as
4 may be necessary to enable the Corporation to per-
5 form its duties.

6 (3) The CEO may fix the compensation of the
7 Corporation personnel without regard to the provi-
8 sions of chapter 51 and subchapter III of chapter 53
9 of title 5, United States Code, relating to the classi-
10 fication of positions and General Schedule pay rates,
11 and without regard to the provisions of chapters 4
12 and 5 of the Foreign Service Act, relating to the
13 classification of positions and Foreign Service pay
14 rates.

15 (4) The Corporation may utilize such authority
16 contained in the Foreign Service Act of 1980, as
17 amended, as the Corporation deems appropriate.

18 (5) The CEO and other personnel who are em-
19 ployees of the Corporation shall be employees under
20 section 2105 of title 5, United States Code, for pur-
21 poses of chapters 63 (relating to leave), 81 (relating
22 to compensation for work injuries), 85 (relating to
23 unemployment benefits), 87 (relating to life insur-
24 ance benefits), 89 (relating to health insurance bene-
25 fits), and 90 (relating to long-term care insurance)

1 of that title. If the CEO chooses not to waive chap-
2 ters 83 and 84 (relating to retirement benefits) of
3 title 5, or chapter 8 of the Foreign Service Act (re-
4 lating to Foreign Service retirement systems), em-
5 ployees of the Corporation shall be eligible for bene-
6 fits under those chapters as otherwise applicable.

7 (6) No individual, except for the officers of the
8 Corporation, may be employed by the Corporation
9 for a period in excess of 5 years: *Provided*, That the
10 CEO, under special circumstances, may approve an
11 extension of the length of employment on an indi-
12 vidual basis.

13 (7) Individuals employed by the Corporation,
14 including individuals detailed to or contracted by the
15 Corporation, while performing duties in any country
16 or place outside the United States, and their families
17 shall, if they are not nationals of or permanently
18 resident in such country or place, enjoy the privi-
19 leges and immunities of at least the administrative
20 and technical staff of the Mission of the United
21 States to such country and shall be subject to 22
22 U.S.C. 3927 in the same manner as United States
23 Government employees.

24 (8) The CEO may procure temporary and inter-
25 mittent services under section 3109(b) of title 5,

1 United States Code, at rates for individuals which
2 do not exceed the daily equivalent of the annual rate
3 of basic pay prescribed for level V of the Executive
4 Schedule under section 5316 of such title.

5 (b) DETAIL OF PERSONNEL TO THE CORPORA-
6 TION.—

7 (1) Any Federal Government employee may be
8 detailed to the Corporation on a fully or partially re-
9 imburseable or on a nonreimbursable basis, and such
10 detail shall be without interruption or loss of civil
11 service or Foreign Service status or privilege.

12 (2) Alternatively, an employee serving under a
13 career or career conditional appointment or the
14 equivalent in an agency who transfers to or converts
15 to an appointment in the Corporation with the con-
16 sent of the head of the agency is entitled to be re-
17 turned to the employee's former position or a posi-
18 tion of like seniority, status, and pay without grade
19 or pay reduction in the agency if the employee—

20 (A) is being separated from the Corpora-
21 tion for reasons other than misconduct, neglect
22 of duty, or malfeasance; and

23 (B) applies for return not later than 30
24 days before the date of the termination of the
25 employment in the Corporation.

1 (3) An employee of a private sector organiza-
2 tion assigned to the Corporation under this section
3 is deemed, during the period of assignment, to be on
4 detail to such agency. Such employee—

5 (A) may continue to receive pay and bene-
6 fits from the private sector organization from
7 which he is assigned;

8 (B) is deemed to be an employee of the
9 Corporation as specified in (a)(5) of this sec-
10 tion, for the purposes of chapters 81 and 85 of
11 title 5 U.S.C.;

12 (C) may not have access to any trade se-
13 crets or to any other non-public information
14 which is of commercial value to the private sec-
15 tor organization from which he is assigned; and

16 (D) is subject to such regulations as the
17 President may prescribe.

18 Such assignment may be made with or without reim-
19 bursement by the Corporation for the pay, or a part
20 thereof, of the employee during the period of assign-
21 ment, or for any contribution of the private sector
22 organization to its employee benefit system. A pri-
23 vate sector organization may not charge the Federal
24 Government, as direct or indirect costs under a Fed-
25 eral contract, the costs of pay or benefits paid by the

1 organization to an employee assigned to the Cor-
2 poration.

3 (c) ALLOCATION OF FUNDS.—

4 (1) TRANSFER OR ALLOCATION.—The Corpora-
5 tion may allocate or transfer to any agency of the
6 United States Government any part of any funds
7 available for carrying out the purposes of this Act.
8 Such funds shall be available for obligation and ex-
9 penditure for the purposes for which authorized, in
10 accordance with authority granted in this Act or
11 under authority governing the activities of the agen-
12 cies of the United States Government to which such
13 funds are allocated or transferred.

14 (2) USE OF SERVICES.—For carrying out the
15 purposes of this Act, the Corporation may utilize the
16 services and facilities of, or procure commodities
17 from, any agency of the United States Government
18 under such terms and conditions as may be agreed
19 to by the head of such agency and the Corporation.

20 (d) OTHER AUTHORITIES.—Except where incon-
21 sistent with the provisions of this Act, the Corporation is
22 authorized to use any of the administrative authorities
23 contained in the State Department Basic Authorities Act
24 of 1956 and the Foreign Assistance Act of 1961.

1 (e) GOVERNMENT CORPORATION CONTROL ACT.—
2 The Corporation shall be subject to the provisions of the
3 Government Corporation Control Act, title 31, United
4 States Code.

○