

eral 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.

(f) 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; Pub. L. 115–167, title II, §203, Apr. 23, 2018, 132 Stat. 1279.)

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

2018—Subsec. (a). Pub. L. 115–167, §203(1), inserted at end “A determination whether a country is eligible for a subsequent, non-concurrent Millennium Challenge Compact shall also be based, to the extent practicable, on significantly improved performance across the criteria in subsection (b) that, at a minimum, are relevant to the preceding Compact, compared to the country’s performance with respect to such criteria when selected for such preceding Compact.”

Subsec. (b)(1)(F). Pub. L. 115–167, §203(2), added subpar. (F).

Subsecs. (d) to (f). Pub. L. 115–167, §203(3), (4), added subsec. (d) and redesignated former subsecs. (d) and (e) as (e) and (f), respectively.

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);

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

(3) may conduct one or more public hearings on the eligibility criteria and methodology.

(c) Public comment and congressional consultation

(1) Public comment

The Chief Executive Officer shall, for the 30-day period beginning on the date of publication in the Federal Register of the information contained in the report described in subsection (b)(1), accept public comment and consider such comment for purposes of determining eligible countries under section 7706 of this title.

(2) Congressional consultation

The Chief Executive Officer shall consult with the appropriate congressional committees on the extent to which the candidate countries meet the criteria described in section 7706(b) of this title.

(d) Identification of eligible countries

Not later than 5 days after 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 such eligible countries, an identification of those countries on such list with respect to which the Board will seek to enter into a Compact under section 7708 of this title, and a justification for such eligibility determination and selection for Compact negotiation; and

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

(Pub. L. 108–199, div. D, title VI, §608, Jan. 23, 2004, 118 Stat. 217.)

§ 7708. 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 chapter.

(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 7704 of this title;

(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 7705(b) of this title, 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 contains 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 chapter 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.

(l) Subsequent Compacts

An eligible country and the United States may enter into one or more subsequent Compacts in accordance with the requirements of this chapter after the expiration of the existing Compact.

(Pub. L. 108–199, div. D, title VI, §609, Jan. 23, 2004, 118 Stat. 218; Pub. L. 115–167, title II, §204(a), Apr. 23, 2018, 132 Stat. 1280.)

REFERENCES IN TEXT

This chapter, referred to in subsecs. (a), (k), and (l), 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

2018—Subsecs. (k), (l). Pub. L. 115–167 struck out first sentence of subsec. (k) which read “An eligible country and the United States may enter into and have in effect only one Compact at any given time under this section.”, redesignated the remainder of subsec. (k) as (l), and added a new subsec. (k).

EFFECTIVE DATE OF 2018 AMENDMENT

Pub. L. 115–167, title II, §204(c), Apr. 23, 2018, 132 Stat. 1280, provided that: “The amendments made by this section [amending this section and section 7712 of this title] apply with respect to Compacts entered into between the United States and an eligible country under the Millennium Challenge Act of 2003 [22 U.S.C. 7701 et seq.] before, on, or after the date of the enactment of this Act [Apr. 23, 2018].”

§ 7709. 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 7708(g) of this title;
- (B) commencing negotiations with an eligible country to provide assistance for—
 - (i) a Compact under section 7704 of this title; or
 - (ii) an agreement under section 7715 of this title;

(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 7708 of this title, 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 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 website of the Corporation.

(Pub. L. 108–199, div. D, title VI, §610, Jan. 23, 2004, 118 Stat. 220; Pub. L. 115–167, title II, §205, Apr. 23, 2018, 132 Stat. 1281.)