

Effective Date of Kaiser's Plan of Reorganization.

(b) "Effective Date" means July 6, 2006, which is also the effective date of Kaiser's Plan of Reorganization.

(c) "Hourly Board" means the Board of Trustees of the Hourly VEBA.

(d) "Hourly Independent Fiduciary Agreement" means the agreement between the Hourly Independent Fiduciary and the Hourly Board.

(e) "Hourly Settlement Agreement" means the modified collective bargaining agreements with various unions in the form of an agreement under sections 1113 and 1114 of the United States Bankruptcy Code (the Bankruptcy Code) between the USW and Kaiser.

(f) "Hourly Trust" means the trust established under the Trust Agreement between the Hourly Board and the Hourly Trustee, effective June 1, 2004.

(g) "Hourly VEBA" means "The VEBA For Retirees of Kaiser Aluminum" and its associated voluntary employees' beneficiary association trust.

(h) "Independent Fiduciary" means the Independent Fiduciary for the Hourly VEBA (or the Hourly Independent Fiduciary) and the Independent Fiduciary for the Salaried VEBA (or the Salaried Independent Fiduciary). Such Independent Fiduciary is (1) independent of and unrelated to Kaiser or its affiliates; and (2) appointed to act on behalf of the VEBAs with respect to the acquisition, holding, management, and disposition of the Shares. In this regard, the fiduciary will not be deemed to be independent of and unrelated to Kaiser if: (1) Such fiduciary directly or indirectly controls, is controlled by or is under common control with Kaiser; (2) such fiduciary directly or indirectly receives any compensation or other consideration in connection with any transaction described in this proposed exemption; except that the Independent Fiduciary may receive compensation for acting as an Independent Fiduciary from Kaiser in connection with the transactions described herein if the amount or payment of such compensation is not contingent upon or in any way affected by the Independent Fiduciary's ultimate decision, and (3) the annual gross revenue received by the Independent Fiduciary, during any year of its engagement, from Kaiser exceeds one percent (1%) of the Independent Fiduciary's annual gross revenue from all sources (for Federal income tax purposes) for its prior tax year. Finally, the Hourly VEBA's Independent Fiduciary is Independent Fiduciary Services, Inc. (IFS), which has been

appointed by the Hourly Board; and the Salaried VEBA's Independent Fiduciary is Fiduciary Counselors Inc. (FCI), which has been appointed by the Salaried Board.

(i) "Independent Fiduciary Agreements" means the Hourly Independent Fiduciary Agreement and the Salaried Independent Fiduciary Agreement.

(j) "Kaiser" means Kaiser Aluminum Corporation and its wholly owned subsidiaries.

(k) "Registration Rights Agreement" refers to the Registration Rights Agreement between Kaiser, National City Bank, and the Pension Benefit Guaranty Corporation, acknowledged by the Hourly Independent Fiduciary with respect to management of the Stock held by the Hourly Trust.

(l) "Salaried Board" means the Board of Trustees of the Kaiser Aluminum Salaried Retirees VEBA.

(m) "Salaried Independent Fiduciary Agreement" means the agreement between the Salaried Independent Fiduciary and the Salaried Board.

(n) "Salaried Settlement Agreement" means the settlement, in the form of an agreement under section 1114 of the Bankruptcy Code, between Kaiser and a committee of five former executives of Kaiser appointed pursuant to section 1114 of the Bankruptcy Code as authorized representatives of current and future salaried retirees.

(o) "Salaried Trust" means the trust established under the Trust Agreement between the Salaried Board and the Salaried Trustee, effective May 31, 2004.

(p) "Salaried VEBA" means the Kaiser Aluminum Salaried Retirees VEBA and its associated voluntary employees' beneficiary association trust.

(q) "Shares" or "Stock" refers to shares of common stock of reorganized Kaiser, par value \$.01 per share.

(r) "Stock Transfer Restriction Agreement" means the agreement between Kaiser, National City Bank, and the PBGC, acknowledged by the Hourly Independent Fiduciary with respect to management of the Kaiser's Stock held by the Hourly Trust.

(s) "Trusts" means the Salaried Trust and the Hourly Trust.

(t) "USW" means the United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers International Union.

(u) "VEBA" means a voluntary employees' beneficiary association.

(v) "VEBAs" refers to the Hourly VEBA and Salaried VEBA.

The availability of this exemption is subject to the express condition that the material facts and representations

contained in the application for exemption are true and complete and accurately describe all material terms of the transactions. In the case of continuing transactions, if any of the material facts or representations described in the applications change, the exemption will cease to apply as of the date of such change. In the event of any such change, an application for a new exemption must be made to the Department.

**Ivan L. Strasfeld,**

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Employee Benefits Security Administration,  
U.S. Department of Labor.*

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## **MILLENNIUM CHALLENGE CORPORATION**

[MCC FR 06-16]

### **Report on Countries That Are Candidates for Millennium Challenge Account Eligibility in Fiscal Year 2007 and Countries That Would Be Candidates but for Legal Prohibitions—Update**

**AGENCY:** Millennium Challenge Corporation.

**ACTION:** Notice.

**SUMMARY:** MCC is providing an update to the report originally submitted on August 11, 2006 to reflect a change in the statutory eligibility status of candidate countries.

### **Report on Countries That Are Candidates for Millennium Challenge Account Eligibility for Fiscal Year 2007 and Countries That Would Be Candidates but for Legal Prohibitions—Update**

MCC is providing an update to the report originally submitted on August 11, 2006 to reflect a change in the statutory eligibility status of candidate countries. This report to Congress is provided in accordance with section 608(a) of the Millennium Challenge Act of 2003, 22 U.S.C. 7701, 7707(a) ("Act").

The Act authorizes the provision of Millennium Challenge Account ("MCA") assistance to countries that enter into compacts with the United States to support policies and programs that advance the progress of such countries toward achieving lasting economic growth and poverty reduction. The Act requires the Millennium Challenge Corporation ("MCC") to take a number of steps in determining the countries that will be eligible for MCA assistance for fiscal

year (FY) 2007, based on their demonstrated commitment to just and democratic governance, economic freedom and investing in their people and the opportunity to reduce poverty and generate economic growth in the country. These steps include the submission of reports to the congressional committees specified in the Act and the publication of notices in the **Federal Register** that identify:

1. The countries that are "candidate countries" for MCA assistance for FY 2007 based on their per capita income levels and their eligibility to receive assistance under U.S. law and countries that would be candidate countries but for specified legal prohibitions on assistance (section 608(a) of the Act);

2. The criteria and methodology that the MCC Board of Directors ("Board") will use to measure and evaluate the relative policy performance of the "candidate countries" consistent with the requirements of subsections (a) and (b) of section 607 of the Act in order to select "MCA eligible countries" from among the "candidate countries" (section 608(b) of the Act); and

3. The list of countries determined by the Board to be "MCA eligible countries" for FY 2007, with a justification for such eligibility determination and selection for compact negotiation, including which of the MCA eligible countries the Board will seek to enter into MCA Compacts (section 608(d) of the Act).

This report is the first of three required reports listed above.

#### **Candidate Countries for FY 2007**

The Act requires the identification of all countries that are candidates for MCA assistance for FY 2007 and the identification of all countries that would be candidate countries but for specified legal prohibitions on assistance. Sections 606(a) and (b) of the Act provide that for FY 2007 a country shall be a candidate for the MCA if it:

- Meets one of the following two income level tests:
  - Has a per capita income equal to or less than the historical ceiling of the International Development Association eligibility for the fiscal year involved (or \$1,675 gross national income (GNI) per capita for FY 2007) (the "low income category"); or
  - 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 (or \$1,676 to \$3,465 GNI per capita for FY 2007) (the "lower middle income category"); and

- Is not ineligible to receive U.S. economic assistance under part I of the Foreign Assistance Act of 1961, as amended, ("Foreign Assistance Act"), by reason of the application of the Foreign Assistance Act or any other provision of law.

Pursuant to section 606(c) of the Act, the Board has identified the following countries as candidate countries under the Act for FY 2007. In so doing, the Board has anticipated that prohibitions against assistance as applied to countries in the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2006 (Pub. L. 109-102) (FY 2006 FOAA) will again apply for FY 2007, even though the Foreign Operations, Export Financing and Related Programs Appropriations Act for FY 2007 has not yet been enacted and certain findings under other statutes have not yet been made. As noted below, MCC will provide any required updates on subsequent changes in applicable legislation or other circumstances that affects the status of any country as a candidate country for FY 2007.

#### **Candidate Countries: Low Income Category**

1. Afghanistan
2. Angola
3. Armenia
4. Azerbaijan
5. Bangladesh
6. Benin
7. Bhutan
8. Bolivia
9. Burkina Faso
10. Burundi
11. Cameroon
12. Central African Republic
13. Chad
14. Comoros
15. Congo, Democratic Republic of the
16. Congo, Republic of the
17. Djibouti
18. East Timor
19. Egypt
20. Eritrea
21. Ethiopia
22. Gambia, The
23. Georgia
24. Ghana
25. Guinea
26. Guinea-Bissau
27. Guyana
28. Haiti
29. Honduras
30. India
31. Indonesia
32. Iraq
33. Kenya

34. Kiribati
35. Kyrgyzstan
36. Laos
37. Lesotho
38. Liberia
39. Madagascar
40. Malawi
41. Mali
42. Mauritania
43. Moldova
44. Mongolia
45. Mozambique
46. Nepal
47. Nicaragua
48. Niger
49. Nigeria
50. Pakistan
51. Papua New Guinea
52. Paraguay
53. Philippines
54. Rwanda
55. Sao Tome and Principe
56. Senegal
57. Sierra Leone
58. Solomon Islands
59. Sri Lanka
60. Tajikistan
61. Tanzania
62. Togo
63. Turkmenistan
64. Uganda
65. Ukraine
66. Vanuatu
67. Vietnam
68. Yemen
69. Zambia

#### **Candidate Countries: Lower Middle Income Category**

1. Albania
2. Algeria
3. Belarus
4. Brazil
5. Bulgaria
6. Cape Verde
7. Colombia
8. Dominican Republic
9. Ecuador
10. El Salvador
11. Fiji Islands
12. Guatemala
13. Jamaica
14. Jordan
15. Kazakhstan
16. Macedonia
17. Maldives
18. Marshall Islands
19. Micronesia, Federated States of
20. Montenegro
21. Morocco
22. Namibia
23. Peru
24. Samoa
25. Suriname
26. Swaziland
27. Tonga
28. Tunisia
29. Tuvalu

### Countries That Would Be Candidate Countries but for Legal Prohibitions That Prohibit Assistance

Countries that would be considered candidate countries for FY 2007, but are ineligible to receive United States economic assistance under part I of the Foreign Assistance Act by reason of the application of any provision of the Foreign Assistance Act or any other provision of law are listed below. As noted above, this list is based on legal prohibitions against economic assistance that apply for FY 2006 and that are anticipated to apply again for FY 2007.

#### Prohibited Countries: Low Income Category

1. Burma is subject to numerous restrictions, including but not limited to section 570 of the FY 1997 Foreign Operations, Export Financing, and Related Programs Appropriations Act (Pub. L. 104-208) which prohibits assistance to the government of Burma until it makes progress on improving human rights and implementing democratic government, and due to its status as a major drug-transit or major illicit drug producing country for 2005 (Presidential Determination No. 2005-36 (9/15/2005)) and a Tier III country under the Trafficking Victims Protection Act (Presidential Determination No. 2005-37 (9/21/2005)).

2. Cambodia's central government is subject to section 554 of the FY 2006 FOAA.

3. The Cote d'Ivoire is subject to section 508 of the FY 2006 FOAA which prohibits assistance to the government of a country whose duly elected head of government is deposed by decree or military coup.

4. Cuba is subject to numerous restrictions, including but not limited to section 620A of the Foreign Assistance Act which prohibits assistance to governments supporting international terrorism, provisions of the Cuban Liberty and Democratic Solidarity Act of 1996 (Pub. L. 104-114), and section 507 of the FY 2006 FOAA.

5. North Korea is subject to numerous restrictions, including but not limited to section 620A of the Foreign Assistance Act which prohibits assistance to governments supporting international terrorism and section 507 of the FY 2006 FOAA.

6. Somalia is subject to section 620(q) of the Foreign Assistance Act and section 512 of the FY 2006 FOAA, which prohibit assistance to countries in default in payment to the U.S. in certain circumstances.

7. Sudan is subject to numerous restrictions, including but not limited to

section 620A of the Foreign Assistance Act which prohibits assistance to governments supporting international terrorism, section 512 of the FY 2006 FOAA and section 620(q) of the Foreign Assistance Act which prohibit assistance to countries in default in payment to the U.S. in certain circumstances, section 508 of the FY 2006 FOAA which prohibits assistance to a country whose duly elected head of government is deposed by military coup or decree, and section 569 of the FY 2006 FOAA.

8. Syria is subject to numerous restrictions, including but not limited to section 620A of the Foreign Assistance Act which prohibits assistance to governments supporting international terrorism, section 507 of the FY 2006 FOAA, and section 512 of the FY 2006 FOAA and section 620(q) of the Foreign Assistance Act which prohibit assistance to countries in default in payment to the U.S. in certain circumstances.

9. Uzbekistan's central government is subject to section 586 of the FY 2006 FOAA, which requires that funds appropriated for assistance to the central government of Uzbekistan may be made available only if the Secretary of State determines and reports to the Congress that the government is making substantial and continuing progress in meeting its commitments under a framework agreement with the United States.

10. Zimbabwe is subject to section 620(q) of the Foreign Assistance Act and section 512 of the FY 2006 FOAA which prohibit assistance to countries in default in payment to the United States in certain circumstances.

#### Prohibited Countries: Lower Middle Income Category

1. Republika Srpska, which is part of the country of Bosnia and Herzegovina, is subject to section 561 of the FY 2006 FOAA, which prohibits assistance to any country, entity, or municipality whose competent authorities have failed, as determined by the Secretary of State, to take necessary and significant steps to implement its international legal obligations with respect to the International Criminal Tribunal for the former Yugoslavia.

2. China, according to the Department of State, is not eligible to receive economic assistance from the United States, absent special authority, because of concerns relative to China's record on human rights.

3. Iran is subject to numerous restrictions, including but not limited to section 620A of the Foreign Assistance Act which prohibits assistance to

governments supporting international terrorism and section 507 of the FY 2006 FOAA.

4. Serbia is subject to section 561 of the FY 2006 FOAA, which prohibits assistance to any country, entity, or municipality whose competent authorities have failed, as determined by the Secretary of State, to take necessary and significant steps to implement its international legal obligations with respect to the International Criminal Tribunal for the former Yugoslavia. In addition, section 563 of the FY 2006 FOAA restricts certain assistance for the central Government of Serbia if the Secretary does not make a certification regarding, among other things, cooperation with the International Criminal Tribunal for the former Yugoslavia.

5. Thailand is subject to section 508 of the FY 2006 FOAA which prohibits assistance to the government of a country whose duly elected head of government is deposed by decree or military coup.

Countries identified above as candidate countries, as well as countries that would be considered candidate countries but for the applicability of legal provisions that prohibit U.S. economic assistance, may be the subject of future statutory restrictions or determinations, or changed country circumstances, that affect their legal eligibility for assistance under part I of the Foreign Assistance Act by reason of application of Foreign Assistance Act or any other provision of law for FY 2007. MCC will include any required updates on such statutory eligibility that affect countries' identification as candidate countries for FY 2007, at such time as it publishes the notices required by sections 608(b) and 608(d) of the Act or at other appropriate times. Any such updates with regard to the legal eligibility or ineligibility of particular countries identified in this report will not affect the date on which the Board is authorized to determine eligible countries from among candidate countries which, in accordance with section 608(a) of the Act, shall be no sooner than 90 days from the date of publication of this report.

Dated: October 20, 2006.

**John C. Mantini,**

*Acting General Counsel, Millennium Challenge Corporation.*

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