

AFRICAN GROWTH AND OPPORTUNITY ACT AND
 MILLENNIUM CHALLENGE ACT MODERNIZATION ACT

JANUARY 3, 2018.—Committed to the Committee of the Whole House on the State
 of the Union and ordered to be printed

Mr. ROYCE of California, from the Committee on Foreign Affairs,
 submitted the following

R E P O R T

[To accompany H.R. 3445]

[Including cost estimate of the Congressional Budget Office]

The Committee on Foreign Affairs, to whom was referred the bill
 (H.R. 3445) to enhance the transparency and accelerate the impact
 of programs under the African Growth and Opportunity Act and
 the Millennium Challenge Corporation, and for other purposes,
 having considered the same, reports favorably thereon without
 amendment and recommends that the bill do pass.

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SUMMARY AND PURPOSE

H.R. 3445, the AGOA and MCA Modernization Act, seeks to re-
 duce poverty, accelerate economic growth, and enable developing

countries, particularly in Africa, to transition from U.S. foreign aid recipients to U.S. trade partners by incentivizing good governance and open market principles, building trade capacity, promoting regional economic integration, and breaking down barriers to market-based growth. First, the bill seeks to expand and accelerate the impact of African Growth and Opportunity Act (AGOA)—a trade preference program first authorized as Title I of the Trade and Development Act of 2000 (P.L. 106–200) and most recently renewed by the Trade Preferences Extension Act of 2015 (P.L. 114–27)—by making information about AGOA, including information about technical assistance that may be made available to businesses and entrepreneurs through existing U.S. trade hubs, available on a single, consolidated, publicly available website. Second, it provides the Millennium Challenge Corporation (MCC)—a foreign development agency of the United States Government established by the Millennium Challenge Act of 2003 (Title VI, Division D of the Consolidated Appropriations Act, P.L. 108–199)—with the authority to invest in concurrent Compacts that promote regional economic integration and trade among eligible partner countries. Additionally, the bill includes authorizing language that stabilizes movement between MCC’s “Low Income” and “Lower Middle Income” candidate country pools (carried in annual appropriations bills since FY2012) and prohibits the provision of assistance to a country in any fiscal year for which that country does not qualify as a candidate country (carried in annual appropriations bills since FY 2014). Finally, the bill improves the transparency and accountability of MCC by streamlining, enhancing, and making publicly available reports on quarterly expenditures and other program requirements.

BACKGROUND AND NEED FOR THE LEGISLATION

The African Growth and Opportunity Act

The African Growth and Opportunity Act (AGOA), is a trade preference program that incentivizes good governance and pro-growth policies in sub-Saharan Africa. Enacted at a time when development assistance and humanitarian relief drove U.S. policies toward the sub-continent, AGOA catalyzed a paradigm shift from aid to trade. Through AGOA, marketable goods produced in eligible countries in Sub-Saharan Africa enter the U.S. market duty-free. Eligibility for this preferential tariff treatment is based on several considerations, including the prospective AGOA country’s commitment to: the rule of law and pro-growth policies; the elimination of barriers to U.S. trade and investment; economic policies that reduce poverty, expand access to health and education, improve infrastructure, and promote private enterprise; combatting corruption; the protection of worker rights; support for counter-terrorism activities; and non-interference with U.S. national security and foreign policy efforts. In 2016, 39 of 48 countries in sub-Saharan Africa were designated as AGOA eligible. Non-oil exports to the United States from sub-Saharan Africa have nearly tripled since enactment—from \$1.4 billion in 2001 to \$4.1 billion in 2015—mainly due to increased exports of autos and parts, apparel, fruits and nuts, cocoa, prepared vegetables, footwear, and cut flowers.

While two-way U.S.-Africa trade has nearly tripled since AGOA was established, its full potential has yet to be realized because the

law's attendant benefits remain underutilized in many eligible countries and sectors. A consistent message received during fact finding missions to determine why AGOA remains underutilized is that timely and accurate information about what AGOA is, how it works, and how benefits can be directly accessed is difficult to find. Multiple privately-sponsored websites describe AGOA and the website of the International Trade Administration includes an AGOA page with some useful links. However, there is no single, comprehensive, website managed by the U.S. agencies charged with overseeing implementation and providing technical assistance necessary to ensure proper utilization. Moreover, embassies in eligible countries have been inconsistent in their efforts to promote AGOA and the trade hubs in their public affairs and commercial outreach. This is a missed opportunity that can easily be rectified at little-to-no cost to the United States Government.

H.R. 3445 establishes that it shall be the policy of the United States to improve the rule of law, promote free and fair elections, strengthen and expand the private sector, fight corruption, and promote the role of women in social, political, and economic development in sub-Saharan Africa. It seeks to accomplish these policy objectives by increasing opportunities for AGOA utilization and encouraging the President to provide technical and trade capacity building assistance to businesses and entrepreneurs in sub-Saharan Africa. It calls for the establishment of a publicly available internet website for the collection and dissemination of information about AGOA, including information relating to commitments and outcomes of each meeting of the U.S.-Sub-Saharan Africa Trade and Economic Cooperation Forum. It also calls upon the U.S. embassies in eligible countries to link to the AGOA website and promote utilization of AGOA benefits.

The Millennium Challenge Corporation.

The Millennium Challenge Corporation (MCC) is an independent Federal agency created by Congress pursuant to the Millennium Challenge Act of 2003 to reduce poverty in poor but well-governed countries by funding projects and incentivizing policy reforms that accelerate economic growth. It is led by a Board of Directors that is chaired by the Secretary of State and includes the Secretary of Treasury, the U.S. Trade Representative, the Administrator of USAID, the Chief Executive Officer of MCC, and four private sector members nominated by the majority and minority leaders of the House and Senate.

MCC represents a unique model, centered on a commitment to selectivity, country ownership, transparency, accountability, and results. By working only with a select number of countries that demonstrate continuous commitment to democratic governance, economic freedom, and investing in their own people, MCC has established itself as a global leader in development policy and best practices. It has created an important incentive structure that inspires governments to undertake difficult reforms. It requires evidence-based decision-making and holds itself and its partners accountable for delivering results that can be sustained over time. Moreover, it builds mechanisms for robust monitoring and evaluation into each Compact, so problems can be identified early, course corrections can be made, and learning can be captured and shared.

This learning and accountability agenda has positively influenced the policies and programs of other development agencies, including the U.S. Agency for International Development (USAID).

MCC has two major categories of investment: Compacts and Threshold programs. To be eligible for a Compact, a country must be a Low Income Country (LIC) or a Lower Middle Income Country (LMIC) that passes a “scorecard” measuring performance on 20 indicators of that country’s commitment to economic freedom, ruling justly, and investing in its people. Once selected as eligible by the Board, an economic analysis is conducted to identify a country’s key constraints to growth. The partner country is then responsible for developing and implementing a Board-approved, MCC monitored, five-year Compact to overcome those constraints. Compacts have ranged in size from \$66 million in Cape Verde to nearly \$700 million in Morocco and Tanzania, and have included a range of activities from agriculture to energy, market access, land titling, and major infrastructure. To date, MCC has obligated \$10.8 billion to support 33 Compacts in 27 countries. There are currently 12 Compacts in implementation (Benin, Cape Verde, El Salvador, Georgia, Ghana, Indonesia, Liberia, Malawi, Morocco, Zambia, Niger, and Nepal) and 6 in development (Côte d’Ivoire, Sri Lanka, Tunisia, Mongolia, Senegal, Burkina Faso).

Threshold programs are smaller-scale investments intended to help a country become eligible for a Compact. To date, MCC has obligated \$583.6 million to support 26 Threshold agreements with 24 countries, 11 of which subsequently entered into Compacts. There are four active Threshold programs (Guatemala, Honduras, Kosovo, and Sierra Leone) and two in development (Togo and Timor-Leste). Beginning in December 2011, MCC refocused its Threshold program and began utilizing an economic constraints analysis to more consistently guide investments. As a result, Threshold agreements now focus more heavily upon the policy reforms necessary to create an enabling environment for economic growth.

According to MCC, these Compact and Threshold investments have leveraged more than \$6 billion in additional investments from the private sector and other development partners to date, including \$850 million by partner countries themselves.

Stabilizing MCC Candidate Country Pools. Within the first decade of MCC’s existence, it became clear that the arbitrary line between the LIC and LMIC country candidate pools was not working as intended. Only 25 percent of MCC’s Compact funds can be dedicated to LMICs. This means that during an average fiscal year, only one-to-two LMICs can be selected. However, it frequently takes more than 18 months to develop a Compact. From the point of country selection to Compact approval, a partner country that is hovering around the LIC or LMIC per capita income limit could cross the income line multiple times. These fluctuations bring instability to the selection process, disrupt compact development, and push otherwise eligible countries out of contention. Congress has addressed this challenge by re-defining the LIC and LMIC country candidate pools in each appropriations bill since FY2012 and easing a country’s transition from one category to another in each appropriations bill since FY2010. H.R. 3445 amends the MCA of 2003

to reflect these changes, thereby mitigating the need to carry authorization language on appropriations bills.

Addressing MCC Board Vacancies. The bill also seeks to provide a temporary solution to a long-standing problem relating to vacancies on MCC's Board of Directors. There are four positions on the Board intended to be filled, with the advice and consent of the U.S. Senate, by individuals from the private sector who have been nominated by the majority and minority leaders of the House and Senate, respectively. Such Board members may be appointed to serve one three-year term and may be reappointed to serve one additional two-year term. Unfortunately, delays in nominating and confirming such positions have threatened MCC's ability to maintain a quorum at quarterly Board meetings. In the absence of a quorum, the Board cannot select country partners or approve, suspend, or terminate Compact or Threshold agreements. The bill seeks to address this problem by allowing a private sector Board member to extend his or her term by up to two years until a replacement has been nominated and confirmed.

Country Selection. MCC's selection process starts with the identification of countries that are legally eligible to receive United States assistance and meet the criteria for MCC's two candidate country pools (i.e. LICs, which are defined as the 75 countries with the lowest per capita income per the International Bank for Reconstruction and Development, and LMICs, which are defined as countries with a per capita income above the poorest 75 countries but below \$4,035). MCC then publishes its selection criteria and methodology, which includes a description of the "indicators" the agency will use to measure a candidate country's commitment to ruling justly, investing in people, and encouraging economic freedom. There are currently 20 indicators used to measure a country's performance, all of which are developed by independent third-party institutions and rely upon objective, publicly available data. The indicators are used to generate a "scorecard," which shows how a country compares to its peers within the LIC and LMIC candidate country pools. To be eligible for selection, a country must "pass" (i.e. score above the median when compared to its peers) at least half of the indicators overall, pass the Control of Corruption indicator, and score above the threshold on either the Civil Liberties or Political Rights indicators. The Civil Liberties indicator, currently measured by Freedom House, rates countries on freedom of expression, association and organizational rights, rule of law and human rights, and personal autonomy and economic rights. The Political Rights indicator rates, also measured by Freedom House, rates countries on the quality of electoral processes, political pluralism and participation, government corruption and transparency, and fair political treatment of ethnic groups.

H.R. 3445 requires MCC to provide Board members with information on how civil society organizations are treated within a candidate country prior to selection. The committee notes that such information consistently has been provided to Board members since the start of MCC, particularly in relation to discussions of country performance on the Civil Liberties and Political Rights indicators during the selection process. MCC also has a demonstrated track record of holding partner countries accountable for the contraction of democratic space post-selection. The committee remains deeply

committed to the principles of freedom of expression and association, and urges MCC to continue to promote United States values toward this end.

Concurrent Compact Authority. H.R. 3445 seeks to intensify the impact of MCC investments by enabling the agency to enter into concurrent Compacts that promote regional economic integration, increased regional trade, and cross-border collaboration. Currently, MCC has the authority to sign just one Compact at a time with any given partner country. This has led many countries to take a largely insular approach toward Compact development. In other words, partner countries have been more inclined to prioritize the construction of a road or other infrastructure within its own physical borders than to seek opportunities to connect to markets in neighboring countries, even if such neighboring countries are also compact eligible. By granting MCC the authority to enter into concurrent, regionally-focused Compacts with eligible partner countries, the agency will be better positioned to break down the barriers to market-based economic growth within and between partner countries. For example, MCC selected Cote d'Ivoire as eligible to develop a Compact in December 2015. With concurrent Compact authority, MCC would be able to work across Cote d'Ivoire's borders with neighboring Burkina Faso, Ghana, and Liberia—also MCC partner countries—to promote cross-border collaboration and stimulate regional trade and investment. H.R. 3445 provides MCC with concurrent Compact authority, provided that each partner country has no more than one Compact and one concurrent Compact in operation at any given time and each partner country is making significant progress in implementing its initial Compact.

Eligibility for Subsequent, Non-Concurrent Compacts. MCC has had the authority to enter into subsequent, non-concurrent Compacts with eligible partner countries that demonstrate continuous commitment to the eligibility requirements since its establishment. Still, MCC engagements were never intended to be open-ended, and the bar for entering into a second Compact is expected to be even higher than it was for a country's first. To this end, MCC developed a strategy, articulated in its FY2013 Congressional Budget Justification, to guide Board consideration of subsequent, non-concurrent Compacts. To be eligible for a subsequent Compact, a country must be able to: (1) demonstrate continuous commitment to maintaining and improving upon its eligibility "scorecard"; (2) achieve measurable results through implementation of its first Compact; and (3) commit to self-financing or attracting private sector investment to finance a portion of such subsequent Compact. H.R. 3445 formalizes the requirement under MCC's subsequent Compact strategy to maintain and improve performance on the eligibility criteria prior to be selected for a subsequent Compact.

Enhancing Transparency and Streamlining Reports. H.R. 3445 amends the MCA of 2003 to consolidate and streamline Congressional notification and reporting requirements. It requires notifications relating to the intent to negotiate or sign a Compact to contain a cost-benefit analysis and include information relating to the targeted beneficiary population, the expected economic rate of return, and the prospects for catalyzing private sector investment. Additionally, not later than 60 days prior to signing a concurrent Compact, the CEO shall provide Congress with a comprehensive

risk management plan. The bill requires MCC to make quarterly status reports available within 90 days. It also requires MCC to conduct a study on the feasibility of entering into Compacts at the sub-national level.

Limitations on Threshold Programs. The committee notes that the MCA of 2003 included a 10 percent limitation on investment in Threshold programs for FY2004, which has been extended through annual appropriations bills. In 2011, MCC conducted an internal review of its Threshold program and found that performance was uneven and results were lacking. That same year, the Appropriations Committees reduced the amount available for Threshold programs to five percent. This five percent limitation has been extended through annual appropriations bill ever since. In FY2013, however, MCC launched a new Threshold strategy that refocused the program to create an enabling policy environment for economic growth *prior* to a country becoming eligible for a full-scale Compact. The committee has observed significant improvements in these “second generation” Threshold programs and believes they provide an important incentive for countries to undertake difficult reforms. The committee therefore recommends restoring the 10 percent funding limitation for Threshold agreements that was envisioned by Congress from the start.

HEARINGS

Over the past 2 years, the committee has continued its active oversight of U.S. foreign development, economic, and trade facilitation programs, including multiple hearings related to the content of H.R. 3445, such as:

September 13, 2017, subcommittee hearing, “The Future of Democracy and Governance in Liberia” (The Honorable Donald Yamamoto, Acting Assistant Secretary, Bureau of African Affairs, U.S. Department of State; Ms. Cheryl Anderson, Acting Assistant Administrator, Bureau for Africa, U.S. Agency for International Development; Mr. Dave Peterson, Senior Director for Africa Programs, National Endowment for Democracy; Ms. Aurelia Curtis, Founder and Executive Director, Weeks Educational and Social Advocacy Project; Mr. Rushdi Nackerdien, Regional Director for Africa International Foundation for Electoral Systems; Christopher Fomunyoh, Ph.D., Senior Associate and Regional Director for Central and West Africa, National Democratic Institute);

September 7, 2017, subcommittee hearing, “Maintaining U.S. Influence in South Asia: The FY 2018 Budget” (The Honorable Alice G. Wells, Acting Assistant Secretary, Bureau of South and Central Asian Affairs, U.S. Department of State; Ms. Gloria Steele, Acting Assistant Administrator, Bureau for Asia, U.S. Agency for International Development);

July 13, 2017, subcommittee hearing, “America’s Interests in the Middle East and North Africa: The President’s FY 2018 Budget Request” (The Honorable Stuart Jones, Acting Assistant Secretary, Bureau of Near Eastern Affairs, U.S. Department of State; Ms. Maria Longi, Acting Assistant Administrator, Bureau for the Middle East, U.S. Agency for International Development);

July 12, 2017, full committee hearing, “Beyond Microfinance: Empowering Women in the Developing World” (Ms. Mary Ellen Iskenderian, President and Chief Executive Officer, Women’s World Banking; Tavneet Suri, Ph.D, Associate Professor of Applied Economics, Sloan School of Management, Massachusetts Institute of Technology; the Honorable Melanne Vermeer, Executive Director, Georgetown Institute for Women, Peace and Security, Georgetown University);

June 14, 2017, full committee hearing, “The FY 2018 Foreign Affairs Budget” (The Honorable Rex W. Tillerson, Secretary of State, U.S. Department of State);

May 18, 2017, full committee hearing, “U.S. Interests in Africa” (General William E. Ward, USA, Retired, President and Chief Operating Officer, SENTEL Corporation, (Former Commander, U.S. Africa Command); Mr. Bryan Christy, Explorer and Investigative Reporter, National Geographic Society; Mr. Anthony Carroll, Adjunct Professor, School of Advanced International Studies, Johns Hopkins University; the Honorable Reuben E. Brigety II, Dean, Elliott School of International Affairs, The George Washington University, (Former U.S. Representative to the African Union, U.S. Department of State));

March 28, 2017, full committee hearing, “The Budget, Diplomacy, and Development” (Stephen D. Krasner, Ph.D., Senior Fellow, Hoover Institution; Ms. Danielle Pletka, Senior Vice President, Foreign and Defense Policy Studies, American Enterprise Institute; the Honorable R. Nicholas Burns, Roy and Barbara Goodman Family Professor of Diplomacy and International Relations, Belfer Center for Science and International Affairs, John F. Kennedy School of Government, Harvard University);

June 23, 2016, subcommittee hearing, “U.S. Policy in the Pacific: The Struggle to Maintain Influence” (Mr. Matthew J. Matthews, Deputy Assistant Secretary for Australia, New Zealand, and the Pacific Islands and Senior Official for APEC, Bureau of East Asian and Pacific Affairs, U.S. Department of State; Ms. Gloria Steele Senior Deputy Assistant Administrator, Bureau for Asia, U.S. Agency for International Development);

March 15, 2016, full committee hearing, “Review of the FY 2017 Foreign Assistance Budget: Aligning Interests, Ensuring Effectiveness and Transparency” (The Honorable Gayle Smith, Administrator, U.S. Agency for International Development; the Honorable Dana J. Hyde, Chief Executive Officer, Millennium Challenge Corporation);

March 17, 2015, full committee hearing, “The FY 2016 Budget Request: Assessing U.S. Foreign Assistance Effectiveness” (The Honorable Alfonso E. Lenhardt, Acting Administrator, U.S. Agency for International Development; the Honorable Dana J. Hyde, Chief Executive Officer, Millennium Challenge Corporation);

March 4, 2015, subcommittee hearing, “The Trans-Pacific Partnership: Prospects for Greater U.S. Trade” (Mr. Claude Barfield, Ph.D., Resident Scholar, American Enterprise Institute; Ms. Tami Overby, Senior Vice President for Asia, U.S. Chamber of Commerce; Mr. Scott Miller, Senior Adviser and

William M. Scholl Chair in International Business, Center for Strategic and International Studies; Ms. Celeste Drake, Trade and Globalization Policy Specialist, The American Federation of Labor and Congress of Industrial Organizations);

February 25, 2015, full committee hearing, “Advancing U.S. Interests in a Troubled World: The FY 2016 Foreign Affairs Budget” (The Honorable John F. Kerry, Secretary of State, U.S. Department of State);

COMMITTEE CONSIDERATION

On September 28, 2017, the Committee on Foreign Affairs marked up H.R. 3445 in open session, pursuant to notice. The bill was considered as introduced, and was agreed to by voice vote.

COMMITTEE OVERSIGHT FINDINGS

In compliance with clause 3(c)(1) of rule XIII of rules of the House of Representatives, the committee reports that findings and recommendations of the committee, based on oversight activities under clause 2(b)(1) of House Rule X, are incorporated in the descriptive portions of this report, particularly in the “Background and Purpose of Legislation” and “Section-by-Section Analysis” sections.

NEW BUDGET AUTHORITY, TAX EXPENDITURES, AND FEDERAL MANDATES

In compliance with clause 3(c)(2) of House Rule XIII and the Unfunded Mandates Reform Act (P.L. 104–4), the committee adopts as its own the estimate of new budget authority, entitlement authority, tax expenditure or revenues, and Federal mandates contained in the cost estimate prepared by the Director of the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, October 11, 2017.

Hon. EDWARD R. ROYCE, *Chairman,*
Committee on Foreign Affairs,
House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 3445, the AGOA and MCA Modernization Act.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Sunita D'Monte, who can be reached at 226–2840.

Sincerely,

KEITH HALL.

Enclosure

cc: Honorable Eliot L. Engel
Ranking Member

H.R. 3445—AGOA and MCA Modernization Act.

As ordered reported by the House Committee on Foreign Affairs on September 28, 2017.

H.R. 3445 would direct the President to increase public awareness of the African Growth and Opportunity Act (AGOA) and would authorize several federal programs to encourage trade and economic cooperation with and between AGOA countries. It also would make changes to the operations of the Millennium Challenge Corporation (MCC). In total, CBO estimates that implementing the bill would cost less than \$500,000 over the 2018–2022 period, subject to the availability of appropriated funds.

In particular, the bill would:

- Require the President to establish and update a public website for information on AGOA;
- Authorize the President to encourage trade with and economic cooperation between countries in sub-Saharan Africa;
- Authorize MCC to enter into a concurrent compact with a country to increase regional economic integration, trade, or other economic collaborations;
- Allow countries that experience changes in their per capita income to remain candidates for MCC compacts in the year they were selected and the two subsequent years; and
- Require MCC to report to the Congress on the risks associated with concurrent compacts and on the feasibility of partnering with entities within a country such as state or local governments.

On the basis of information from agencies engaged in implementing AGOA, CBO expects that most of the bill’s requirements pertaining to AGOA will be implemented under current and ongoing initiatives. MCC indicated that allowing it to enter into concurrent compacts would not require additional appropriations nor would it significantly affect MCC’s planned obligations. In recent years, appropriations acts have provided MCC the flexibility to stabilize its pool of candidate countries despite changes in their per capita income, and CBO estimates that making that flexibility permanent would not affect spending by MCC. Finally, on the basis of information from MCC, CBO estimates that implementing the reporting requirements would have insignificant costs.

Enacting H.R. 3445 would not affect direct spending or revenues; therefore, pay-as-you-go procedures do not apply. CBO estimates that enacting H.R. 3445 would not increase net direct spending or on-budget deficits in any of the four consecutive 10-year periods beginning in 2028.

H.R. 3445 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act.

The CBO staff contact for this estimate is Sunita D’Monte. The estimate was approved by H. Samuel Papenfuss, Deputy Assistant Director for Budget Analysis.

DIRECTED RULE MAKING

Pursuant to clause 3(c) of House Rule XIII, as modified by section 3(i) of H. Res. 5 during the 115th Congress, the committee notes that H.R. 3445 contains no directed rule-making provisions.

NON-DUPLICATION OF FEDERAL PROGRAMS

Pursuant to clause 3(c)(5) of House Rule XIII, the committee states that no provision of this bill establishes or reauthorizes a program of the Federal Government known to be duplicative of another Federal program, a program that was included in any report from the Government Accountability Office to Congress pursuant to section 21 of Public Law 111–139, or a program related to a program identified in the most recent Catalog of Federal Domestic Assistance.

PERFORMANCE GOALS AND OBJECTIVES

The objective of this legislation is to enhance the transparency, accountability, and impact of two critical tools for promoting market-based economic growth and trade, particularly in sub-Saharan Africa: AGOA and MCC. The overarching goal is to help poor but relatively well-governed countries to grow their own way out of poverty and accelerate the transition from U.S. foreign aid recipients to U.S. trade partners, while also creating opportunities for increased U.S. investment and trade. Performance goals associated with these objectives include, but are not limited to, the following:

For AGOA: Measurably increasing utilization of AGOA at both the country and sector level; measurably increasing the volume and diversity of U.S. investments and trade in sub-Saharan Africa; successfully deploying a single, publicly-available website that provides timely and accurate information about AGOA; ensuring all U.S. Embassies and Consulates in eligible countries that link to the AGOA website; and measurably improving the quality and quantity of public engagement by U.S. Embassies and Consulates about AGOA benefits across sub-Saharan Africa.

For MCC: Effectively managing and mitigating the impact of abrupt movements between the LIC and LMIC country candidate pools; preventing operational disruptions attributable to extended vacancies on the Board of Directors; measurably increasing regional economic collaboration, integration, and trade among eligible countries through the deployment of concurrent Compacts; improving the quality and timeliness of reports and notifications, including by reducing the time between the close of a financial quarter and delivery of associated quarterly status report to 90 days or less; standardizing the incorporation of economic justifications and risk management plans into Compact proposals and notifications; and completing and delivering a feasibility study on subnational compacts.

CONGRESSIONAL ACCOUNTABILITY ACT

H.R. 3445 does not apply to terms and conditions of employment or to access to public services or accommodations within the legislative branch.

NEW ADVISORY COMMITTEES

H.R. 3445 does not establish or authorize any new advisory committees.

EARMARK IDENTIFICATION

H.R. 3445 contains no congressional earmarks, limited tax benefits, or limited tariff benefits as described in clauses 9(e), 9(f), and 9(g) of House Rule XXI.

SECTION-BY-SECTION ANALYSIS

Section 1. Short Title and Table of Contents. States that the bill may be cited as the “African Growth and Opportunity Act and Millennium Challenge Act Modernization Act” or “AGOA and MCA Modernization Act” and divides the bill into two corresponding titles.

TITLE I: ENHANCEMENT OF THE AFRICAN GROWTH AND OPPORTUNITY ACT.

Section 101. Statement of Policy. Establishes that it shall be the policy of the United States to support efforts to: (1) improve rule of law, promote free and fair elections, strengthen and expand the private sector, and fight corruption in sub-Saharan Africa; and (2) promote the role of women in social, political, and economic development in sub-Saharan Africa.

Section 102. Activities in Support of Transparency. Requires the President to establish a publicly available Internet website for the collection and sharing of information regarding AGOA, to include information about AGOA benefits in eligible countries, technical assistance available through regional trade hubs, and outcomes of meetings of the United States-Sub-Saharan Africa Trade and Economic Cooperation Forum. U.S. embassies in eligible countries should link to the AGOA website and promote utilization of AGOA benefits.

Section 103. Activities in Support of Trade Capacity Building. Calls upon the President to develop and implement policies to encourage cross-boundary cooperation among eligible sub-Saharan African countries in order to facilitate trade and economic growth. Encourages the President to provide technical assistance and training: (1) for businesses and government officials in eligible countries on how to access benefits under AGOA and other trade preference programs; (2) for African entrepreneurs and trade associations on production strategies, quality standards, formation of cooperatives, market research, and market development; (3) to promote diversification of African products and value-added processing; and (4) to help African businesses and institutions comply with United States counter-terrorism initiatives and policies.

Section 104. Eligible Sub-Saharan Country. Defines the term “eligible sub-Saharan country”.

TITLE II: MODERNIZATION OF THE MILLENNIUM CHALLENGE CORPORATION.

Section 201. Candidacy Status. Amends the Millennium Challenge Act of 2003 (hereinafter cited as the “MCA”) (22 U.S.C.

7705(a)) to redefine and stabilize movement between the “low income” and “lower middle income” candidate country pools, consistent with authorizing language that has been carried in annual appropriations bills since FY2012.

Section 202. Carryover Authority for Private Sector Members of the Board of Directors. Amends the MCA (22 U.S.C. 7703(c)(4)(B)) to clarify that public sector board members may be appointed for a single three-year term and reappointed for a single two-year term, but may extend either of those terms by up to one year if a successor has not yet been appointed and confirmed by the U.S. Senate.

Section 203. Additional Reporting to the Board on the Treatment of Civil Society in an Eligible Country. Amends the MCA (22 U.S.C. 7706) to require MCC to submit to the Board information relating to a potential candidate country’s treatment of civil society prior to selecting such country to develop a Compact.

Section 204. Concurrent Compacts under the Millennium Challenge Act of 2003. Amends the MCA (22 U.S.C. 7708) to grant the Millennium Challenge Corporation with the authority to enter into and have in effect up to two Compacts with an eligible country at the same time (i.e. “Concurrent Compacts”), provided that at least one of the Compacts is focused on promoting regional economic integration, increasing regional trade, or facilitating cross-border collaboration. Approval of a Concurrent Compact will be subject to a Board determination that the eligible country is making demonstrable progress in implementing its existing Compact.

Section 205. Public Notification of Entering Into a Compact. Amends the MCA (22 U.S.C. 7709) to consolidate and streamline existing notification and consultation requirements, including those carried in annual appropriations bills. Adds an additional requirement for MCC to provide Congress with a “risk management plan” at least 60 days prior to entering into a Concurrent Compact with an eligible country. Reduces administrative costs by allowing MCC to publish a Compact summary, rather than the entire Compact, in the Federal Register.

Section 206. Disclosure. Amends the MCA (22 U.S.C. 7711(a)) to require more timely, public disclosure of quarterly status reports.

Section 207. Restriction on the Use of Assistance Under Section 616. Amends the MCA (22 U.S.C. 7715(d)) to extend a 10 percent limitation on funding for “threshold” programs (i.e. assistance provided to a candidate country to help them become eligible for a full Compact) that was imposed in FY2004. Further amends the MCA to prohibit the provision of assistance to a country in a fiscal year for which that country does not qualify as a candidate country, consistent with a restriction that has been carried in annual appropriations bills since FY2014.

Section 208. Study on Subnational Compacts. Requires the Board, acting through the CEO, to submit to Congress a one-time study that assesses the feasibility of developing compacts at the sub-national level within candidate countries within 180 days of enactment.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill,

as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italics, and existing law in which no change is proposed is shown in roman):

MILLENNIUM CHALLENGE ACT OF 2003

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**TITLE VI—MILLENNIUM CHALLENGE
ACT OF 2003**

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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) **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) shall be appointed for a term of 3 years and may be reappointed for a term of an additional 2 years.]

(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 one year after the expiration of his or her appointment or reappointment, as the case may be.

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

(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.

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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 ~~[(3)]~~ (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.

(2) ~~[(FISCAL YEAR 2005 AND SUBSEQUENT FISCAL YEARS.—)]~~ *FISCAL YEARS 2005 THROUGH 2012.*—A country shall be a candidate country for purposes of eligibility for assistance for ~~[(fiscal year 2005 or a subsequent fiscal year)]~~ *each of fiscal years 2005 through 2012* 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).

~~[(3)]~~ (4) *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) ~~[(IN GENERAL.—)]~~ *FISCAL YEARS 2006 THROUGH 2012.*—In addition to countries described in subsection (a), a country shall be a candidate country for purposes of eligibility for assistance for ~~[(fiscal year 2006 or a subsequent fiscal year)]~~ *fiscal years 2006 through 2012* 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—*

(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).

[(2)] (3) *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 two subsequent fiscal years.*

[(c)] (d) *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.

(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; [and]

(E) combat corruption; and

(F) *the quality of the civil society enabling environment;*

(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 growth;
 - (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.
- (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.
- (d) REPORTING ON TREATMENT OF CIVIL SOCIETY.—*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.*
- [(d)] (e) 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.
- [(e)] (f) ANNUAL MODIFICATION OF CRITERIA AND METHODOLOGY.—As appropriate, the Board, acting through the Chief Exec-

utive Officer, shall review the eligibility criteria and methodology and modify such criteria and methodology in subsequent years consistent with section 608(b).

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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 con-

tains 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.*

[(k)] (l) SUBSEQUENT COMPACTS.—[An eligible country and the United States may enter into and have in effect only one Compact at any given time under this section.] 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.

[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.]

SEC. 610. CONGRESSIONAL AND PUBLIC NOTIFICATION.

(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.

(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; and

(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 internet 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 internet website of the Corporation.

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SEC. 612. DISCLOSURE.

(a) REQUIREMENT FOR *TIMELY* DISCLOSURE.—**【The Corporation】** *Not later than 90 days after the last day of each fiscal quarter, the Corporation shall make available to the public 【on at least a quarterly basis,】* the following information:

- (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 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.】

(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 internet 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.*

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 **【the】** *any 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.

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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 606; 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.**—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.]

(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.*

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