

**(4) Prohibition on use of funds for abortions and involuntary sterilizations**

The prohibitions on use of funds contained in paragraphs (1) through (3) of section 104(f) of the Foreign Assistance Act of 1961 (22 U.S.C. 2151b(f)(1)–(3)) shall apply to funds made available to carry out this section to the same extent and in the same manner as such prohibitions apply to funds made available to carry out part I of such Act [22 U.S.C. 2151 et seq.]. The prohibition on use of funds contained in any provision of law comparable to the eleventh and fourteenth provisos under the heading “Child Survival and Health Programs Fund” of division E of Public Law 108–7 (117 Stat. 162) shall apply to funds made available to carry out this section for fiscal year 2004.

**(f) Coordination**

The provision of assistance under this section shall be coordinated with other United States foreign assistance programs.

(Pub. L. 108–199, div. D, title VI, §605, Jan. 23, 2004, 118 Stat. 214.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (a), was in the original “this title”, meaning title VI of Pub. L. 108–199, div. D, Jan. 23, 2004, 118 Stat. 211, which is classified generally to this chapter. For complete classification of this title to the Code, see Short Title note set out under section 7701 of this title and Tables.

The Foreign Assistance Act of 1961, referred to in subsec. (e)(4), is Pub. L. 87–195, Sept. 4, 1961, 75 Stat. 424. Part I of the Act is classified generally to subchapter I (§2151 et seq.) of chapter 32 of this title. For provisions deeming references to subchapter I to include parts IV (§2346 et seq.), VI (§2348 et seq.), and VIII (§2349aa et seq.) of subchapter II of chapter 32, see section 202(b) of Pub. L. 92–226, set out as a note under section 2346 of this title, and sections 2348c and 2349aa–5 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2151 of this title and Tables.

The provisos of Public Law 108–7, referred to in subsec. (e)(4), are contained in Pub. L. 108–7, div. E, title II, Feb. 20, 2003, 117 Stat. 162, and are not classified to the Code.

**§ 7705. 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), the country is not ineligible to receive United States economic assistance under part I of the Foreign Assistance Act of 1961 [22 U.S.C. 2151 et seq.] by reason of the application of any provision of the Foreign Assistance Act of 1961 [22 U.S.C. 2151 et seq.] or any other provision of law.

**(2) Fiscal year 2005 and subsequent fiscal years**

A country shall be a candidate country for purposes of eligibility for assistance for fiscal year 2005 or a subsequent fiscal year 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) Rule of construction**

For the purposes of determining whether a country is eligible for receiving assistance under section 7704 of this title 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**

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 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) 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 7704 of this title for fiscal year 2006 or the subsequent fiscal year, as the case may be.

**(c) Identification by the Board**

The Board shall identify whether a country is a candidate country for purposes of this section.

(Pub. L. 108–199, div. D, title VI, §606, Jan. 23, 2004, 118 Stat. 215.)

REFERENCES IN TEXT

The Foreign Assistance Act of 1961, referred to in subsec. (a)(1)(B), is Pub. L. 87–195, Sept. 4, 1961, 75 Stat. 424, as amended, which is classified principally to chapter 32 (§2151 et seq.) of this title. Part I of the Act is classified generally to subchapter I (§2151 et seq.) of chapter 32 of this title. For provisions deeming references to subchapter I to include parts IV (§2346 et seq.), VI (§2348 et seq.), and VIII (§2349aa et seq.) of subchapter II of chapter 32, see section 202(b) of Pub. L. 92–226, set out as a note under section 2346 of this title, and sec-

tions 2348c and 2349aa-5 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2151 of this title and Tables.

### § 7706. 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;

(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 7708 of this title.

##### (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 chapter.

#### (d) Establishment of criteria and methodology

The criteria and methodology submitted by the Board to Congress and published in the Federal Register under section 7707(b)(2) of this title with respect to a fiscal year shall remain fixed for purposes of eligibility determinations for such year.

#### (e) Annual modification of criteria and methodology

As appropriate, the Board, acting through the Chief Executive Officer, shall review the eligibility criteria and methodology and modify such criteria and methodology in subsequent years consistent with section 7707(b) of this title.

(Pub. L. 108-199, div. D, title VI, §607, Jan. 23, 2004, 118 Stat. 216; Pub. L. 110-161, div. J, title VI, §699I(a), Dec. 26, 2007, 121 Stat. 2372.)

#### REFERENCES IN TEXT

This chapter, referred to in subsec. (c)(2)(C), was in the original "this title", meaning title VI of Pub. L. 108-199, div. D, Jan. 23, 2004, 118 Stat. 211, which is classified generally to this chapter. For complete classification of this title to the Code, see Short Title note set out under section 7701 of this title and Tables.

#### AMENDMENTS

2007—Subsec. (b)(2)(B). Pub. L. 110-161, §699I(a)(1), struck out "and the sustainable management of natural resources" after "growth".

Subsec. (b)(3)(C). Pub. L. 110-161, §699I(a)(2), added subpar. (C).

### § 7707. Congressional and public notification of candidate countries, eligibility criteria, and eligible countries

#### (a) Identification of candidate countries

Not later than 90 days prior to the date on which the Board determines eligible countries under section 7706 of this title for a fiscal year, the Chief Executive Officer—

(1) shall prepare and submit to the appropriate congressional committees a report that contains a list of all candidate countries identified under section 7705 of this title, and all countries that would be candidate countries if the countries met the requirement contained in section 7705(a)(1)(B) of this title, for the fiscal year; and

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

#### (b) Identification of eligibility criteria and methodology

Not later than 60 days prior to the date on which the Board determines eligible countries under section 7706 of this title for a fiscal year, the Chief Executive Officer—

(1) shall prepare and submit to the appropriate congressional committees a report that contains a list of the criteria and methodology described in subsections (a) and (b) of section 7706 of this title that will be used to determine eligibility for each candidate country identified under subsection (a);