

Calendar No. 246115TH CONGRESS
1ST SESSION**S. 832**

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.

IN THE SENATE OF THE UNITED STATES

APRIL 5 (legislative day, APRIL 4), 2017

Mr. CARDIN (for himself, Mr. ISAKSON, Mr. COONS, Mr. PETERS, Mr. MURPHY, and Mr. BOOKER) introduced the following bill; which was read twice and referred to the Committee on Foreign Relations

OCTOBER 17, 2017

Reported by Mr. CORKER, with an amendment

[Strike out all after the enacting clause and insert the part printed in italic]

A BILL

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.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “African Growth and
3 Opportunity Act and Millennium Challenge Act Mod-
4 ernization Act” or the “AGOA and MCA Modernization
5 Act”.

6 **SEC. 2. TABLE OF CONTENTS.**

7 The table of contents for this Act is as follows:

See. 1. Short title.

See. 2. Table of contents.

**TITLE I—ENHANCEMENT OF THE AFRICAN GROWTH AND
OPPORTUNITY ACT**

See. 101. Statement of policy.

See. 102. Definitions.

See. 103. Activities in support of transparency.

See. 104. Activities in support of trade capacity building.

**TITLE II—MODERNIZATION OF THE MILLENNIUM CHALLENGE
CORPORATION**

See. 201. Candidacy status.

See. 202. Carryover authority for private sector members of board of directors.

See. 203. Additional reporting to the board on the treatment of civil society in
an eligible country.

See. 204. Concurrent compacts under the Millennium Challenge Act of 2003.

See. 205. Public notification of entering into a compact.

See. 206. Disclosure.

See. 207. Restriction on the use of assistance under section 616.

See. 208. Study on subnational compacts.

8 **TITLE I—ENHANCEMENT OF THE**
9 **AFRICAN GROWTH AND OP-**
10 **PORTUNITY ACT**

11 **SEC. 101. STATEMENT OF POLICY.**

12 It is the policy of the United States to support ef-
13 forts—

1 (1) to improve the rule of law, promote free and
2 fair elections, strengthen and expand the private sec-
3 tor, and fight corruption in sub-Saharan Africa; and

4 (2) to promote the role of women in social, po-
5 litical, and economic development in sub-Saharan
6 Africa.

7 **SEC. 102. DEFINITIONS.**

8 In this title:

9 (1) **AGOA WEBSITE.**—The term “AGOA
10 website” means the website created by the President
11 under section 103 to collect and disseminate infor-
12 mation regarding the African Growth and Oppor-
13 tunity Act (19 U.S.C. 3701 et seq.).

14 (2) **ELIGIBLE SUB-SAHARAN AFRICAN COUN-**
15 **TRY.**—The term “eligible sub-Saharan African coun-
16 try” means a country that the President has deter-
17 mined meets the eligibility requirements set forth in
18 section 104 of the African Growth and Opportunity
19 Act (19 U.S.C. 3703).

20 **SEC. 103. ACTIVITIES IN SUPPORT OF TRANSPARENCY.**

21 (a) **AGOA WEBSITE.**—

22 (1) **IN GENERAL.**—The President shall establish
23 a publicly available Internet website for the collec-
24 tion and dissemination of information regarding the

1 African Growth and Opportunity Act (title I of Pub-
2 lie Law 106–200).

3 ~~(2) CONTENTS.—~~The President shall publish,
4 on the AGOA website, the information described in
5 paragraph ~~(1)~~, including—

6 ~~(A)~~ information and technical assistance
7 provided at United States Agency for Inter-
8 national Development regional trade hubs; and

9 ~~(B)~~ a link to the websites of United States
10 embassies located in eligible sub-Saharan Afri-
11 can countries.

12 ~~(3) ACTIONS BY UNITED STATES EMBASSIES.—~~

13 The Secretary of State should direct United States
14 embassies located in eligible sub-Saharan African
15 countries—

16 ~~(A)~~ to encourage such countries to use the
17 benefits available under the African Growth and
18 Opportunity Act (~~19 U.S.C. 3701 et seq.~~); and

19 ~~(B)~~ to include a link to the AGOA website
20 on the websites of such diplomatic missions.

21 ~~(b) AGOA FORUM.—~~After each meeting of the
22 United States—Sub-Saharan Africa Trade and Economic
23 Cooperation Forum, the President should publish on the
24 AGOA website—

1 (1) the outcomes of the meeting of the Forum,
2 including any commitments made by member coun-
3 tries and the private sector; and

4 (2) an assessment of progress made with re-
5 spect to any commitments made by member coun-
6 tries and the private sector from the previous meet-
7 ing of the Forum.

8 (e) OTHER INFORMATION.—The President should—

9 (1) disseminate the information required under
10 this section to the public in a digital format; and

11 (2) publish such information on the AGOA
12 website.

13 **SEC. 104. ACTIVITIES IN SUPPORT OF TRADE CAPACITY**
14 **BUILDING.**

15 The President should—

16 (1) develop and implement policies that—

17 (A) encourage and facilitate cross-bound-
18 ary cooperation among eligible sub-Saharan Af-
19 rican countries in order to facilitate trade; and

20 (B) encourage the provision of technical
21 assistance to eligible sub-Saharan African coun-
22 tries to establish and sustain adequate trade ca-
23 pacity development;

24 (2) provide specific training for businesses in el-
25 ible sub-Saharan African countries and govern-

1 ment trade officials of such countries on accessing
 2 the benefits under the African Growth and Oppor-
 3 tunity Act and other trade preference programs;

4 (3) provide capacity building for African entre-
 5 preneurs and trade associations on production strat-
 6 egies, quality standards, formation of cooperatives,
 7 market research, and market development;

8 (4) provide capacity building training to pro-
 9 mote diversification of African products and value-
 10 added processing; and

11 (5) provide capacity building and technical as-
 12 sistance funding for African businesses and institu-
 13 tions to help such businesses and institutions comply
 14 with United States counter-terrorism initiatives and
 15 policies.

16 **TITLE II—MODERNIZATION OF**
 17 **THE MILLENNIUM CHAL-**
 18 **LENGE CORPORATION**

19 **SEC. 201. CANDIDACY STATUS.**

20 (a) **LOW INCOME COUNTRIES.**—Section 606(a) of the
 21 Millennium Challenge Act of 2003 (22 U.S.C. 7705(a))
 22 is amended—

23 (1) in paragraph (1)(B), by striking “(3)” and
 24 inserting “(4)”;

25 (2) in paragraph (2)—

1 (A) by amending the paragraph heading to
2 read as follows: “FISCAL YEARS 2005 THROUGH
3 2012”; and

4 (B) by striking “fiscal year 2005 or a sub-
5 sequent fiscal year” and inserting “each of the
6 fiscal years 2005 through 2012”;

7 (3) by redesignating paragraph (3) as para-
8 graph (4); and

9 (4) by inserting after paragraph (2) the fol-
10 lowing:

11 “~~(3)~~ FISCAL YEAR 2013 AND SUBSEQUENT FIS-
12 CAL YEARS.—A country shall be a candidate country
13 for purposes of eligibility for assistance for fiscal
14 year 2013 or a subsequent fiscal year if the coun-
15 try—

16 “(A) has a per capita income not greater
17 than the lower middle income country threshold
18 established by the International Bank for Re-
19 construction and Development for such fiscal
20 year;

21 “(B) is among the 75 countries identified
22 by the International Bank for Reconstruction
23 and Development as having the lowest per cap-
24 ita income; and

1 “(C) meets the requirements under para-
2 graph (1)(B).”.

3 (b) LOWER MIDDLE INCOME COUNTRIES.—Section
4 606(b) of the Millennium Challenge Act of 2003 (22
5 U.S.C. 7705(b)) is amended—

6 (1) in paragraph (1)—

7 (A) by amending the paragraph heading to
8 read as follows: “FISCAL YEARS 2006 THROUGH
9 2012”; and

10 (B) in the matter preceding subparagraph
11 (A), by striking “fiscal year 2006 or a subse-
12 quent fiscal year” and inserting “each of the
13 fiscal years 2006 through 2012”;

14 (2) by redesignating paragraph (2) as para-
15 graph (3); and

16 (3) by inserting after paragraph (1) the fol-
17 lowing:

18 “(2) FISCAL YEAR 2013 AND SUBSEQUENT FIS-
19 CAL YEARS.—In addition to the countries described
20 in subsection (a), a country shall be a candidate
21 country for purposes of eligibility for assistance for
22 fiscal year 2013 or a subsequent fiscal year if the
23 country—

24 “(A) has a per capita income not greater
25 than the lower middle income country threshold

1 established by the International Bank for Re-
 2 construction and Development for the fiscal
 3 year;

4 “(B) is not among the 75 countries identi-
 5 fied by the International Bank for Reconstruc-
 6 tion and Development as having the lowest per
 7 capita income; and

8 “(C) meets the requirements under sub-
 9 section (a)(1)(B).”.

10 (e) RECLASSIFICATION.—Section 606 of the Millen-
 11 nium Challenge Act of 2003 (22 U.S.C. 7705) is amend-
 12 ed—

13 (1) by redesignating subsection (e) as sub-
 14 section (d); and

15 (2) by inserting after subsection (b) the fol-
 16 lowing:

17 “(e) TREATMENT OF COUNTRIES WITH PER CAPITA
 18 INCOME CHANGES.—A country qualifying for candidate
 19 status under this section with a per capita income that
 20 changes during the fiscal year such that the country would
 21 be reclassified from a low income country to a lower mid-
 22 dle income country or from a lower middle income country
 23 to a low income country shall retain its candidacy status
 24 in its former income classification for such fiscal year and
 25 the two subsequent fiscal years.”.

1 **SEC. 202. CARRYOVER AUTHORITY FOR PRIVATE SECTOR**
 2 **MEMBERS OF BOARD OF DIRECTORS.**

3 Section 604(e)(4)(B) of the Millennium Challenge
 4 Act of 2003 (22 U.S.C. 7703(e)(4)(B)) is amended to read
 5 as follows:

6 “(B) OTHER MEMBERS.—Each member of
 7 the Board described in paragraph (3)(B)—

8 “(i) shall be appointed for a term of
 9 3 years;

10 “(ii) may be reappointed for a term of
 11 an additional 2 years; and

12 “(iii) may continue to serve in each
 13 such appointment until the earlier of—

14 “(I) the date on which his or her
 15 successor is appointed; or

16 “(II) the date that is one year
 17 after the expiration of his or her ap-
 18 pointment or reappointment, as the
 19 case may be.”.

20 **SEC. 203. ADDITIONAL REPORTING TO THE BOARD ON THE**
 21 **TREATMENT OF CIVIL SOCIETY IN AN ELIGI-**
 22 **BLE COUNTRY.**

23 Section 607 of the Millennium Challenge Act of 2003
 24 (22 U.S.C. 7706) is amended—

25 (1) in subsection (b)(1)—

1 (A) in subparagraph (D), by striking
2 “and” at the end;

3 (B) in subparagraph (E), by adding “and”
4 at the end; and

5 (C) by adding at the end the following:

6 “(F) the quality of the civil society ena-
7 bling environment;”;

8 (2) by redesignating subsections (d) and (e) as
9 subsections (e) and (f), respectively; and

10 (3) by inserting after subsection (e) the fol-
11 lowing:

12 “(d) REPORTING ON TREATMENT OF CIVIL SOCI-
13 ETY.—Before the Board selects an eligible country for a
14 Compact under subsection (e), the Corporation shall pro-
15 vide information to the Board regarding the country’s
16 treatment of civil society, including classified information,
17 as appropriate. The information shall include an assess-
18 ment and analysis of factors, including—

19 “(1) any relevant laws governing the formation
20 or establishment of a civil society organization, par-
21 ticularly laws intended to curb the activities of for-
22 eign civil society organizations;

23 “(2) any relevant laws governing the operations
24 of a civil society organization, particularly those laws

1 seeking to define or otherwise regulate the actions of
2 foreign civil society organizations;

3 “(3) laws relating to the legal status of civil so-
4 ciety organizations, including laws which effectively
5 discriminate against foreign civil society organiza-
6 tions as compared to similarly situated domestic or-
7 ganizations;

8 “(4) laws regulating the freedom of expression
9 and peaceful assembly; and

10 “(5) laws regulating the usage of the Internet,
11 particularly by foreign civil society organizations.”.

12 **SEC. 204. CONCURRENT COMPACTS UNDER THE MILLEN-**
13 **NIUM CHALLENGE ACT OF 2003.**

14 (a) **IN GENERAL.**—Section 609 of the Millennium
15 Challenge Act of 2003 (22 U.S.C. 7708) is amended—

16 (1) in subsection (k), by striking the first sen-
17 tence;

18 (2) by redesignating subsection (k) as sub-
19 section (l); and

20 (3) by inserting after subsection (j) the fol-
21 lowing:

22 “(k) **CONCURRENT COMPACTS.**—An eligible country
23 that has entered into and has in effect a Compact under
24 this section may enter into and have in effect at the same

1 time not more than one additional Compact in accordance
 2 with the requirements under this title if—

3 “(1) one or both of the Compacts are or will be
 4 for purposes of regional economic integration, in-
 5 creased regional trade, or cross-border collabora-
 6 tions; and

7 “(2) the Board determines that the country is
 8 making considerable and demonstrable progress in
 9 implementing the terms of the existing Compact and
 10 supplementary agreements thereto.”.

11 (b) CONFORMING AMENDMENT.—Section
 12 ~~613(b)(2)(A)~~ of such Act (~~22 U.S.C. 7712(b)(2)(A)~~) is
 13 amended by striking “the” before “Compact” and insert-
 14 ing “any”.

15 (c) APPLICABILITY.—The amendments made by this
 16 section shall apply with respect to Compacts entered into
 17 between the United States and an eligible country under
 18 the Millennium Challenge Act of 2003 before, on, or after
 19 the date of the enactment of this Act.

20 **SEC. 205. PUBLIC NOTIFICATION OF ENTERING INTO A**
 21 **COMPACT.**

22 Section 610 of the Millennium Challenge Act of 2003
 23 (~~22 U.S.C. 7709~~) is amended to read as follows:

1 **“SEC. 610. CONGRESSIONAL AND PUBLIC NOTIFICATION.**

2 **“(a) CONGRESSIONAL CONSULTATIONS AND NOTIFI-**
3 **CATIONS.—**

4 **“(1) IN GENERAL.—**The Board, acting through
5 the Chief Executive Officer, shall consult with and
6 notify the appropriate congressional committees not
7 later than 15 days before taking any of the actions
8 described in paragraph (2).

9 **“(2) ACTIONS DESCRIBED.—**The actions de-
10 scribed in this paragraph are—

11 **“(A) providing assistance for an eligible**
12 **country under section 609(g);**

13 **“(B) commencing negotiations with an eli-**
14 **gible country to provide assistance for—**

15 **“(i) a Compact under section 605; or**

16 **“(ii) an agreement under section 616;**

17 **“(C) signing such a Compact or agree-**
18 **ment; and**

19 **“(D) terminating assistance under such a**
20 **Compact or agreement.**

21 **“(3) ECONOMIC JUSTIFICATION.—**Any notifica-
22 tion relating to the intent to negotiate or sign a
23 Compact shall include a report describing the pro-
24 jected economic justification for the Compact, in-
25 cluding, as applicable—

1 “(A) the expected economic rate of return
2 of the Compact;

3 “(B) a cost-benefit analysis of the Com-
4 pact;

5 “(C) a description of the impact on bene-
6 ficiary populations;

7 “(D) the likelihood that the investment will
8 catalyze private sector investments; and

9 “(E) any other applicable economic factors
10 that justify each project to be funded under
11 such a Compact to the extent practicable and
12 appropriate.

13 “(4) RISK MANAGEMENT PLAN.—Not later than
14 60 days before signing each concurrent Compact, as
15 authorized under section 609, the Board, acting
16 through the Chief Executive Officer, shall consult
17 with and provide to the appropriate congressional
18 committees—

19 “(A) an assessment and, as appropriate,
20 the identification of potential measures to miti-
21 gate risks, of—

22 “(i) the countries’ commitment to re-
23 gional integration and cross-border co-
24 operation and capacity to carry out com-
25 mitments;

1 “(ii) political and policy risks, includ-
2 ing risks that could affect country eligi-
3 bility;

4 “(iii) risks associated with realizing
5 economic returns;

6 “(iv) time and completion risks; and

7 “(v) cost and financial risks; and

8 “(B) an assessment of measures to be
9 taken to mitigate any identified risks, includ-
10 ing—

11 “(i) securing other potential donors to
12 finance projects or parts of projects as
13 needed; and

14 “(ii) partnering with regional organi-
15 zations to support and oversee effective
16 cross-border cooperation.

17 “(b) CONGRESSIONAL AND PUBLIC NOTIFICATION
18 AFTER ENTERING INTO A COMPACT.—Not later than 10
19 days after entering into a Compact with an eligible coun-
20 try, the Board, acting through the Chief Executive Officer,
21 shall—

22 “(1) publish the text of the Compact on the
23 Web Site of the Corporation;

1 “(2) provide the appropriate congressional com-
 2 mittees with a detailed summary of the Compact
 3 and, upon request, the text of the Compact; and

4 “(3) publish in the Federal Register a detailed
 5 summary of the Compact and a notice of availability
 6 of the text of the Compact on the Web Site of the
 7 Corporation.”.

8 **SEC. 206. DISCLOSURE.**

9 (a) **REQUIREMENT FOR TIMELY DISCLOSURE.**—Sec-
 10 tion 612(a) of the Millennium Challenge Act of 2003 (22
 11 U.S.C. 7711(a)) is amended—

12 (1) in the subsection heading, by inserting
 13 “TIMELY” before “DISCLOSURE”; and

14 (2) in the matter preceding paragraph (1)—

15 (A) by striking “The Corporation” and in-
 16 serting “Not later than 90 days after the last
 17 day of each fiscal quarter, the Corporation”;
 18 and

19 (B) by striking “on at least a quarterly
 20 basis,”.

21 (b) **DISSEMINATION.**—Section 612(b) of the Millen-
 22 nium Challenge Act of 2003 (22 U.S.C. 7711(b)) is
 23 amended to read as follows:

24 “(b) **DISSEMINATION.**—The Board, acting through
 25 the Chief Executive Officer, shall make the information

1 required to be disclosed under subsection (a) available to
2 the public—

3 “(1) by publishing it on the website of the Cor-
4 poration;

5 “(2) by providing notice of the availability of
6 such information in the Federal Register; and

7 “(3) by any other methods that the Board de-
8 termines to be appropriate.”.

9 **SEC. 207. RESTRICTION ON THE USE OF ASSISTANCE**
10 **UNDER SECTION 616.**

11 Section 616(d) of the Millennium Challenge Act of
12 2003 (22 U.S.C. 7715(d)) is amended to read as follows:

13 “(d) FUNDING.—

14 “(1) LIMITATION.—Not more than 10 percent
15 of the amounts made available to carry out this Act
16 for a fiscal year may be made available to carry out
17 this section.

18 “(2) RESTRICTION RELATING TO ASSIST-
19 ANCE.—None of the funds authorized to carry out
20 the purposes of this Act shall be available for assist-
21 ance under this section to a country that does not
22 qualify as a candidate country under section 606 for
23 the fiscal year during which such assistance is pro-
24 vided.”.

1 **SEC. 208. STUDY ON SUBNATIONAL COMPACTS.**

2 (a) **IN GENERAL.**—Not later than 180 days after the
3 date of the enactment of this Act, the Board of the Millen-
4 nium Challenge Corporation, acting through the Chief Ex-
5 ecutive Officer, shall submit a study to the appropriate
6 congressional committees that assesses the feasibility and
7 desirability of developing partnerships at the subnational
8 level within candidate countries that would be complemen-
9 tary to, and, as applicable, concurrent with, any Millen-
10 nium Challenge Corporation national-level or regional in-
11 vestments.

12 (b) **CONTENT.**—The study required under subsection

13 (a) shall examine—

14 (1) the extent to which targeting investments at
15 the subnational level might provide new opportuni-
16 ties for reducing poverty through economic growth;

17 (2) the extent to which traditional approaches
18 to defining poverty may not adequately capture the
19 nature of poverty within a country;

20 (3) the types of subnational entities that might
21 be appropriate partners for subnational Millennium
22 Challenge Corporation compacts;

23 (4) how candidates for subnational partners
24 might best be identified; and

1 (5) what role each national government should
2 play in creating or implementing a subnational part-
3 nership.

4 (e) ~~APPROPRIATE CONGRESSIONAL COMMITTEES.—~~

5 In this section, the term “appropriate congressional com-
6 mittees” means—

7 (1) the Committee on Foreign Relations of the
8 Senate;

9 (2) the Committee on Appropriations of the
10 Senate;

11 (3) the Committee on Foreign Affairs of the
12 House of Representatives; and

13 (4) the Committee on Appropriations of the
14 House of Representatives.

15 **SECTION 1. SHORT TITLE.**

16 *This Act may be cited as the African Growth and Op-*
17 *portunity Act and Millennium Challenge Act Moderniza-*
18 *tion Act or the “AGOA and MCA Modernization Act”.*

19 **SEC. 2. TABLE OF CONTENTS.**

20 *The table of contents for this Act is as follows:*

Sec. 1. Short title.

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1 ***TITLE I—ENHANCEMENT OF THE***
 2 ***AFRICAN GROWTH AND OP-***
 3 ***PORTUNITY ACT***

4 ***SEC. 101. STATEMENT OF POLICY.***

5 *It is the policy of the United States to support ef-*
 6 *forts—*

7 *(1) to improve the rule of law, promote free and*
 8 *fair elections, strengthen and expand the private sec-*
 9 *tor, and fight corruption in sub-Saharan Africa; and*

10 *(2) to promote the role of women in social, polit-*
 11 *ical, and economic development in sub-Saharan Afri-*
 12 *ca.*

13 ***SEC. 102. DEFINITIONS.***

14 *In this title:*

15 *(1) AGOA WEBSITE.—The term “AGOA website”*
 16 *means the website created by the President under sec-*
 17 *tion 103 to collect and disseminate information re-*
 18 *garding the African Growth and Opportunity Act (19*
 19 *U.S.C. 3701 et seq.).*

1 (2) *ELIGIBLE SUB-SAHARAN AFRICAN COUN-*
2 *TRY.*—*The term “eligible sub-Saharan African coun-*
3 *try” means a country that the President has deter-*
4 *mined meets the eligibility requirements set forth in*
5 *section 104 of the African Growth and Opportunity*
6 *Act (19 U.S.C. 3703).*

7 **SEC. 103. ACTIVITIES IN SUPPORT OF TRANSPARENCY.**

8 (a) *AGOA WEBSITE.*—

9 (1) *IN GENERAL.*—*The President shall establish*
10 *a publicly available Internet website for the collection*
11 *and dissemination of information regarding the Afri-*
12 *can Growth and Opportunity Act (title I of Public*
13 *Law 106–200).*

14 (2) *CONTENTS.*—*The President shall publish, on*
15 *the AGOA website, the information described in para-*
16 *graph (1), including—*

17 (A) *information and technical assistance*
18 *provided at United States Agency for Inter-*
19 *national Development regional trade hubs; and*

20 (B) *a link to the websites of United States*
21 *embassies located in eligible sub-Saharan Afri-*
22 *can countries.*

23 (3) *ACTIONS BY UNITED STATES EMBASSIES.*—

24 *The Secretary of State should direct United States*

1 embassies located in eligible sub-Saharan African
2 countries—

3 (A) to encourage such countries to use the
4 benefits available under the African Growth and
5 Opportunity Act (19 U.S.C. 3701 et seq.); and

6 (B) to include a link to the AGOA website
7 on the websites of such diplomatic missions.

8 (b) *AGOA FORUM.*—After each meeting of the United
9 States – Sub-Saharan Africa Trade and Economic Co-
10 operation Forum, the President should publish on the
11 AGOA website—

12 (1) the outcomes of the meeting of the Forum, in-
13 cluding any commitments made by member countries
14 and the private sector; and

15 (2) an assessment of progress made with respect
16 to any commitments made by member countries and
17 the private sector from the previous meeting of the
18 Forum.

19 (c) *OTHER INFORMATION.*—The President should—

20 (1) disseminate the information required under
21 this section to the public in a digital format; and

22 (2) publish such information on the AGOA
23 website.

1 **SEC. 104. ACTIVITIES IN SUPPORT OF TRADE CAPACITY**
2 **BUILDING.**

3 *The President should—*

4 *(1) develop and implement policies that—*

5 *(A) encourage and facilitate cross-boundary*
6 *cooperation among eligible sub-Saharan African*
7 *countries in order to facilitate trade; and*

8 *(B) encourage the provision of technical as-*
9 *sistance to eligible sub-Saharan African coun-*
10 *tries to establish and sustain adequate trade ca-*
11 *capacity development;*

12 *(2) provide specific training for businesses in eli-*
13 *gible sub-Saharan African countries and government*
14 *trade officials of such countries on accessing the bene-*
15 *fits under the African Growth and Opportunity Act*
16 *and other trade preference programs;*

17 *(3) provide capacity building for African entre-*
18 *preneurs and trade associations on production strate-*
19 *gies, quality standards, formation of cooperatives,*
20 *market research, and market development;*

21 *(4) provide capacity building training to pro-*
22 *mote diversification of African products and value-*
23 *added processing; and*

24 *(5) provide capacity building and technical as-*
25 *sistance funding for African businesses and institu-*
26 *tions to help such businesses and institutions comply*

1 with United States counter-terrorism initiatives and
2 policies.

3 **TITLE II—MODERNIZATION OF**
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8 *Millennium Challenge Act of 2003 (22 U.S.C. 7705(a))* is
9 amended—

10 (1) in paragraph (1)(B), by striking “(3)” and
11 inserting “(4)”;

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14 read as follows: “*FISCAL YEARS 2005 THROUGH*
15 *2012*”; and

16 (B) by striking “fiscal year 2005 or a subse-
17 quent fiscal year” and inserting “each of the fis-
18 cal years 2005 through 2012”;

19 (3) by redesignating paragraph (3) as para-
20 graph (4); and

21 (4) by inserting after paragraph (2) the fol-
22 lowing:

23 “(3) *FISCAL YEAR 2013 AND SUBSEQUENT FISCAL*
24 *YEARS.*—A country shall be a candidate country for

1 *purposes of eligibility for assistance for fiscal year*
2 *2013 or a subsequent fiscal year if the country—*

3 *“(A) has a per capita income not greater*
4 *than the lower middle income country threshold*
5 *established by the International Bank for Recon-*
6 *struction and Development for such fiscal year;*

7 *“(B) is among the 75 countries identified*
8 *by the International Bank for Reconstruction*
9 *and Development as having the lowest per capita*
10 *income; and*

11 *“(C) meets the requirements under para-*
12 *graph (1)(B).”.*

13 *(b) LOWER MIDDLE INCOME COUNTRIES.—Section*
14 *606(b) of the Millennium Challenge Act of 2003 (22 U.S.C.*
15 *7705(b)) is amended—*

16 *(1) in paragraph (1)—*

17 *(A) by amending the paragraph heading to*
18 *read as follows: “FISCAL YEARS 2006 THROUGH*
19 *2012”; and*

20 *(B) in the matter preceding subparagraph*
21 *(A), by striking “fiscal year 2006 or a subse-*
22 *quent fiscal year” and inserting “each of the fis-*
23 *cal years 2006 through 2012”;*

24 *(2) by redesignating paragraph (2) as para-*
25 *graph (3); and*

1 (3) *by inserting after paragraph (1) the fol-*
 2 *lowing:*

3 “(2) *FISCAL YEAR 2013 AND SUBSEQUENT FISCAL*
 4 *YEARS.—In addition to the countries described in*
 5 *subsection (a), a country shall be a candidate country*
 6 *for purposes of eligibility for assistance for fiscal year*
 7 *2013 or a subsequent fiscal year if the country—*

8 “(A) *has a per capita income not greater*
 9 *than the lower middle income country threshold*
 10 *established by the International Bank for Recon-*
 11 *struction and Development for the fiscal year;*

12 “(B) *is not among the 75 countries identi-*
 13 *fied by the International Bank for Reconstruc-*
 14 *tion and Development as having the lowest per*
 15 *capita income; and*

16 “(C) *meets the requirements under sub-*
 17 *section (a)(1)(B).”.*

18 (c) *RECLASSIFICATION.—Section 606 of the Millen-*
 19 *nium Challenge Act of 2003 (22 U.S.C. 7705) is amended—*

20 (1) *by redesignating subsection (c) as subsection*
 21 *(d); and*

22 (2) *by inserting after subsection (b) the fol-*
 23 *lowing:*

24 “(c) *TREATMENT OF COUNTRIES WITH PER CAPITA*
 25 *INCOME CHANGES.—A country qualifying for candidate*

1 *status under this section with a per capita income that*
 2 *changes during the fiscal year such that the country would*
 3 *be reclassified from a low income country to a lower middle*
 4 *income country or from a lower middle income country to*
 5 *a low income country shall retain its candidacy status in*
 6 *its former income classification for such fiscal year and the*
 7 *two subsequent fiscal years.”.*

8 **SEC. 202. CARRYOVER AUTHORITY FOR PRIVATE SECTOR**
 9 **MEMBERS OF BOARD OF DIRECTORS.**

10 *Section 604(c)(4)(B) of the Millennium Challenge Act*
 11 *of 2003 (22 U.S.C. 7703(c)(4)(B)) is amended to read as*
 12 *follows:*

13 *“(B) OTHER MEMBERS.—Each member of*
 14 *the Board described in paragraph (3)(B)—*

15 *“(i) shall be appointed for a term of 3*
 16 *years;*

17 *“(ii) may be reappointed for a term of*
 18 *an additional 2 years; and*

19 *“(iii) may continue to serve in each*
 20 *such appointment until the earlier of—*

21 *“(I) the date on which his or her*
 22 *successor is appointed; or*

23 *“(II) the date that is one year*
 24 *after the expiration of his or her ap-*

1 *pointment or reappointment, as the*
 2 *case may be.”.*

3 **SEC. 203. ADDITIONAL REPORTING TO THE BOARD ON THE**
 4 **TREATMENT OF CIVIL SOCIETY IN AN ELIGI-**
 5 **BLE COUNTRY.**

6 *Section 607 of the Millennium Challenge Act of 2003*
 7 *(22 U.S.C. 7706) is amended—*

8 *(1) in subsection (b)(1)—*

9 *(A) in subparagraph (D), by striking “and”*
 10 *at the end;*

11 *(B) in subparagraph (E), by adding “and”*
 12 *at the end; and*

13 *(C) by adding at the end the following:*

14 *“(F) the quality of the civil society enabling*
 15 *environment;”;*

16 *(2) by redesignating subsections (d) and (e) as*
 17 *subsections (e) and (f), respectively; and*

18 *(3) by inserting after subsection (c) the fol-*
 19 *lowing:*

20 *“(d) REPORTING ON TREATMENT OF CIVIL SOCIETY.—*

21 *For the 7-year period beginning on the date of the enact-*
 22 *ment of this subsection, before the Board selects an eligible*
 23 *country for a Compact under subsection (c), the Corpora-*
 24 *tion shall provide information to the Board regarding the*
 25 *country’s treatment of civil society, including classified in-*

1 formation, as appropriate. The information shall include
 2 an assessment and analysis of factors, including—

3 “(1) any relevant laws governing the formation
 4 or establishment of a civil society organization, par-
 5 ticularly laws intended to curb the activities of for-
 6 eign civil society organizations;

7 “(2) any relevant laws governing the operations
 8 of a civil society organization, particularly those laws
 9 seeking to define or otherwise regulate the actions of
 10 foreign civil society organizations;

11 “(3) laws relating to the legal status of civil soci-
 12 ety organizations, including laws which effectively
 13 discriminate against foreign civil society organiza-
 14 tions as compared to similarly situated domestic or-
 15 ganizations;

16 “(4) laws regulating the freedom of expression
 17 and peaceful assembly; and

18 “(5) laws regulating the usage of the Internet,
 19 particularly by foreign civil society organizations.”.

20 **SEC. 204. CONCURRENT COMPACTS UNDER THE MILLEN-**
 21 **NIUM CHALLENGE ACT OF 2003.**

22 (a) *IN GENERAL.*—Section 609 of the Millennium
 23 Challenge Act of 2003 (22 U.S.C. 7708) is amended—

24 (1) in subsection (k), by striking the first sen-
 25 tence;

1 (2) by redesignating subsection (k) as subsection
2 (l); and

3 (3) by inserting after subsection (j) the following:

4 “(k) *CONCURRENT COMPACTS*.—An eligible country
5 that has entered into and has in effect a Compact under
6 this section may enter into and have in effect at the same
7 time not more than one additional Compact in accordance
8 with the requirements under this title if—

9 “(1) one or both of the Compacts are or will be
10 for purposes of regional economic integration, in-
11 creased regional trade, or cross-border collaborations;
12 and

13 “(2) the Board determines that the country is
14 making considerable and demonstrable progress in
15 implementing the terms of the existing Compact and
16 supplementary agreements thereto.”.

17 (b) *CONFORMING AMENDMENT*.—Section 613(b)(2)(A)
18 of such Act (22 U.S.C. 7712(b)(2)(A)) is amended by strik-
19 ing “the” before “Compact” and inserting “any”.

20 (c) *APPLICABILITY*.—The amendments made by this
21 section shall apply with respect to Compacts entered into
22 between the United States and an eligible country under
23 the Millennium Challenge Act of 2003 before, on, or after
24 the date of the enactment of this Act.

1 **SEC. 205. ELIGIBILITY DETERMINATIONS FOR SUBSEQUENT**
 2 **COMPACTS.**

3 *Section 607(a) of the Millennium Challenge Act of*
 4 *2003 (22 U.S.C. 7706(a)) is amended by adding at the end*
 5 *the following: “A determination whether a country is eligi-*
 6 *ble for a subsequent, non-concurrent Millennium Challenge*
 7 *Compact shall also be based, to the extent practicable, on*
 8 *significantly improved performance across eligibility cri-*
 9 *teria in subsection (b) that, at a minimum, are relevant*
 10 *to the preceding Compact, compared to the country’s per-*
 11 *formance against such eligibility criteria when selected for*
 12 *the preceding Compact.”.*

13 **SEC. 206. PUBLIC NOTIFICATION OF ENTERING INTO A**
 14 **COMPACT.**

15 *Section 610 of the Millennium Challenge Act of 2003*
 16 *(22 U.S.C. 7709) is amended to read as follows:*

17 **“SEC. 610. CONGRESSIONAL AND PUBLIC NOTIFICATION.**

18 *“(a) CONGRESSIONAL CONSULTATIONS AND NOTIFICA-*
 19 *TIONS.—*

20 *“(1) IN GENERAL.—The Board, acting through*
 21 *the Chief Executive Officer, shall consult with and no-*
 22 *tify the appropriate congressional committees not*
 23 *later than 15 days before taking any of the actions*
 24 *described in paragraph (2).*

25 *“(2) ACTIONS DESCRIBED.—The actions de-*
 26 *scribed in this paragraph are—*

1 “(A) providing assistance for an eligible
2 country under section 609(g);

3 “(B) commencing negotiations with an eli-
4 gible country to provide assistance for—

5 “(i) a Compact under section 605; or

6 “(ii) an agreement under section 616;

7 “(C) signing such a Compact or agreement;

8 and

9 “(D) terminating assistance under such a
10 Compact or agreement.

11 “(3) *ECONOMIC JUSTIFICATION.*—Any notifica-
12 tion relating to the intent to negotiate or sign a Com-
13 pact shall include a report describing the projected
14 economic justification for the Compact, including, as
15 applicable—

16 “(A) the expected economic rate of return of
17 the Compact;

18 “(B) a cost-benefit analysis of the Compact;

19 “(C) a description of the impact on bene-
20 ficiary populations;

21 “(D) the likelihood that the investment will
22 catalyze private sector investments; and

23 “(E) any other applicable economic factors
24 that justify each project to be funded under such

1 *a Compact to the extent practicable and appro-*
2 *priate.*

3 “(4) *RISK MANAGEMENT PLAN.*—*Not later than*
4 *60 days before signing each concurrent Compact, as*
5 *authorized under section 609, the Board, acting*
6 *through the Chief Executive Officer, shall consult with*
7 *and provide to the appropriate congressional commit-*
8 *tees—*

9 “(A) *an assessment and, as appropriate, the*
10 *identification of potential measures to mitigate*
11 *risks, of—*

12 “(i) *the countries’ commitment to re-*
13 *gional integration and cross-border coopera-*
14 *tion and capacity to carry out commit-*
15 *ments;*

16 “(ii) *political and policy risks, includ-*
17 *ing risks that could affect country eligi-*
18 *bility;*

19 “(iii) *risks associated with realizing*
20 *economic returns;*

21 “(iv) *time and completion risks; and*

22 “(v) *cost and financial risks; and*

23 “(B) *an assessment of measures to be taken*
24 *to mitigate any identified risks, including—*

1 “(i) securing other potential donors to
2 finance projects or parts of projects as need-
3 ed; and

4 “(ii) partnering with regional organi-
5 zations to support and oversee effective
6 cross-border cooperation.

7 “(b) CONGRESSIONAL AND PUBLIC NOTIFICATION
8 AFTER ENTERING INTO A COMPACT.—Not later than 10
9 days after entering into a Compact with an eligible coun-
10 try, the Board, acting through the Chief Executive Officer,
11 shall—

12 “(1) publish the text of the Compact on the Web
13 Site of the Corporation;

14 “(2) provide the appropriate congressional com-
15 mittees with a detailed summary of the Compact and,
16 upon request, the text of the Compact; and

17 “(3) publish in the Federal Register a detailed
18 summary of the Compact and a notice of availability
19 of the text of the Compact on the Web Site of the Cor-
20 poration.”.

21 **SEC. 207. DISCLOSURE.**

22 (a) REQUIREMENT FOR TIMELY DISCLOSURE.—Sec-
23 tion 612(a) of the Millennium Challenge Act of 2003 (22
24 U.S.C. 7711(a)) is amended—

1 (1) *in the subsection heading, by inserting*
 2 “*TIMELY*” before “*DISCLOSURE*”; and

3 (2) *in the matter preceding paragraph (1)—*

4 (A) *by striking “The Corporation” and in-*
 5 *serting “Not later than 90 days after the last*
 6 *day of each fiscal quarter, the Corporation”; and*

7 (B) *by striking “on at least a quarterly*
 8 *basis,”.*

9 (b) *DISSEMINATION.—Section 612(b) of the Millen-*
 10 *nium Challenge Act of 2003 (22 U.S.C. 7711(b)) is amended*
 11 *to read as follows:*

12 “(b) *DISSEMINATION.—The Board, acting through the*
 13 *Chief Executive Officer, shall make the information re-*
 14 *quired to be disclosed under subsection (a) available to the*
 15 *public—*

16 “(1) *by publishing it on the website of the Cor-*
 17 *poration;*

18 “(2) *by providing notice of the availability of*
 19 *such information in the Federal Register; and*

20 “(3) *by any other methods that the Board deter-*
 21 *mines to be appropriate.”.*

22 **SEC. 208. RESTRICTION ON THE USE OF ASSISTANCE**
 23 **UNDER SECTION 616.**

24 Section 616(d) of the Millennium Challenge Act of
 25 2003 (22 U.S.C. 7715(d)) is amended to read as follows:

1 “(d) *FUNDING.*—

2 “(1) *LIMITATION.*—Not more than 10 percent of
3 the amounts made available to carry out this Act for
4 a fiscal year may be made available to carry out this
5 section.

6 “(2) *RESTRICTION RELATING TO ASSISTANCE.*—
7 None of the funds authorized to carry out the pur-
8 poses of this Act shall be available for assistance
9 under this section to a country that does not qualify
10 as a candidate country under section 606 for the fis-
11 cal year during which such assistance is provided.”.

12 **SEC. 209. STUDY ON SUBNATIONAL COMPACTS.**

13 (a) *IN GENERAL.*—Not later than 180 days after the
14 date of the enactment of this Act, the Board of the Millen-
15 nium Challenge Corporation, acting through the Chief Ex-
16 ecutive Officer, shall submit a study to the appropriate con-
17 gressional committees that assesses the feasibility and desir-
18 ability of developing partnerships at the subnational level
19 within candidate countries that would be complementary
20 to, and, as applicable, concurrent with, any Millennium
21 Challenge Corporation national-level or regional invest-
22 ments.

23 (b) *CONTENT.*—The study required under subsection
24 (a) shall examine—

1 (1) *the extent to which targeting investments at*
2 *the subnational level might provide new opportunities*
3 *for reducing poverty through economic growth;*

4 (2) *the extent to which traditional approaches to*
5 *defining poverty may not adequately capture the na-*
6 *ture of poverty within a country;*

7 (3) *the types of subnational entities that might*
8 *be appropriate partners for subnational Millennium*
9 *Challenge Corporation compacts;*

10 (4) *how candidates for subnational partners*
11 *might best be identified; and*

12 (5) *what role each national government should*
13 *play in creating or implementing a subnational part-*
14 *nership.*

15 (c) *APPROPRIATE CONGRESSIONAL COMMITTEES.—In*
16 *this section, the term “appropriate congressional commit-*
17 *tees” means—*

18 (1) *the Committee on Foreign Relations of the*
19 *Senate;*

20 (2) *the Committee on Appropriations of the Sen-*
21 *ate;*

22 (3) *the Committee on Foreign Affairs of the*
23 *House of Representatives; and*

24 (4) *the Committee on Appropriations of the*
25 *House of Representatives.*

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A BILL

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.

OCTOBER 17, 2017

Reported with an amendment