

MILLENNIUM CHALLENGE CORPORATION

ENVIRONMENTAL GUIDELINES

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Statement of Principles

The Millennium Challenge Corporation ("MCC") recognizes that the pursuit of sustainable economic growth and a healthy environment are necessarily related. The purpose of these guidelines is to establish a process for the review of environmental and social impacts¹ to ensure that the projects undertaken as part of programs funded under Millennium Challenge Compacts with eligible countries ("Compacts") are environmentally sound, are designed to operate in compliance with applicable regulatory requirements, and, as required by the legislation establishing MCC, are not likely to cause a significant environmental, health, or safety hazard.²

MCC is committed to program design that reflects the results of public participation in host countries during all phases of the program, integrating governmental interests with those of private business and civil society. In this spirit, MCC will work to ensure that the preparation of Environmental Impact Assessments will include consultation with affected parties and public disclosure of the associated documents.

Finally, MCC is committed to the principle of host-country ownership of a Compact, including host-country responsibility for measures to mitigate adverse environmental and social impacts. A Compact project is expected to comply with host-country laws, regulations and standards, as well as requirements by which the host country is bound under international agreements.

Sources of Policy; Applicability of Guidelines

The policies reflected in these guidelines are based, broadly speaking, on sound sustainable development project design principles and international best practices in this field, including, but not limited to, the "Principles of Environmental Impact Assessment Best Practices" of the International Association for Impact Assessment, the environmental policies and guidelines of other United States government development assistance and financing entities, the environmental policies and guidelines of the multilateral development banks, the *Common Approaches* developed by export credit agencies through the Organization for Economic Cooperation and Development (OECD), and the *Equator Principles* in use by international commercial banks. In addition, these guidelines reflect the following:

- Section 605(e)(3) of the Millennium Challenge Act of 2003 prohibits MCC from providing assistance for any project that is "likely to cause a significant environmental, health, or safety hazard." Consequently, the presence of such a project in a host country's proposal will preclude MCC funding (or continued funding) of that project. (See the discussion of "environmental, health or safety hazard" in Appendix A.)

¹ "Environmental and social impacts" include the effects of a project on the surrounding natural environment and on the humans reliant on that environment, to include effects on cultural property, indigenous peoples, and involuntary resettlement, as well as the impacts on human health and safety. They may also include significant induced, indirect, and cumulative impacts and reasonably foreseeable effects that may be associated with, or ancillary to the project.

² Appendix A sets forth definitions of words and phrases used in these guidelines.

- Executive Order 12114, January 4, 1979, 44 Fed. Reg. 1957 (January 9, 1979) requires every federal agency taking actions encompassed by that Executive Order to establish procedures to implement it with respect to certain major federal actions having significant effects on the environment outside the geographical borders of the United States and its territories and possessions. It is expected that the Executive Order will have limited applicability to MCC programs, but where the terms of the Executive Order apply, the procedures described in Appendix B will be used.
- In those instances where MCC's actions or a project undertaken or funded under a Compact may significantly affect the quality of the environment of the United States, including its territories or possessions, MCC will require adherence to the environmental review procedures established by the Council on Environmental Quality under the National Environmental Policy Act (NEPA), 40 CFR Part 1500, in lieu of these guidelines.

These guidelines are primarily intended to describe the principles of environmental impact assessment that Compact-eligible countries will be expected to apply in the context of a Compact. These guidelines are not intended to describe MCC's internal implementation procedures, which MCC will develop to reflect experience with these guidelines.

MCC will review and revise these guidelines from time to time to reflect lessons learned in their application as well as relevant changes in international standards and norms of practice. In addition, MCC may provide such additional guidance to a host country during the implementation of a program as may be advisable in light of host-country norms and international standards, such as the Pollution Prevention and Abatement Handbook of the World Bank Group (1998, or as amended from time to time) or World Health Organization guidelines and standards.

Environmental Review

These guidelines will apply to the review of each project described in a Compact or proposed Compact (generally referred to herein as a "project" or, collectively, as "projects"). The application of these guidelines to specific projects and the breadth, depth, and type of environmental and social impact review to be completed will depend on the nature, scale, and potential environmental and social impact of proposed projects.

MCC's process of environmental review should take into account specific host-country conditions, the findings of host-country environmental studies, National Environmental Action Plans (NEAPs), the host country's overall policy framework and national legislation, the capabilities of the entities implementing the project and managing its environmental and social impacts, and obligations of the host country under relevant international agreements.

Environmental Screening

As early as possible in the Compact proposal review process, MCC will screen each project as described in these guidelines. As part of its review of Compact proposals, MCC funding decisions will be informed by the results of screening and, where needed, an Environmental Impact Assessment or other environmental and social impact analysis. To that end, MCC will not fund a project unless there is provision for appropriate screening and appropriate environmental and social impact analysis.

While the completion of the requisite environmental and social impact analysis is the responsibility, either directly or indirectly, of the host country, MCC will advise and consult on the requirements of an Environmental Impact Assessment. MCC will review the findings and recommendations of the Environmental Impact Assessment to ensure their consistency with these guidelines, and where appropriate, may require additional assessment work, including public consultation and information disclosure (see below).

Categorical Prohibition: As stated above, MCC may not provide assistance for any project that is "likely to cause a significant environmental, health, or safety hazard." Accordingly, as part of its environmental screening, MCC will identify and exclude such a project from MCC funding, using the definition contained in Appendix A. Such a project will be classified as a Categorical Prohibition.

Determination of Project Category: MCC will screen all Compact proposals to identify projects that require further review due to their potential adverse environmental and social impacts, and projects that are in sensitive sectors or in or near sensitive locations. The result of this screening process will be an environmental classification following the recommendations contained in the OECD *Common Approaches* and the practices of the World Bank, classifying in accordance with the potential environmental and social impact, and the extent of the environmental review required.

Category A: A project is classified as Category A if it has the potential to have significant adverse environmental and social impacts that are sensitive, diverse, or unprecedented. These impacts may affect an area broader than the sites or facilities subject to physical works. Category A, in principle, includes projects in sensitive sectors or located in or near sensitive areas. An illustrative list of sensitive sectors and sensitive locations is set out in Appendix C.

For **Category A** projects, MCC will require an Environmental Impact Assessment in accordance with these guidelines. An Environmental Impact Assessment evaluates the potential environmental and social risks and impacts of a specific project in its area of influence; examines alternatives to the project, including ways of improving project selection, siting, planning, design, and implementation in order to prevent, minimize, mitigate, or compensate for adverse environmental and social impacts and enhance positive impacts; and includes an Environmental Management Plan, which describes the process of mitigating and managing adverse environmental and social impacts during the implementation of a project. The recommended

contents of an Environmental Impact Assessment report are included in Appendix D.

An Environmental Impact Assessment should be initiated as early as possible in project development and be integrated closely with the economic, financial, institutional, social, and technical analyses of a proposed project.

An Environmental Impact Assessment should take into account the natural environment (air, water, and land); human health and safety; social aspects (involuntary resettlement, indigenous peoples and cultural property); natural disaster risk and vulnerability assessment; and transboundary and global environmental aspects.

For a Category A project, disbursement of some or all of the MCC funding for that project will be contingent upon completion of an Environmental Impact Assessment. In deciding whether to provide some MCC funding for the project in advance of completion of the Environmental Impact Assessment, MCC may consider funding costs of the assessment itself as well as costs of some other project elements (*e.g.*, initial project administration) that can be prudently undertaken before the Environmental Impact Assessment is completed. In the event that it is not possible to complete the Environmental Impact Assessment, MCC will define procedures for addressing such a case on a Compact-specific basis. In any event, the project will be subject to the other requirements of these guidelines.

Category B: A project is classified as Category B if its potential environmental and social impacts are less adverse than those of Category A projects. Typically, these impacts are site-specific, few if any of them are irreversible, and mitigation measures are more readily available.

For a **Category B** project, MCC will require specific environmental and social impact analyses, including Environmental Management Plans, as appropriate. Such analyses may be a condition for disbursement of some or all of the MCC funding for the project. The scope and format of the analyses will depend on the project and its potential environmental and social impacts. Like an Environmental Impact Assessment for a Category A project, the analysis for a Category B project must examine the potential negative and positive environmental and social impacts of the project and recommend any measures needed to prevent, minimize, mitigate, or compensate for adverse impacts and enhance positive impacts. Generally, the scope of such work will be narrower than for Category A projects.

Category C: A project is classified as Category C if it is unlikely to have adverse environmental and social impacts.

While MCC generally will not require environmental and social impact analysis for a **Category C** project, MCC reserves the right to require specific

environmental and social impact studies, reporting, or training where relevant or where positive environmental and social impacts may be enhanced.

Category D: A proposed project is classified as Category D, if it will involve an intermediate facility (such as a municipal public grant fund) that will use MCC funding to finance subprojects that may potentially result in adverse environmental and social impacts.

The host country must require that subprojects under a **Category D** project comply, at a minimum, with the environmental and social impact analysis standards, as well as relevant laws and regulations, of the host country. MCC reserves the right to set additional environmental performance standards and monitoring requirements for subprojects on a case-by-case basis, depending on the nature of the intermediate facility. For all subprojects, the intermediate facility will ensure that environmental and social impact analyses and associated documents are developed with public consultation and made available in a public place accessible to potentially affected parties.

The host country must require the intermediate facility to monitor the environmental performance of its subprojects and submit to MCC periodic (usually annual) reports on the implementation of its environmental procedures and the environmental performance of its portfolio.

In addition to or in lieu of the determinations described above, MCC will determine during the environmental screening whether Appendix B of these guidelines, the National Environmental Policy Act, or other requirements or procedures must apply to the proposed project.

Public Consultation and Disclosure

Consistent with MCC's principle of host-country ownership of the projects implemented under a Compact, implementing entities will be expected to incorporate timely, participatory, and meaningful public consultation in the development of Compact-related Environmental Impact Assessments, analyses, and Environmental Management Plans. They will also be expected to make these documents publicly available and easily accessible.

Monitoring

In order to ensure compliance with measures to mitigate any adverse environmental and social impacts of projects undertaken pursuant to a Compact, as part of the Compact and related documents, MCC may condition disbursement of some or all of the MCC funding for the project on satisfactory implementation of those mitigation measures. The means of ensuring compliance with measures to mitigate any adverse environmental and social impacts of a given project, including any conditions for disbursement, will be specified in the Compact and related documents.

The host country will be responsible for appropriate monitoring of project mitigation plans (*e.g.*, Environmental Management Plan) during the term of the Compact. Recognizing that not all

Compact-eligible countries may have this capacity, MCC can, where appropriate, provide funds within the Compact to help ensure proper oversight and implementation of mitigation measures. MCC will monitor compliance through the review of information provided by the implementing entity and through site visits.

In addition, MCC may require, where appropriate, an environmental audit in order to assess the impact of prior or existing activities not funded with MCC funds or of an MCC-funded project to determine the status of regulatory compliance and environmental performance, as well as potential environmental and health and safety risks, liabilities, and opportunities associated with the activities or project.

These guidelines will be referenced and reflected in the Compact. The Compact will include a prohibition, for the full term of the Compact, on the use of MCC funding for projects deemed likely to cause a significant environmental, health, or safety hazard.

Reporting

The host country must report regularly to MCC, describing how the activities funded under the Compact are being carried out in compliance with these guidelines and the environmental and social safeguards described in the Compact and related documents. The reports should provide detailed information on realized environmental and social impacts and the status of the implementation of mitigation plans (*e.g.*, Environmental Management Plan), including associated costs. MCC may modify its guidance regarding project implementation following the review of such reports.

Appendix A: Definitions

Environmental, Health or Safety Hazard -- A project is deemed "likely to cause a significant environmental, health, or safety hazard" and, therefore, prohibited from receiving MCC funding, if:

(a) as a result of the project, even with mitigation efforts and proper use, there exists or will exist a substance, condition, or circumstance that represents a significant risk of harm to the environment or to human health because of the physical, chemical or biological effects of such substance, condition or circumstance;

(b) the project involves or will involve the production, procurement or intentional release of:

-- Persistent Organic Pollutants (POPs) that the United States Environmental Protection Agency (USEPA) has identified as of greatest concern to the global community³;

-- any pesticide or industrial or consumer chemical that is listed by the United States Environmental Protection Agency as "banned" or "severely restricted" under the Prior Informed Consent (PIC) Program⁴; or

-- a product (including an emission or effluent) that is prohibited or strictly regulated in the United States because its toxic effects on the environment create a serious public health risk; or

(c) the project is a physical project that is prohibited or strictly regulated by Federal law in the United States to protect the environment from radioactive substances,

unless MCC has made a final determination, taking into account a thorough Environmental Impact Assessment, that the project is not likely to cause a significant environmental, health, or safety hazard.

Environmental Impact Assessment – Analysis that identifies the potential environmental and social impacts of a specific project in its area of influence; examines alternatives to the project; identifies ways of improving project selection, siting, planning, design, and implementation in order to prevent, minimize, mitigate, or compensate for adverse environmental and social impacts and enhance positive impacts; and includes the process of mitigating and managing adverse environmental and social impacts during the implementation of a project. The scope and level of detail in an Environmental Impact Assessment should be commensurate with a project's potential impact. At a minimum, an Environmental Impact Assessment should include the information outlined in Appendix D: Environmental Impact Assessment Reports.

³ <http://www.epa.gov/oppfead1/international/pops.htm>

⁴ <http://www.epa.gov/oppfead1/international/piclist.htm>

Environmental Management Plan (EMP) – An Environmental Management Plan describes mitigation, monitoring and institutional measures to be taken during project implementation to eliminate adverse impacts, offset them, or reduce them to acceptable levels.

Appendix B: Procedures Implementing Executive Order 12114

This Appendix sets forth the procedures that MCC will use to implement Executive Order 12114, January 4, 1979, 44 Fed. Reg. 1957 (January 9, 1979) (the “Executive Order”).

1. Actions Covered

The MCC officer having the ultimate responsibility for authorizing and approving actions will take into consideration an appropriate environmental impact analysis before authorizing and approving any:

- a. MCC action that significantly affects the environment of the global commons outside the jurisdiction of any nation (*e.g.*, the oceans or Antarctica);
- b. MCC action that significantly affects the environment of a foreign nation not involved or participating with the United States in the action; or
- c. MCC action outside the United States that significantly affects natural or ecological resources of global importance which have been designated for protection by the President or, in the case of resources protected under a binding international agreement, by the Secretary of State.

2. Type of Environmental Review

Subject to section 4,

- a. For actions specified in section 1.a above, MCC will take into consideration an Environmental Impact Assessment.
- b. For actions specified in sections 1.b or 1.c above, MCC will take into consideration an appropriate environmental review in accordance with the criteria in the “Environmental Review” section of these guidelines.

3. State Department Coordination

MCC will contact the State Department for coordination of all communications with foreign governments concerning environmental agreements and other arrangements to implement sections 1 and 2 above.

4. Meaning of Certain Terms

This section 4 applies to this Appendix B and to no other part of these guidelines. For purposes of applying the Executive Order and this Appendix B, “environment,” as specified in the Executive Order, means the natural and physical environment and excludes social, economic and other environments; and an action significantly affects the environment if it does significant harm to the environment even though on balance the action is believed to be beneficial to the environment.

*Appendix C: Illustrative List of Sensitive Sectors and Sensitive Locations*⁵

The following list provides examples of projects with the potential to cause significant negative environmental impacts due to their type, location, sensitivity and scale. This list is indicative and the types of projects it contains are examples only. This list is not intended to be exhaustive.

- Crude oil refineries (excluding undertakings manufacturing only lubricants from crude oil) and installations for the gasification and liquefaction of 500 tons or more of coal or bituminous shale per day.
- Thermal power stations and other combustion installations with a heat output of 300 megawatts or more and nuclear power stations and other nuclear reactors, including the dismantling or decommissioning of such power stations or reactors (except research installations for the production and conversion of fissionable and fertile materials, whose maximum power does not exceed 1 kilowatt continuous thermal load).
- Installations designed for the production or enrichment of nuclear fuels, the reprocessing, storage or final disposal of irradiated nuclear fuels, or for the storage, disposal or processing of radioactive waste.
- Integrated works for the initial smelting of cast-iron and steel; installations for the production of nonferrous crude metals from ore, concentrates or secondary raw materials by metallurgical, chemical or electrolytic processes.
- Installations for the extraction of asbestos and for the processing and transformation of asbestos and products containing asbestos: for asbestos-cement products, with an annual production of more than 20,000 tons finished product; for friction material, with an annual production of more than 50 tons finished product; and for other asbestos utilization of more than 200 tons per year.
- Integrated chemical installations, *i.e.*, those installations for the manufacture on an industrial scale of substances using chemical conversion processes, in which several units are juxtaposed and are functionally linked to one another and which are for the production of any of the following: basic organic chemicals; basic inorganic chemicals; phosphorous-, nitrogen- or potassium-based fertilizers (simple or compound fertilizers); basic plant health products and biocides; basic pharmaceutical products using a chemical or biological process; explosives.
- Construction of motorways, express roads and lines for long-distance railway traffic and of airports with a basic runway length of 2,100 meters or more; construction of a new road of four or more lanes, or realignment and/or widening of an existing road so as to provide four or more lanes, where such new road, or realigned and/or widened section of road would be 10 kilometers or more in a continuous length.

⁵ Source: EBRD Environmental Policy (<http://www.ebrd.org/about/policies/enviro/policy/policy.pdf>), also in use under the Organization for Economic Co-operation and Development (OECD) "Common Approaches."

- ___ Pipelines, terminals, and associated facilities for the large-scale transport of gas, oil, and chemicals.
- ___ Sea ports and inland waterways and ports for inland-waterway traffic which permit the passage of vessels of over 1,350 tons; trading ports, piers for loading and unloading connected to land and outside ports (excluding ferry piers) which can take vessels of over 1,350 tons.
- ___ Waste-processing and disposal installations for the incineration, chemical treatment or landfill of hazardous, toxic or dangerous wastes.
- ___ Large⁶ dams and other impoundments designed for the holding back or permanent storage of water.
- ___ Groundwater abstraction projects or artificial groundwater recharge schemes in cases where the annual volume of water to be abstracted or recharged amounts to 10 million cubic meters or more.
- ___ Industrial plants for the (a) production of pulp from timber or similar fibrous materials; (b) production of paper and board with a production capacity exceeding 200 air-dried metric tons per day.
- ___ Peat extraction, quarries and open-cast mining, and processing of metal ores or coal.
- ___ Extraction of petroleum and natural gas for commercial purposes.
- ___ Installations for storage of petroleum, petrochemical, or chemical products with a capacity of 200,000 tons or more.
- ___ Large-scale logging.
- ___ Municipal wastewater treatment plants with a capacity exceeding 150,000 population equivalent.
- ___ Municipal solid waste-processing and disposal facilities.
- ___ Large-scale tourism and retail development.
- ___ Construction of overhead electrical power lines.
- ___ Large-scale land reclamation.

⁶ A large dam is a dam with a height of 15 meters or more from the foundation or a dam that is between 5 and 15 meters high with a reservoir volume of more than three million cubic meters (the definition used by the International Commission on Large Dams (ICOLD)).

- Large-scale primary agriculture/silviculture involving intensification or conversion of natural habitats.
- Plants for the tanning of hides and skins where the treatment capacity exceeds 12 tons of finished products per day.
- Installations for the intensive rearing of poultry or pigs with more than: 40,000 places for poultry; 2,000 places for production pigs (over 30 kilograms); or 750 places for sows.
- Projects that are planned to be carried out in sensitive locations or are likely to have a perceptible impact on such locations, even if the project category does not appear in the above list. Such sensitive locations include national parks and other protected areas identified by national or international law, and other sensitive locations of international, national or regional importance, such as wetlands, forests with high biodiversity value, areas of archaeological or cultural significance, and areas of importance for indigenous peoples or other vulnerable groups.

Appendix D : Environmental Impact Assessment Reports⁷

The scope and level of detail of an Environmental Impact Assessment should be commensurate with the potential impacts of the project. The Environmental Impact Assessment report should include the following items (not necessarily in the order shown):

- **Executive summary:** concisely discusses significant findings and recommended actions.
- **Scoping:** identifies the issues and impacts that are likely to be important and establishes the terms of reference for the Environmental Impact Assessment.
- **Policy, legal and administrative framework:** discusses the policy, legal, and administrative framework within which the Environmental Impact Assessment is carried out.
- **Project description:** describes the proposed project and its geographic, ecological, social, and temporal context, including any offsite investments that may be required (*e.g.*, dedicated pipelines, access roads, power plants, water supply, housing, and raw material and product storage facilities); indicates the need for any resettlement or social development plan; and normally includes a map showing the project site and the project's area of influence.
- **Baseline data:** assesses the dimensions of the study area and describes relevant physical, biological, and socio-economic conditions, including any changes anticipated before the project commences. Also, it takes into account current and proposed development projects within the project area but not directly connected to the project. Data should be relevant to decisions about project location, design, operation, or mitigatory measures; the section indicates accuracy, reliability and sources of the data.
- **Environmental and social impacts:** predicts and assesses the project's likely positive and negative impacts on the surrounding natural environment and on the humans reliant on that environment, to include effects on cultural property, indigenous peoples, and involuntary resettlement, as well as the impacts on human health and safety, in quantitative terms to the extent possible. This may also include significant induced, indirect, and cumulative impacts and reasonably foreseeable effects that may be associated with or ancillary to the project. It identifies mitigation measures and any residual negative impacts that cannot be mitigated. It explores opportunities for environmental enhancement. It identifies and estimates the extent and quality of available data, key data gaps, and uncertainties associated with predictions, and specifies topics that do not require further attention.
- **Analysis of alternatives:** systematically compares feasible alternatives to the proposed project site, technology, design and operation -- including the "without project" situation -- in terms of their potential environmental and social impacts; the feasibility of mitigating these impacts; their capital and recurrent costs; their suitability under local conditions; and their institutional, training and monitoring requirements. For each of the alternatives, it quantifies the environmental and social impacts to the extent possible and attaches economic values where feasible. It states the

⁷ This Appendix is based on the World Bank Operational Manual, OP 4.01

basis for selecting the particular project design proposed and justifies recommended emission levels and approaches to pollution prevention and abatement.

- **Environmental Management Plan:** describes mitigation, monitoring and institutional measures to be taken during project implementation to eliminate adverse impacts, offset them, or reduce them to acceptable levels.
- **Consultation:** lists and describes consultation meetings, including consultations for obtaining the informed views of the affected people, local nongovernmental organizations and regulatory agencies. Project-level consultation should begin at scoping and continue through implementation.