

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).

(4) 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) 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 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).

(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 7704 of this title 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 2 subsequent fiscal years.

(d) 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; Pub. L. 115–167, title II, §201, Apr. 23, 2018, 132 Stat. 1278.)

Editorial Notes

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 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.

AMENDMENTS

2018—Subsec. (a)(1)(B). Pub. L. 115–167, §201(a)(1), substituted “(4)” for “(3)”.

Subsec. (a)(2). Pub. L. 115–167, §201(a)(2), substituted “Fiscal years 2005 through 2012” for “Fiscal year 2005 and subsequent fiscal years” in heading and “each of fiscal years 2005 through 2012” for “fiscal year 2005 or a subsequent fiscal year” in introductory provisions.

Subsec. (a)(3), (4). Pub. L. 115–167, §201(a)(3), (4), added par. (3) and redesignated former par. (3) as (4).

Subsec. (b)(1). Pub. L. 115–167, §201(b)(1), substituted “Fiscal years 2006 through 2012” for “In general” in heading and “fiscal years 2006 through 2012” for “fiscal year 2006 or a subsequent fiscal year” in introductory provisions.

Subsec. (b)(2), (3). Pub. L. 115–167, §201(b)(2), (3), added par. (2) and redesignated former par. (2) as (3).

Subsecs. (c), (d). Pub. L. 115–167, §201(c), added subsec. (c) and redesignated former subsec. (c) as (d).

§ 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. 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 coun-

try's performance with respect to such criteria when selected for such preceding Compact.

(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;
- (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 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) Reporting on treatment of civil society

For the 7-year period beginning on April 23, 2018, 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.

(e) 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.

(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.)

Editorial Notes

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