

(1) Innovative partnerships between governments and organizations in the private sector (including foundations, universities, corporations, faith-based and community-based organizations, and other nongovernmental organizations) have proliferated in recent years, particularly in the area of health.

(2) Public-private sector partnerships multiply local and international capacities to strengthen the delivery of health services in developing countries and to accelerate research for vaccines and other pharmaceutical products that are essential to combat infectious diseases decimating the populations of these countries.

(3) These partnerships maximize the unique capabilities of each sector while combining financial and other resources, scientific knowledge, and expertise toward common goals which neither the public nor the private sector can achieve alone.

(4) Sustaining existing public-private partnerships and building new ones are critical to the success of the international community's efforts to combat HIV/AIDS and other infectious diseases around the globe.

(b) Sense of Congress

It is the sense of Congress that—

(1) the sustainment and promotion of public-private partnerships should be a priority element of the strategy pursued by the United States to combat the HIV/AIDS pandemic and other global health crises; and

(2) the United States should systematically track the evolution of these partnerships and work with others in the public and private sector to profile and build upon those models that are most effective.

(Pub. L. 108–25, title II, §201, May 27, 2003, 117 Stat. 723.)

§ 7622. Participation in the Global Fund to Fight AIDS, Tuberculosis and Malaria

(a) Findings; sense of Congress

(1) Findings

Congress makes the following findings:

(A) The establishment of the Global Fund in January 2002 is consistent with the general principles for an international AIDS trust fund first outlined by Congress in the Global AIDS and Tuberculosis Relief Act of 2000 (Public Law 106–264) [22 U.S.C. 6801 et seq.].

(B) The Global Fund is an innovative financing mechanism which—

(i) has made progress in many areas in combating HIV/AIDS, tuberculosis, and malaria; and

(ii) represents the multilateral component of this chapter, extending United States efforts to more than 130 countries around the world.

(C) The Global Fund and United States bilateral assistance programs—

(i) are demonstrating increasingly effective coordination, with each possessing certain comparative advantages in the fight against HIV/AIDS, tuberculosis, and malaria; and

(ii) often work most effectively in concert with each other.

(D) The United States Government—

(i) is the largest supporter of the Global Fund in terms of resources and technical support;

(ii) made the founding contribution to the Global Fund; and

(iii) is fully committed to the success of the Global Fund as a multilateral public-private partnership.

(2) Sense of Congress

It is the sense of Congress that—

(A) transparency and accountability are crucial to the long-term success and viability of the Global Fund;

(B) the Global Fund has made significant progress toward addressing concerns raised by the Government Accountability Office by—

(i) improving risk assessment and risk management capabilities;

(ii) providing clearer guidance for and oversight of Local Fund Agents; and

(iii) strengthening the Office of the Inspector General for the Global Fund;

(C) the provision of sufficient resources and authority to the Office of the Inspector General for the Global Fund to ensure that office has the staff and independence necessary to carry out its mandate will be a measure of the commitment of the Global Fund to transparency and accountability;

(D) regular, publicly published financial, programmatic, and reporting audits of the Fund, its grantees, and Local Fund Agents are also important benchmarks of transparency;

(E) the Global Fund should establish and maintain a system to track—

(i) the amount of funds disbursed to each subrecipient on the grant's fiscal cycle; and

(ii) the distribution of resources, by grant and principal recipient, for prevention, care, treatment, drug and commodity purchases, and other purposes;

(F) relevant national authorities in recipient countries should exempt from duties and taxes all products financed by Global Fund grants and procured by any principal recipient or subrecipient for the purpose of carrying out such grants;

(G) the Global Fund, UNAIDS, and the Global AIDS Coordinator should work together to standardize program indicators wherever possible;

(H) for purposes of evaluating total amounts of funds contributed to the Global Fund under subsection (d)(4)(A)(i), the timetable for evaluations of contributions from sources other than the United States should take into account the fiscal calendars of other major contributors; and

(I) the Global Fund should not support activities involving the “Affordable Medicines Facility-Malaria” or similar entities pending compelling evidence of success from pilot programs as evaluated by the Co-

ordinator of United States Government Activities to Combat Malaria Globally.

(b) Authority for United States participation

(1) United States participation

The United States is hereby authorized to participate in the Global Fund.

(2) Privileges and immunities

The Global Fund shall be considered a public international organization for purposes of section 288 of this title.

(3) Statement of policy

The United States Government regards the imposition by recipient countries of taxes or tariffs on goods or services provided by the Global Fund, which are supported through public and private donations, including the substantial contribution of the American people, as inappropriate and inconsistent with standards of good governance. The Global AIDS Coordinator or other representatives of the United States Government shall work with the Global Fund to dissuade governments from imposing such duties, tariffs, or taxes.

(c) Reports to Congress

Not later than 1 year after May 27, 2003, and annually thereafter for the duration of the Global Fund, the President shall submit to the appropriate congressional committees a report on the Global Fund, including contributions pledged to, contributions (including donations from the private sector) received by, and projects funded by the Global Fund, and the mechanisms established for transparency and accountability in the grant-making process.

(d) United States financial participation

(1) Authorization of appropriations

In addition to any other funds authorized to be appropriated for bilateral or multilateral HIV/AIDS, tuberculosis, or malaria programs, of the amounts authorized to be appropriated under section 7671 of this title, there are authorized to be appropriated to the President up to \$2,000,000,000 for fiscal year 2009,¹ and such sums as may be necessary for each of the fiscal years 2010 through 2013, for contributions to the Global Fund.

(2) Availability of funds

Amounts appropriated under paragraph (1) are authorized to remain available until expended.

(3) Reprogramming of fiscal year 2001 funds

Funds made available for fiscal year 2001 under section 141 of the Global AIDS and Tuberculosis Relief Act of 2000 [22 U.S.C. 6841]—

(A) are authorized to remain available until expended; and

(B) shall be transferred to, merged with, and made available for the same purposes as, funds made available for fiscal years 2004 through 2008 under paragraph (1).

(4) Limitation

(A)(i) At any time during fiscal years 2009 through 2018, no United States contribution to

the Global Fund may cause the total amount of United States Government contributions to the Global Fund to exceed 33 percent of the total amount of funds contributed to the Global Fund from all sources. Contributions to the Global Fund from the International Bank for Reconstruction and Development and the International Monetary Fund shall not be considered in determining compliance with this paragraph.

(ii) If, at any time during any of the fiscal years 2009 through 2018, the President determines that the Global Fund has provided assistance to a country, the government of which the Secretary of State has determined, for purposes of section 2405(j)(1) of title 50, Appendix, has repeatedly provided support for acts of international terrorism, then the United States shall withhold from its contribution for the next fiscal year an amount equal to the amount expended by the Fund to the government of each such country.

(iii) If at any time the President determines that the expenses of the Governing, Administrative, and Advisory Bodies (including the Partnership Forum, the Foundation Board, the Secretariat, and the Technical Review Board) of the Global Fund exceed 10 percent of the total expenditures of the Fund for any 2-year period, the United States shall withhold from its contribution for the next fiscal year an amount equal to the average annual amount expended by the Fund for such 2-year period for the expenses of the Governing, Administrative, and Advisory Bodies in excess of 10 percent of the total expenditures of the Fund.

(iv) The President may waive the application of clause (iii) if the President determines that extraordinary circumstances warrant such a waiver. No waiver under this clause may be for any period that exceeds 1 year.

(v) If, at any time during any of the fiscal years 2004 through 2008, the President determines that the salary of any individual employed by the Global Fund exceeds the salary of the Vice President of the United States (as determined under section 104 of title 3) for that fiscal year, then the United States shall withhold from its contribution for the next fiscal year an amount equal to the aggregate amount by which the salary of each such individual exceeds the salary of the Vice President of the United States.

(vi) For the purposes of clause (i), “funds contributed to the Global Fund from all sources” means funds contributed to the Global Fund at any time during fiscal years 2009 through 2018 that are not contributed to fulfill a commitment made for a fiscal year before fiscal year 2009.

(B)(i) Any amount made available that is withheld by reason of subparagraph (A)(i) shall be contributed to the Global Fund as soon as practicable, subject to subparagraph (A)(i), after additional contributions to the Global Fund are made from other sources.

(ii) Any amount made available that is withheld by reason of subparagraph (A)(iii) shall be transferred to the Activities to Combat HIV/AIDS Globally Fund and shall remain avail-

¹ So in original.

able under the same terms and conditions as funds appropriated to carry out section 2151b-2 of this title for HIV/AIDS assistance.

(iii) Any amount made available that is withheld by reason of clause (ii) or (iii) of subparagraph (A) is authorized to be made available to carry out section 2151b-2 of this title. Amounts made available under the preceding sentence are in addition to amounts appropriated pursuant to the authorization of appropriations under section 7671 of this title for HIV/AIDS assistance.

(iv) Notwithstanding clause (i), after July 31 of each of the fiscal years 2009 through 2018, any amount made available that is withheld by reason of subparagraph (A)(i) is authorized to be made available to carry out sections 2151b-2, 2151b-3, and 2151b-4 of this title.

(C)(i) The President may suspend the application of subparagraph (A) with respect to a fiscal year if the President determines that an international health emergency threatens the national security interests of the United States.

(ii) The President shall notify the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate not less than 5 days before making a determination under clause (i) with respect to the application of subparagraph (A)(i) and shall include in the notification—

(I) a justification as to why increased United States Government contributions to the Global Fund is preferable to increased United States assistance to combat HIV/AIDS, tuberculosis, and malaria on a bilateral basis; and

(II) an explanation as to why other government donors to the Global Fund are unable to provide adequate contributions to the Fund.

(5) Withholding funds

Notwithstanding any other provision of this chapter, 20 percent of the amounts appropriated pursuant to this chapter for a contribution to support the Global Fund for each of the fiscal years 2010 through 2018 shall be withheld from obligation to the Global Fund until the Secretary of State certifies to the appropriate congressional committees that the Global Fund—

(A) has established an evaluation framework for the performance of Local Fund Agents (referred to in this paragraph as “LFAs”);

(B) is undertaking a systematic assessment of the performance of LFAs;

(C) has adopted, and is implementing, a policy to publish on a publicly available Web site in an open, machine readable format—

(i) grant performance reviews;

(ii) all reports of the Inspector General of the Global Fund, in a manner that is consistent with the Policy for Disclosure of Reports of the Inspector General, approved at the 16th Meeting of the Board of the Global Fund;

(iii) decision points of the Board of the Global Fund;

(iv) reports from Board committees to the Board; and

(v) a regular collection, analysis, and reporting of performance data and funding of grants of the Global Fund, which covers all principal recipients and all subrecipients on the fiscal cycle of each grant, and includes the distribution of resources, by grant and principal recipient and subrecipient, for prevention, care, treatment, drugs, and commodities purchase, and other purposes as practicable;

(D) is maintaining an independent, well-staffed Office of the Inspector General that—

(i) reports directly to the Board of the Global Fund; and

(ii) compiles regular, publicly published audits, in an open, machine readable format, of financial, programmatic, and reporting aspects of the Global Fund, its grantees, and LFAs;

(E) has established, and is reporting publicly, in an open, machine readable format, on, standard indicators for all program areas;

(F) has established a methodology to track and is publicly reporting on—

(i) all subrecipients and the amount of funds disbursed to each subrecipient on the grant’s fiscal cycle;

(ii) all principal recipients and subrecipients and the amount of funds disbursed to each principal recipient and subrecipient on the fiscal cycle of the grant;

(iii) expenditure data—

(I) tracked by principal recipients and subrecipients by program area, where practicable, prevention, care, and treatment and reported in a format that allows comparison with other funding streams in each country; or

(II) if such expenditure data is not available, outlay or disbursement data, and an explanation of progress made toward providing such expenditure data; and

(iv) high-quality grant performance evaluations measuring inputs, outputs, and outcomes, as appropriate, with the goal of achieving outcome reporting;

(G) has published an annual report on a publicly available Web site in an open, machine readable format, that includes—

(i) a list of all countries imposing import duties and internal taxes on any goods or services financed by the Global Fund;

(ii) a description of the types of goods or services on which the import duties and internal taxes are levied;

(iii) the total cost of the import duties and internal taxes;

(iv) recovered import duties or internal taxes; and

(v) the status of country status-agreements;

(H) through its Secretariat, has taken meaningful steps to prevent national authorities in recipient countries from imposing taxes or tariffs on goods or services provided by the Fund;

(I) is maintaining its status as a financing institution focused on programs directly related to HIV/AIDS, malaria, and tuberculosis;

(J) is maintaining and making progress on—

(i) sustaining its multisectoral approach, through country coordinating mechanisms; and

(ii) the implementation of grants, as reflected in the proportion of resources allocated to different sectors, including governments, civil society, and faith- and community-based organizations; and

(K) has established procedures providing access by the Office of Inspector General of the Department of State and Broadcasting Board of Governors, as cognizant Inspector General, and the Inspector General of the Health and Human Services and the Inspector General of the United States Agency for International Development, to Global Fund financial data, and other information relevant to United States contributions (as determined by the Inspector General in consultation with the Global AIDS Coordinator).

(6) Summaries of Board decisions and United States positions

Following each meeting of the Board of the Global Fund, the Coordinator of United States Government Activities to Combat HIV/AIDS Globally shall report on the public website of the Coordinator a summary of Board decisions and how the United States Government voted and its positions on such decisions.

(e) Interagency technical review panel

(1) Establishment

The Coordinator of United States Government Activities to Combat HIV/AIDS Globally, established in section 2651a(f)(1) of this title, shall establish in the executive branch an interagency technical review panel.

(2) Duties

The interagency technical review panel shall serve as a “shadow” panel to the Global Fund by—

(A) periodically reviewing all proposals received by the Global Fund; and

(B) providing guidance to the United States persons who are representatives on the panels, committees, and boards of the Global Fund, on the technical efficacy, suitability, and appropriateness of the proposals, and ensuring that such persons are fully informed of technical inadequacies or other aspects of the proposals that are inconsistent with the purposes of this chapter or any other Act relating to the provision of foreign assistance in the area of AIDS.

(3) Membership

The interagency technical review panel shall consist of qualified medical and development experts who are officers or employees of the Department of Health and Human Services, the Department of State, and the United States Agency for International Development.

(4) Chair

The Coordinator referred to in paragraph (1) shall chair the interagency technical review panel.

(f) Monitoring by Comptroller General

(1) Monitoring

The Comptroller General shall monitor and evaluate projects funded by the Global Fund.

(2) Report

The Comptroller General shall on a biennial basis shall prepare and submit to the appropriate congressional committees a report that contains the results of the monitoring and evaluation described in paragraph (1) for the preceding 2-year period.

(g) Provision of information to Congress

The Coordinator of United States Government Activities to Combat HIV/AIDS Globally shall make available to the Congress the following documents within 30 days of a request by the Congress for such documents:

(1) All financial and accounting statements for the Global Fund and the Activities to Combat HIV/AIDS Globally Fund, including administrative and grantee statements.

(2) Reports provided to the Global Fund and the Activities to Combat HIV/AIDS Globally Fund by organizations contracted to audit recipients of funds.

(3) Project proposals submitted by applicants for funding from the Global Fund and the Activities to Combat HIV/AIDS Globally Fund, but which were not funded.

(4) Progress reports submitted to the Global Fund and the Activities to Combat HIV/AIDS Globally Fund by grantees.

(h) Sense of the Congress regarding encouragement of private contributions to the Global Fund

It is the sense of the Congress that the President should—

(1) conduct an outreach campaign that is designed to—

(A) inform the public of the existence of—

(i) the Global Fund; and

(ii) any entity that will accept private contributions intended for use by the Global Fund; and

(B) encourage private contributions to the Global Fund; and

(2) encourage private contributions intended for use by the Global Fund by—

(A) establishing and operating an Internet website, and publishing information about the website; and

(B) making public service announcements on radio and television.

(Pub. L. 108-25, title II, §202, May 27, 2003, 117 Stat. 724; Pub. L. 108-199, div. D, title V, §595(1), (2), Jan. 23, 2004, 118 Stat. 209; Pub. L. 110-293, title II, §202, July 30, 2008, 122 Stat. 2936; Pub. L. 113-56, §4, Dec. 2, 2013, 127 Stat. 649.)

REFERENCES IN TEXT

The Global AIDS and Tuberculosis Relief Act of 2000, referred to in subsec. (a)(1)(A), is Pub. L. 106-264, Aug. 19, 2000, 114 Stat. 748, which is classified principally to

chapter 76 (§6801 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 6801 of this title and Tables.

This chapter, referred to in subsecs. (a)(1)(B)(ii), (d)(5), and (e)(2)(B), was in the original a reference to this Act, meaning Pub. L. 108–25, May 27, 2003, 117 Stat. 711, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 7601 of this title and Tables.

AMENDMENTS

2013—Subsec. (d)(4)(A)(i). Pub. L. 113–56, §4(a)(1)(A), substituted “2018” for “2013”.

Subsec. (d)(4)(A)(ii). Pub. L. 113–56, §4(a)(1)(B), substituted “2018” for “2013” and struck out at end “The President may waive the application of this clause with respect to assistance for Sudan that is overseen by the Southern Country Coordinating Mechanism, including Southern Sudan, Southern Kordofan, Blue Nile State, and Abyei, if the President determines that the national interest or humanitarian reasons justify such a waiver. The President shall publish each waiver of this clause in the Federal Register and, not later than 15 days before the waiver takes effect, shall consult with the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives regarding the proposed waiver.”

Subsec. (d)(4)(A)(vi). Pub. L. 113–56, §4(a)(1)(C), substituted “2018” for “2013”.

Subsec. (d)(4)(B). Pub. L. 113–56, §4(a)(2)(A), struck out “under this subsection” after “amount made available” in cls. (i) to (iv).

Subsec. (d)(4)(B)(ii). Pub. L. 113–56, §4(a)(2)(B), substituted “to carry out section 2151b-2 of this title” for “pursuant to the authorization of appropriations under section 7671 of this title”.

Subsec. (d)(4)(B)(iv). Pub. L. 113–56, §4(a)(2)(C), substituted “2018” for “2013”.

Subsec. (d)(5). Pub. L. 113–56, §4(b)(1)(A), substituted “2018” for “2013” in introductory provisions.

Subsec. (d)(5)(C). Pub. L. 113–56, §4(b)(1)(B)(i), inserted “in an open, machine readable format” after “site” in introductory provisions.

Subsec. (d)(5)(C)(v). Pub. L. 113–56, §4(b)(1)(B)(ii), amended cl. (v) generally. Prior to amendment, cl. (v) read as follows: “a regular collection and analysis of performance data and funding of grants of the Global Fund, which shall cover all principal recipients and all subrecipients;”.

Subsec. (d)(5)(D)(ii). Pub. L. 113–56, §4(b)(1)(C), inserted “, in an open, machine readable format,” after “audits”.

Subsec. (d)(5)(E). Pub. L. 113–56, §4(b)(1)(D), inserted “, in an open, machine readable format,” after “publicly”.

Subsec. (d)(5)(F)(ii) to (iv). Pub. L. 113–56, §4(b)(1)(E), added cls. (ii) to (iv) and struck out former cl. (ii) which read as follows: “the distribution of resources, by grant and principal recipient, for prevention, care, treatment, drugs and commodities purchase, and other purposes;”.

Subsec. (d)(5)(G). Pub. L. 113–56, §4(b)(1)(F), amended subpar. (G) generally. Prior to amendment, subpar. (G) read as follows: “has established a policy on tariffs imposed by national governments on all goods and services financed by the Global Fund;”.

2008—Subsec. (a). Pub. L. 110–293, §202(a), amended subsec. (a) generally. Prior to amendment, subsec. (a) stated findings of Congress.

Subsec. (b)(3). Pub. L. 110–293, §202(b), added par. (3).

Subsec. (d)(1). Pub. L. 110–293, §202(c)(1), substituted “\$2,000,000,000 for fiscal year 2009,” for “\$1,000,000,000 for the period of fiscal year 2004 beginning on January 1, 2004” and “each of the fiscal years 2010 through 2013” for “the fiscal years 2005–2008”.

Subsec. (d)(4)(A)(i). Pub. L. 110–293, §202(c)(2)(A)(i), substituted “fiscal years 2009 through 2013” for “fiscal years 2004 through 2008”.

Subsec. (d)(4)(A)(ii). Pub. L. 110–293, §202(c)(2)(A)(ii), substituted “during any of the fiscal years 2009 through

2013” for “during any of the fiscal years 2004 through 2008” and inserted at end “The President may waive the application of this clause with respect to assistance for Sudan that is overseen by the Southern Country Coordinating Mechanism, including Southern Sudan, Southern Kordofan, Blue Nile State, and Abyei, if the President determines that the national interest or humanitarian reasons justify such a waiver. The President shall publish each waiver of this clause in the Federal Register and, not later than 15 days before the waiver takes effect, shall consult with the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives regarding the proposed waiver.”

Subsec. (d)(4)(A)(vi). Pub. L. 110–293, §202(c)(2)(A)(iii), substituted “For the purposes” for “for the purposes”, “fiscal years 2009 through 2013” for “fiscal years 2004 through 2008”, and “before fiscal year 2009” for “prior to fiscal year 2004”.

Subsec. (d)(4)(B)(iv). Pub. L. 110–293, §202(c)(2)(B), substituted “fiscal years 2009 through 2013” for “fiscal years 2004 through 2008”.

Subsec. (d)(4)(C)(ii). Pub. L. 110–293, §202(c)(2)(C), substituted “Committee on Foreign Affairs” for “Committee on International Relations”.

Subsec. (d)(5), (6). Pub. L. 110–293, §202(c)(3), added pars. (5) and (6).

2004—Subsec. (d)(4)(A)(vi). Pub. L. 108–199, §595(1), added cl. (vi).

Subsec. (d)(4)(B)(iv). Pub. L. 108–199, §595(2), added cl. (iv).

DELEGATION OF FUNCTIONS

For delegation of functions of President under this section, see Ex. Ord. No. 12163, Sept. 29, 1979, 44 F.R. 56673, as amended, set out as a note under section 2381 of this title, and Memorandum of President of Feb. 23, 2004, 69 F.R. 9509, set out as a note under section 7611 of this title.

§ 7623. Combating HIV/AIDS, tuberculosis, and malaria by strengthening health policies and health systems of partner countries

(a) Statement of policy

It shall be the policy of the United States Government—

(1) to invest appropriate resources authorized under this chapter—

(A) to carry out activities to strengthen HIV/AIDS, tuberculosis, and malaria health policies and health systems; and

(B) to provide workforce training and capacity-building consistent with the goals and objectives of this chapter; and

(2) to support the development of a sound policy environment in partner countries to increase the ability of such countries—

(A) to maximize utilization of health care resources from donor countries;

(B) to increase national investments in health and education and maximize the effectiveness of such investments;

(C) to improve national HIV/AIDS, tuberculosis, and malaria strategies;

(D) to deliver evidence-based services in an effective and efficient manner; and

(E) to reduce barriers that prevent recipients of services from achieving maximum benefit from such services.

(b) Assistance to improve public finance management systems

(1) In general

Consistent with the authority under section 2151aa of this title, the Secretary of the Treas-