



**Comments of the Competitive Enterprise Institute
on the Millennium Challenge Corporation’s
“Interim Environmental Guidelines for Public Comment”
June 16, 2005**

The Competitive Enterprise Institute (CEI) appreciates the opportunity to comment on the Millennium Challenge Corporation’s (MCC) “Interim Environmental Guidelines for Public Comment,” as published in the *Federal Register*, March 4, 2005.¹

CEI is a non-profit public policy organization dedicated to advancing the principles of free enterprise and limited government. Founded in 1984, CEI works on a range of policy issues both domestically and internationally.

Summary

The Competitive Enterprise Institute (CEI) has four major concerns regarding the Interim Environmental Guidelines (“the Guidelines”) of the Millennium Challenge Act of 2003 (MCA):

- 1) The Guidelines would subvert the purpose of the MCA as expressed in Section 602 of the MCA. The Guidelines would also make it harder to fulfill the promises of the Millennium Challenge Accounts as they were articulated by President Bush in his call for establishing the Accounts prior to the MCA’s passage.
- 2) The Guidelines would be counterproductive. They would create a short-sighted disincentive for candidate countries to pursue policies that lead to stronger economic growth, thereby reducing the amount of future resources available for improving environmental conditions.
- 3) The Guidelines are inconsistent with (a) the treatment of other restrictions on assistance as specified under Sec. 605 of the MCA and (b) the position of the U.S. government in *Friends of the Earth, Greenpeace et al. v. Peter Watson*

¹ *Federal Register*. Vol. 70, No. 42 (March 4, 2005), pp. 10690-10694.
(<http://www.mcc.gov/compacts/guidance/FR%202003-04-05%20Vol%2070%20No%2020042%20-%20Interim%20Environmental%20Guidelines%20for%20Public%20Comment.pdf>)

(President and CEO of OPIC) and Philip Merrill (President and Chairman of the Export Import Bank of the U.S.).

- 4) The Guidelines (Appendix A) are unclear as to whether they preclude any usage of DDT, such as for indoor residual spraying to control malaria and other diseases borne by insects and other pests.

CEI believes that if the purpose of the Guidelines is “to help ensure that the projects undertaken as part of the Millennium Challenge Compacts are environmentally sound” while acknowledging that the MCC “is committed to the principle of host-country ownership of a Compact proposal,” then the MCA’s *Report on the Criteria and Methodology for Determining the Eligibility of Candidate Countries for Millennium Challenge Account Assistance* already accomplishes this.² The Guidelines, therefore, are superfluous, at best, and counterproductive at worst.

Rather than helping developing countries to eliminate extreme poverty, the Guidelines actually discourage many economic policies which would do just that.

Thus CEI strongly urges the MCC not to include the environmental criteria as detailed in the Guidelines but to stick instead with the broader criteria for country eligibility as stated in the MCA, and as specified in 69 FR 53090-93. **The addition of the Guidelines to the criteria would undermine many opportunities for less developed countries to help build their economies and institutions and to address environmental concerns over the long term.**

Specific Comments

- 1) **The Guidelines would subvert the purpose of the MCA as encapsulated in the text of the MCA itself and would make it harder to fulfill the promise of the Millennium Challenge Accounts as they were expressed by President Bush.**

The MCA states that its purpose is to provide United States assistance for global development “in a manner that promotes economic growth and the elimination of extreme poverty and strengthens good governance, economic freedom, and investments in people.”³ Within this context, environmental concerns are raised in two places.

First, Sec. 605(e)(3) prohibits assistance “for any project that is likely to cause a significant environmental, health, or safety hazard”. The word ‘hazard’ is the key word to note, and this “hazard” must not only be “significant” but “likely”, as well. Given this, we believe that before the MCC places any items on a “categorically prohibited” list (Appendix A) it must prove that these types of activities and their magnitudes (or the intensities with which

²*Federal Register*. Vol. 69. (August 31, 2004), pp. 53090-53093.

(http://www.mca.gov/about_us/congressional_reports/Report%20to%20Congress%20on%20Criteria%20and%20Methodology%20FY051.pdf)

³ Millennium Challenge Act of 2003. Millennium Challenge Corporation. 10 December 2004 (http://www.mcc.gov/about_us/key_documents/MCA_Legislation.pdf)

they are proposed to be undertaken) are indeed “likely to cause a significant...hazard”. CEI does not see any supporting analysis from the MCC that would justify concluding that items on Appendix A would meet the above (legislated) criterion. Similarly, we think the criterion used to determine project categories, consistent with the MCA’s language, should be based on whether they are “likely to cause a significant ... hazard” rather than whether they result in “potential adverse environmental impacts.”

Second, Sec. 607 lays out the criteria under which candidate countries are considered for assistance. The general criteria follow President Bush’s earlier proposal: Candidate countries must demonstrate a commitment to (i) just and democratic governance, (ii) economic freedom, and (iii) investments in its people (i.e., health and education). Within Sec. 607, environmental concerns are raised under the second criterion, economic freedom. Candidate countries must demonstrate a commitment to economic freedom, including promoting “private sector growth and the sustainable management of natural resources.” Thus “sustainable management of natural resources” is linked with the promotion of “private sector growth” – a linkage which seems to recognize that growth and sustainability are not mutually exclusive. The Guidelines, however, do not recognize this linkage.

In its *2004 Annual Review of Development Effectiveness*⁴, the World Bank evaluated its recent strategies in combating world poverty. The World Bank found that “differences in the quality of economic institutions - broadly understood as the ‘rules of the game’ - have been found to be the most significant source of sustained economic growth in both cross-country research and case studies.”⁵ Why is sustained economic growth so important? Because “economic growth generally leads to poverty reduction” and this fact is “well established.”⁶

Again, the Guidelines do not talk about poverty reduction, do not mention the importance of economic growth nor the importance of economic institutions. The MCA and President Bush, however, both emphasize these goals. In placing adherence to U.S. environmental regulations above the goal of implementing policies that increase economic growth and, in turn, reduce poverty, the Guidelines subvert the purpose of the MCA and therefore should not be part of the MCA.

The purpose and intent of the MCA are also clearly evident from President Bush’s speech given on March 14, 2002 in which he called for the creation of Millennium Challenge Accounts.

“I’m here today to announce a major new commitment by the United States to bring hope and opportunity to the world’s poorest people...The advances of free markets and trade and democracy and rule of law have brought

⁴ Operations Evaluations Department (2005) *2004 Annual Review of Development Effectiveness: The Bank’s Contributions to Poverty Reduction*. Washington, D.C.: World Bank.

(<http://www.worldbank.org/oed/arde/2004/>)

⁵ Ibid.

⁶ Ibid.

prosperity to an ever-widening circle of people in this world... Yet in many nations... poverty is broad and seemingly inescapable... Yet many of the old models of economic development assistance are outdated... The needs of the developing world demand a new approach... This new vision looks beyond arbitrary inputs from the rich, and demands tangible outcomes for the poor.”⁷

Two things are clear from the President’s remarks. First, the MCA is a new and different kind of international aid program in contrast to traditional foreign aid programs that have not been effective at combating poverty.⁸ Second, the overriding focus of the program is on alleviating poverty. But the Guidelines neither claim to follow the spirit of the ‘new foreign aid’ nor do they specify or even mention how poverty might be reduced by following the environmental guidelines.

It is also not clear whether adopting OECD and/or World Bank practices fulfills the hope that the MCC would use a *new* approach toward development. Before these practices are adopted, MCC should evaluate whether, and to what extent, these approaches are necessary and appropriate, and whether they are worth it from the host country’s point of view in terms of time, resources and outcomes. Will this benefit the host country, or merely enrich consultants elsewhere?

2) The Guidelines would be counterproductive. They would create a short-sighted disincentive for candidate countries to pursue policies that lead to stronger economic growth, thereby reducing the amount of future resources available for improving environmental conditions.

Rather than proposing projects that increase economic growth, candidate countries will instead focus their time and energy on proposing and carrying out projects that fulfill the very specific environmental criteria laid out in the Guidelines. Yet, there is a growing consensus that economic expansion, far from threatening the environment, is actually a direct path to protecting the environment. For example, in a World Bank study of 145 countries, Dasgupta, Mody, Roy, and Wheeler (1995) found “a strong positive correlation between our environmental indicators and the level of economic development.”⁹

There is also evidence, again from the World Bank, that the overregulation of the Guidelines is not needed to police possibilities of significant environmental, health and safety hazards. Huq and Wheeler (1993) examined the push for pollution reduction within Bangladesh in the absence of formal regulation governing such initiatives. They found that “with little or no assistance from national regulators, villages in Bangladesh have shown great willingness to defend their own environmental interests. Community pressure

⁷ <http://www.whitehouse.gov/news/releases/2002/03/20020314-7.html>

⁸ See for example, Bauer, P.T. (1972) *Dissent on Development: Studies and Debates in Development Economics*. Cambridge, MA: Harvard University Press. Boone, P. (1996) “Politics and the Effectiveness of Foreign Aid,” *European Economic Review*. 40: 289-329. Erixon, F. (2005) *Aid and development: Will it work this time?* London, UK: International Policy Network.

⁹ Dasgupta, Mody, Roy, and Wheeler (1995) “Environmental Regulation and Development: A Cross-Country Empirical Analysis,” *World Bank Policy Research Department Working Paper*, No. 1448. (www.worldbank.org/nipr/work_paper/1448/index.htm)

and negotiated agreements for cleanup and compensation are common when polluters are identifiable and employment alternatives are not too scarce.”¹⁰

Every individual and community desires as clean an environment as they can afford, given other needs and demands on their resources. They balance this desire against the costs of achieving a cleaner environment (including foregoing some level of economic development if they believe that it is warranted for their overall well-being). Such trade-offs - where they must be made - are best made case-by-case, by the affected community, rather than imposed from outside or through formulaic regulations. That is the reason for emphasizing political/legal institutions (the just and democratic governance criterion of Sec. 607 (b)) as necessary conditions for receiving aid.

Thus, given that the purpose of the MCA is to promote economic growth, given that economic growth is the most effective way to reduce poverty, given that a cleaner environment is associated with increased economic development, and given that concern for the environmental consequences of development projects is not dependent on having detailed, formal regulations, CEI believes that the Guidelines are not needed and, if fully implemented, will cause more harm than good.

3a) The Guidelines are inconsistent with the treatment of other restrictions on assistance as specified under Sec. 605 of the MCA.

Sec. 605(e) of the MCA lists initiatives that would be prohibited from receiving funds. These include, in the order listed: military assistance or military training for a country; any project that is likely to cause a substantial loss of U.S. jobs or a substantial displacement of U.S. production; any project that is likely to cause a significant environmental, health, or safety hazard; and any project that helps finance abortions or involuntary sterilizations.

Each of these prohibitions seems to be of equal importance. Yet only the environmental component of the third prohibition necessitates detailed Guidelines. That selection appears to be an arbitrary one. Why not, for instance, have guidelines to ensure that there is no “substantial loss of U.S. jobs or a substantial displacement of U.S. production”? Why not require candidate countries to prepare ‘economic assessment reports’, for any proposed project, which would estimate the potential impact on U.S. jobs and production, assess how the potential losses might be mitigated and outline alternatives which would have lesser effects?

3b) The Guidelines are inconsistent with the position of the U.S. government in Friends of the Earth, Greenpeace et al. v. Peter Watson (President and CEO of OPIC) and Philip Merrill (President and Chairman of the Export Import Bank of the U.S.).¹¹

¹⁰ Huq, M., and D. Wheeler (1992) "Pollution Reduction Without Formal Regulation: Evidence from Bangladesh," *World Bank Environment Department Working Paper*, No. 1992-39. (www.worldbank.org/nipr/work_paper/evidence/index.htm)

¹¹ http://www.climatelawsuit.org/documents/Complaint_2Amended_Declr_Inj_Relief.pdf

In August 2002, Friends of the Earth (FoE), Greenpeace and the City of Boulder, Colorado filed a lawsuit on behalf of their members and citizens alleging that the Export Import Bank (Ex-Im) and the Overseas Private Investment Corporation (OPIC) illegally provided financing for various overseas projects without assessing the contribution of those projects to global warming and their impact on the U.S. environment as required under the National Environmental Policy Act (NEPA). The U.S. government is currently fighting this lawsuit.

The Guidelines, however, seem to be an agreement by the U.S. government to require environmental assessments of overseas projects. In addition, the Guidelines state that “the completion of the Environmental Impact Assessment is the responsibility, either directly or indirectly, of the host country”, thereby adding tremendous costs to the poverty-stricken candidate country. Finally, the Guidelines note that “ ‘environmental 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.” This is a tremendous expansion of the scope of meaning of the term ‘environmental impacts’ to include social impacts that are not customarily thought of as environmental.

We believe that the U.S. government needs to decide where it stands on the issue of requiring NEPA-type environmental assessments for development projects completed in foreign countries by local workers for poverty reduction.

4. The Guidelines (Appendix A) are unclear as to whether they preclude any use of DDT, such as for indoor residual spraying to control malaria and other diseases borne by insects and other pests.

Our concern in this regard is best summarized by quoting from the Malaria Foundation International’s 1999 *Open Letter to DDT Treaty Negotiators*, signed by over 400 doctors and scientists:

“...the relevant question is not whether DDT can pose health risks (it can), but whether these risks outweigh the tremendous public health benefits of DDT for malaria control (they do not).”¹²

Or, as Nicholas Kristoff explains in a January piece on the topic:

“The existing anti-malaria strategy is an underfinanced failure, with malaria probably killing 2 million or 3 million people each year... But overall, one of the best ways to protect people is to spray the inside of a hut, about once a year, with DDT...The main obstacle seems to be bureaucratic caution and inertia.”¹³

¹² Malaria Foundation International (1999). “Open Letter to DDT Treaty Negotiators”. (http://www.malaria.org/DDT_open.html)

¹³ Kristoff, Nicholas (2005) “It’s Time to Spray DDT” *The New York Times*. January 8.

We wonder whether that same “bureaucratic caution and inertia” has entered the language of Appendix A of the Guidelines. Thankfully, MCC has an opportunity to be proactive. The Guidelines should clarify that uses of DDT for public health purposes would be eligible for MCC funding.

Conclusion

With its many inconsistencies of purpose and substance and with its disincentives for economic growth and poverty reduction, CEI believes that these Interim Guidelines should not be used by the Millennium Challenge Corporation. Rather, the purpose of the MCA should be reiterated and re-emphasized. Economic growth is the most effective means for reducing poverty in developing countries. Institutions matter (including the rule of law, property rights and a non-corrupt government). Environmental concerns are most effectively handled by the local people involved in the development project, taking into consideration the ‘sustainable management of natural resources’ alongside ‘private sector growth’.

CEI expresses its strong concern that as currently formulated these Guidelines are a recipe for bureaucratization and increased, rather than reduced, poverty.

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