

115TH 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.

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## IN THE SENATE OF THE UNITED STATES

APRIL 5 (legislative day, APRIL 4), 2017

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

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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.

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

3 **SECTION 1. SHORT TITLE.**

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

1 **SEC. 2. TABLE OF CONTENTS.**

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

- Sec. 1. Short title.  
 Sec. 2. Table of contents.

TITLE I—ENHANCEMENT OF THE AFRICAN GROWTH AND  
 OPPORTUNITY ACT

- Sec. 101. Statement of policy.  
 Sec. 102. Definitions.  
 Sec. 103. Activities in support of transparency.  
 Sec. 104. Activities in support of trade capacity building.

TITLE II—MODERNIZATION OF THE MILLENNIUM CHALLENGE  
 CORPORATION

- Sec. 201. Candidacy status.  
 Sec. 202. Carryover authority for private sector members of board of directors.  
 Sec. 203. Additional reporting to the board on the treatment of civil society in  
 an eligible country.  
 Sec. 204. Concurrent compacts under the Millennium Challenge Act of 2003.  
 Sec. 205. Public notification of entering into a compact.  
 Sec. 206. Disclosure.  
 Sec. 207. Restriction on the use of assistance under section 616.  
 Sec. 208. Study on subnational compacts.

3 **TITLE I—ENHANCEMENT OF THE**  
 4 **AFRICAN GROWTH AND OP-**  
 5 **PORTUNITY ACT**

6 **SEC. 101. STATEMENT OF POLICY.**

7 It is the policy of the United States to support ef-  
 8 forts—

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

12 (2) to promote the role of women in social, po-  
 13 litical, and economic development in sub-Saharan  
 14 Africa.

1 **SEC. 102. DEFINITIONS.**

2 In this title:

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

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

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

15 (a) **AGOA WEBSITE.**—

16 (1) **IN GENERAL.**—The President shall establish  
17 a publicly available Internet website for the collec-  
18 tion and dissemination of information regarding the  
19 African Growth and Opportunity Act (title I of Pub-  
20 lic Law 106–200).

21 (2) **CONTENTS.**—The President shall publish,  
22 on the AGOA website, the information described in  
23 paragraph (1), including—

24 (A) information and technical assistance  
25 provided at United States Agency for Inter-  
26 national Development regional trade hubs; and

1           (B) a link to the websites of United States  
2           embassies located in eligible sub-Saharan Afri-  
3           can countries.

4           (3) ACTIONS BY UNITED STATES EMBASSIES.—

5           The Secretary of State should direct United States  
6           embassies located in eligible sub-Saharan African  
7           countries—

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

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

13          (b) AGOA FORUM.—After each meeting of the  
14          United States—Sub-Saharan Africa Trade and Economic  
15          Cooperation Forum, the President should publish on the  
16          AGOA website—

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

20                  (2) an assessment of progress made with re-  
21                  spect to any commitments made by member coun-  
22                  tries and the private sector from the previous meet-  
23                  ing of the Forum.

24          (c) OTHER INFORMATION.—The President should—

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

3           (2) publish such information on the AGOA  
4 website.

5 **SEC. 104. ACTIVITIES IN SUPPORT OF TRADE CAPACITY**  
6 **BUILDING.**

7 The President should—

8           (1) develop and implement policies that—

9                 (A) encourage and facilitate cross-bound-  
10 ary cooperation among eligible sub-Saharan Af-  
11 rican countries in order to facilitate trade; and

12                 (B) encourage the provision of technical  
13 assistance to eligible sub-Saharan African coun-  
14 tries to establish and sustain adequate trade ca-  
15 pacity development;

16           (2) provide specific training for businesses in el-  
17 igible sub-Saharan African countries and govern-  
18 ment trade officials of such countries on accessing  
19 the benefits under the African Growth and Oppor-  
20 tunity Act and other trade preference programs;

21           (3) provide capacity building for African entre-  
22 preneurs and trade associations on production strat-  
23 egies, quality standards, formation of cooperatives,  
24 market research, and market development;

1           (4) provide capacity building training to pro-  
2           mote diversification of African products and value-  
3           added processing; and

4           (5) provide capacity building and technical as-  
5           sistance funding for African businesses and institu-  
6           tions to help such businesses and institutions comply  
7           with United States counter-terrorism initiatives and  
8           policies.

9   **TITLE II—MODERNIZATION OF**  
10   **THE MILLENNIUM CHAL-**  
11   **LENGE CORPORATION**

12   **SEC. 201. CANDIDACY STATUS.**

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

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

18           (2) in paragraph (2)—

19                   (A) by amending the paragraph heading to  
20                   read as follows: “**FISCAL YEARS 2005 THROUGH**  
21                   **2012**”; and

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

1           (3) by redesignating paragraph (3) as para-  
2           graph (4); and

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

5           “(3) FISCAL YEAR 2013 AND SUBSEQUENT FIS-  
6           CAL YEARS.—A country shall be a candidate country  
7           for purposes of eligibility for assistance for fiscal  
8           year 2013 or a subsequent fiscal year if the coun-  
9           try—

10                   “(A) has a per capita income not greater  
11                   than the lower middle income country threshold  
12                   established by the International Bank for Re-  
13                   construction and Development for such fiscal  
14                   year;

15                   “(B) is among the 75 countries identified  
16                   by the International Bank for Reconstruction  
17                   and Development as having the lowest per cap-  
18                   ita income; and

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

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

24                   (1) in paragraph (1)—

1 (A) by amending the paragraph heading to  
2 read as follows: “FISCAL YEARS 2006 THROUGH  
3 2012”; and

4 (B) in the matter preceding subparagraph  
5 (A), by striking “fiscal year 2006 or a subse-  
6 quent fiscal year” and inserting “each of the  
7 fiscal years 2006 through 2012”;

8 (2) by redesignating paragraph (2) as para-  
9 graph (3); and

10 (3) by inserting after paragraph (1) the fol-  
11 lowing:

12 “(2) FISCAL YEAR 2013 AND SUBSEQUENT FIS-  
13 CAL YEARS.—In addition to the countries described  
14 in subsection (a), a country shall be a candidate  
15 country for purposes of eligibility for assistance for  
16 fiscal year 2013 or a subsequent fiscal year if the  
17 country—

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

23 “(B) is not among the 75 countries identi-  
24 fied by the International Bank for Reconstruc-



1           tion and Development as having the lowest per  
2           capita income; and

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

5           (c) RECLASSIFICATION.—Section 606 of the Millen-  
6           nium Challenge Act of 2003 (22 U.S.C. 7705) is amend-  
7           ed—

8                   (1) by redesignating subsection (c) as sub-  
9           section (d); and

10                   (2) by inserting after subsection (b) the fol-  
11           lowing:

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

21           **SEC. 202. CARRYOVER AUTHORITY FOR PRIVATE SECTOR**

22                           **MEMBERS OF BOARD OF DIRECTORS.**

23           Section 604(c)(4)(B) of the Millennium Challenge  
24           Act of 2003 (22 U.S.C. 7703(c)(4)(B)) is amended to read  
25           as follows:

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

3           “(i) shall be appointed for a term of  
4 3 years;

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

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

9           “(I) the date on which his or her  
10 successor is appointed; or

11           “(II) the date that is one year  
12 after the expiration of his or her ap-  
13 pointment or reappointment, as the  
14 case may be.”.

15 **SEC. 203. ADDITIONAL REPORTING TO THE BOARD ON THE**  
16 **TREATMENT OF CIVIL SOCIETY IN AN ELIGI-**  
17 **BLE COUNTRY.**

18           Section 607 of the Millennium Challenge Act of 2003  
19 (22 U.S.C. 7706) is amended—

20           (1) in subsection (b)(1)—

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

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

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

1           “(F) the quality of the civil society ena-  
2           bling environment;”;

3           (2) by redesignating subsections (d) and (e) as  
4           subsection (e) and (f), respectively; and

5           (3) by inserting after subsection (c) the fol-  
6           lowing:

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

14                 “(1) any relevant laws governing the formation  
15                 or establishment of a civil society organization, par-  
16                 ticularly laws intended to curb the activities of for-  
17                 eign civil society organizations;

18                 “(2) any relevant laws governing the operations  
19                 of a civil society organization, particularly those laws  
20                 seeking to define or otherwise regulate the actions of  
21                 foreign civil society organizations;

22                 “(3) laws relating to the legal status of civil so-  
23                 ciety organizations, including laws which effectively  
24                 discriminate against foreign civil society organiza-

1 tions as compared to similarly situated domestic or-  
2 ganizations;

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

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

7 **SEC. 204. CONCURRENT COMPACTS UNDER THE MILLEN-**  
8 **NIUM CHALLENGE ACT OF 2003.**

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

11 (1) in subsection (k), by striking the first sen-  
12 tence;

13 (2) by redesignating subsection (k) as sub-  
14 section (l); and

15 (3) by inserting after subsection (j) the fol-  
16 lowing:

17 “(k) CONCURRENT COMPACTS.—An eligible country  
18 that has entered into and has in effect a Compact under  
19 this section may enter into and have in effect at the same  
20 time not more than one additional Compact in accordance  
21 with the requirements under this title if—

22 “(1) one or both of the Compacts are or will be  
23 for purposes of regional economic integration, in-  
24 creased regional trade, or cross-border collabora-  
25 tions; and



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

3           “(A) providing assistance for an eligible  
4       country under section 609(g);

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

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

8           “(ii) an agreement under section 616;

9           “(C) signing such a Compact or agree-  
10      ment; and

11          “(D) terminating assistance under such a  
12      Compact or agreement.

13          “(3) ECONOMIC JUSTIFICATION.—Any notifica-  
14      tion relating to the intent to negotiate or sign a  
15      Compact shall include a report describing the pro-  
16      jected economic justification for the Compact, in-  
17      cluding, as applicable—

18          “(A) the expected economic rate of return  
19      of the Compact;

20          “(B) a cost-benefit analysis of the Com-  
21      pact;

22          “(C) a description of the impact on bene-  
23      ficiary populations;

24          “(D) the likelihood that the investment will  
25      catalyze private sector investments; and

1           “(E) any other applicable economic factors  
2           that justify each project to be funded under  
3           such a Compact to the extent practicable and  
4           appropriate.

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

11           “(A) an assessment and, as appropriate,  
12          the identification of potential measures to miti-  
13          gate risks, of—

14           “(i) the countries’ commitment to re-  
15          gional integration and cross-border co-  
16          operation and capacity to carry out com-  
17          mitments;

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

21           “(iii) risks associated with realizing  
22          economic returns;

23           “(iv) time and completion risks; and

24           “(v) cost and financial risks; and

1           “(B) an assessment of measures to be  
2           taken to mitigate any identified risks, includ-  
3           ing—

4                   “(i) securing other potential donors to  
5                   finance projects or parts of projects as  
6                   needed; and

7                   “(ii) partnering with regional organi-  
8                   zations to support and oversee effective  
9                   cross-border cooperation.

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

15                   “(1) publish the text of the Compact on the  
16                   Web Site of the Corporation;

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

20                   “(3) publish in the Federal Register a detailed  
21                   summary of the Compact and a notice of availability  
22                   of the text of the Compact on the Web Site of the  
23                   Corporation.”.



1 **SEC. 206. DISCLOSURE.**

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

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

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

8 (A) by striking “The Corporation” and in-  
9 serting “Not later than 90 days after the last  
10 day of each fiscal quarter, the Corporation”;  
11 and

12 (B) by striking “on at least a quarterly  
13 basis,”.

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

17 “(b) DISSEMINATION.—The Board, acting through  
18 the Chief Executive Officer, shall make the information  
19 required to be disclosed under subsection (a) available to  
20 the public—

21 “(1) by publishing it on the website of the Cor-  
22 poration;

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

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

1 **SEC. 207. RESTRICTION ON THE USE OF ASSISTANCE**  
2 **UNDER SECTION 616.**

3 Section 616(d) of the Millennium Challenge Act of  
4 2003 (22 U.S.C. 7715(d)) is amended to read as follows:

5 “(d) FUNDING.—

6 “(1) LIMITATION.—Not more than 10 percent  
7 of the amounts made available to carry out this Act  
8 for a fiscal year may be made available to carry out  
9 this section.

10 “(2) RESTRICTION RELATING TO ASSIST-  
11 ANCE.—None of the funds authorized to carry out  
12 the purposes of this Act shall be available for assist-  
13 ance under this section to a country that does not  
14 qualify as a candidate country under section 606 for  
15 the fiscal year during which such assistance is pro-  
16 vided.”.

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

18 (a) IN GENERAL.—Not later than 180 days after the  
19 date of the enactment of this Act, the Board of the Millen-  
20 nium Challenge Corporation, acting through the Chief Ex-  
21 ecutive Officer, shall submit a study to the appropriate  
22 congressional committees that assesses the feasibility and  
23 desirability of developing partnerships at the subnational  
24 level within candidate countries that would be complemen-  
25 tary to, and, as applicable, concurrent with, any Millen-

1 nium Challenge Corporation national-level or regional in-  
2 vestments.

3 (b) CONTENT.—The study required under subsection  
4 (a) shall examine—

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

8 (2) the extent to which traditional approaches  
9 to defining poverty may not adequately capture the  
10 nature of poverty within a country;

11 (3) the types of subnational entities that might  
12 be appropriate partners for subnational Millennium  
13 Challenge Corporation compacts;

14 (4) how candidates for subnational partners  
15 might best be identified; and

16 (5) what role each national government should  
17 play in creating or implementing a subnational part-  
18 nership.

19 (c) APPROPRIATE CONGRESSIONAL COMMITTEES.—  
20 In this section, the term “appropriate congressional com-  
21 mittees” means—

22 (1) the Committee on Foreign Relations of the  
23 Senate;

24 (2) the Committee on Appropriations of the  
25 Senate;

1           (3) the Committee on Foreign Affairs of the  
2           House of Representatives; and

3           (4) the Committee on Appropriations of the  
4           House of Representatives.

○