

## **SECTION-BY-SECTION ANALYSIS AND DISCUSSION**

### **Sec. 1. Short Title and Table of Contents.**

The short title of this Act is the “Tom Lantos and Henry J. Hyde United States Global Leadership Against HIV/AIDS, Tuberculosis, and Malaria Reauthorization Act of 2008”.

### **Sec. 2. Findings.**

This section amends the findings in the United States Leadership Against HIV/AIDS, Tuberculosis and Malaria Act of 2003 (22 U.S.C. 7601) (“the 2003 Act”) by adding to the end of that Act’s findings, additional findings with updated data on human immunodeficiency virus (HIV) and the acquired immunodeficiency syndrome (AIDS), hereinafter collectively referred to as HIV/AIDS, tuberculosis and malaria around the world and the impact of U.S. assistance in combating these diseases since the 2003 Act was passed. The findings also identify ongoing and growing challenges in meeting the needs for treatment, care, prevention, cure and research of and related to these diseases in coming years.

### **Sec. 3. Definitions.**

This section amends the 2003 Act by updating the title of the Committee to the “Committee on Foreign Affairs.”

### **Sec. 4. Purpose.**

This section amends the purpose of the 2003 Act by adding the creation of five-year plans for tuberculosis and malaria; calling for increased resources for bilateral efforts for prevention, treatment and care; expanding this assistance to cover nutrition assistance, health system and workforce development, monitoring and evaluations and operations research; and including efforts to develop research for tuberculosis and other prevention technologies.

## **TITLE I—POLICY PLANNING AND COORDINATION**

### **Sec. 101. Development of a Comprehensive, Five-Year, Global Strategy.**

This section amends section 101 of the 2003 Act by providing additional guidance to the President on the development of the second five-year plan to combat HIV/AIDS globally. It instructs the President to expand the strategic approach to behavioral risks related to transmission of HIV/AIDS. It instructs the President to provide for linkages and referral systems to nutrition and food support for individuals with HIV/AIDS, child health services and development programs, and other social service programs related to HIV/AIDS. It also calls on the President to provide access to HIV/AIDS education and testing in family planning and maternal health programs supported by the United States

Government, and to maximize host country capacity for HIV/AIDS training and research in the five-year strategy.

**Sec. 102. HIV/AIDS Response Coordinator.**

This section amends section 1(f)(2) of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2651a(f)(2)) to strengthen and expand the duties of the HIV/AIDS Response Coordinator, including enhancing the role of the Coordinator in consulting and coordinating with foreign governments, nongovernmental organizations and other U.S. Government agencies.

**TITLE II—SUPPORT FOR MULTILATERAL FUNDS, PROGRAMS,  
AND PUBLIC-PRIVATE PARTNERSHIPS**

**Sec. 201. Sense of Congress on Public-Private Partnerships.**

This section amends section 201 of the 2003 Act by updating the purpose of public-private partnerships to address easily preventable and treatable infectious diseases.

**Sec. 202. Participation in the Global Fund to Fight AIDS, Tuberculosis and Malaria.**

This section amends section 202 of the 2003 Act relating to U.S. contributions to the Global Fund. Subsection (a) updates findings in that Act. Subsection (b) increases the annual authorization for the U.S. contribution to the Global Fund from \$1 billion to \$2 billion for fiscal years 2009 and 2010 of the amounts authorized to be appropriated under section 401 of the 2003 Act. It also moves the deadline after which funds appropriated for such contribution can be transferred to the U.S. bilateral programs from July 1 to December 31 of the year after the funds are appropriated (if they are available for more than one fiscal year) and provides new benchmarks designed to improve the accountability and transparency of the Global Fund's activities.

**Sec. 203. Voluntary Contributions to International Vaccine Funds.**

This section amends section 302 of the Foreign Assistance Act of 1961 to reauthorize the existing programs for the vaccine fund authorized under section 302(k) of that Act, the International AIDS Vaccine authorized by section 302(l) of such Act and the malaria vaccine development program authorized by section 302(m) of such Act. Section 203 also adds a new section 302(n) relating to authorizing a U.S. contribution to research and development of a tuberculosis vaccine.

**Sec. 204. Program to Facilitate Availability of Microbicides to Prevent Transmission of HIV and Other Diseases.**

Subsection (a) expresses the sense of Congress recognizing the need and urgency to expand the range of interventions for preventing the transmission of HIV, including non-vaccine prevention methods that can be controlled by women.

Subsection (b) authorizes the Administrator of USAID, in coordination with the Coordinator of U.S. Government Activities to Combat HIV/AIDS Globally, to develop and implement a program to facilitate wide scale availability of microbicides that prevent the transmission of HIV after such microbicides are proven safe and effective.

Subsection (c) authorizes of the amounts authorized by section 401 of the 2003 Act, such sums as may be necessary for fiscal years 2009 through 2013 to carry out this section.

### **Sec. 205. Plan to Combat HIV/AIDS, Tuberculosis, and Malaria by Strengthening Health Policies and Health Systems of Host Countries.**

This section amends Title II of the 2003 Act by adding a new section 204 relating to strengthening health policies and health systems of host countries. Subsection (a) provides findings on the need for strengthening of such health policies and systems. Subsection (b) provides for a statement of policy directed to this need. Subsection (c) requires the Coordinator to develop and implement a plan to combat HIV/AIDS by strengthening such policies and systems as part of the United States Agency for International Development's "Health Systems 2020 Project." Subsection (d) authorizes the appropriation of funds authorized under section 401 of the Act to the Department of the Treasury to provide technical assistance to host countries to improve the public finance management systems of such countries to enable them to receive HIV/AIDS assistance, collect revenue and manage their own programs.

## **TITLE III—BILATERAL EFFORTS**

### **Subtitle A—General Assistance and Programs**

#### **Sec. 301. Assistance to Combat HIV/AIDS.**

This section amends section 104A of the Foreign Assistance Act of 1961 and section 301 of the 2003 Act, both of which relate to bilateral U.S. HIV/AIDS assistance.

Subsection (a) amends section 104A by updating and sharpening the focus on certain assistance activities. In particular, the amendments to section 104A create new targets for U.S. HIV/AIDS assistance by 2013 of preventing 12 million infections, treating 3 million persons with HIV/AIDS and caring for 12 million individuals (including 5 million HIV/AIDS orphans and vulnerable children), and training health workers and professionals for HIV/AIDS prevention, treatment and care; widening U.S. efforts to regions such as Central and Eastern Europe and South and Southeast Asia; and creating a new focus on support for host countries.

Subsection (a) also expands the activities for which U.S. HIV/AIDS assistance can be used for prevention, including an increased focus on counseling, delay of sexual debut, abstinence, fidelity, life skills, prevention of mother-to-child HIV transmission, and the use of safe and effective microbicides when they become available. It also expands activities for treatment, including assistance to support treatment for one-third of all individuals in clinical need of treatment in the poorest countries worldwide, assistance to reduce barriers to treatment, and assistance for psycho-social treatment for youth to ensure adherence to treatment. It also provides for a more integrated approach to HIV/AIDS by supporting referral of individuals with HIV/AIDS to relevant services and enhanced support of related programs that can improve the effectiveness of HIV/AIDS programs, such as nutrition, education, and programs that improve the livelihood of individuals with HIV/AIDS. Subsection (a) also expands the annual report required by section 104A(e) to address a number of the new approaches described in this Act.

Subsection (b) amends section 301 of the 2003 Act to expand the authorization to fiscal years 2009 through 2013.

Subsection (c) amends section 301(c) of the 2003 Act to create an enhanced focus on food and nutrition assistance as critical to an integrated approach to treatment of individuals with HIV/AIDS.

Subsection (d) clarifies that not only are groups receiving funds under the Act not required to endorse or utilize any activities or programs to which they have a moral or religious objection, they are also not required to integrate with or refer to programs to which they have a moral or religious objection.

Subsection (e) repeals a sense of Congress that is superfluous in light of the amendment made by subsection (c).

Subsection (f) requires the Coordinator to provide a report identifying a target for the number of additional health professionals and workers needed in host countries to provide HIV/AIDS prevention, treatment and care.

### **Sec. 302. Assistance to Combat Tuberculosis.**

Subsection (a) makes amendments to section 104B of the Foreign Assistance Act of 1961 relating to assistance to combat tuberculosis, drawing from the House-passed version of H.R. 1567, the Stop Tuberculosis (TB) Now Act of 2007. These amendments include additional findings and an amended statement of policy; a requirement to provide assistance to combat tuberculosis; and a list of activities to be carried out, including diagnostic testing and counseling, treatment, and integration of HIV/AIDS and tuberculosis training. The amendments also include providing for a new U.S. strategy to combat tuberculosis and an authorization to provide increased resources to the World Health Organization.

Subsection (b) amends section 302 of the 2003 Act to authorize up to a total of \$4 billion for fiscal years 2009 to 2013 from the overall amounts authorized by section 401 of the 2003 Act (as amended by this Act) for assistance to combat tuberculosis.

### **Sec. 303. Assistance to Combat Malaria.**

Subsection (a) amends section 104C of the Foreign Assistance Act of 1961 to ensure that treatment is part of the U.S. effort to combat malaria.

Subsection (b) amends section 303 of the 2003 Act to authorize up to a total of \$5 billion for fiscal years 2009 to 2013 from the overall amounts authorized by section 401 of the 2003 Act (as amended by this Act) for assistance to combat malaria.

Subsection (c) further amends section 303 of the 2003 Act by adding a requirement for a comprehensive strategy to combat malaria and to establish within USAID a malaria coordinator. It also provides for contributions to the Roll Back Malaria Partnership and the World Health Organization; for research by relevant U.S. agencies to address prevention, treatment and care of malaria; and for an annual report on the prevention, treatment, control and elimination of malaria.

### **Sec. 304. Health Care Partnerships to Combat HIV/AIDS.**

This section supports the development of partnerships between institutions based in the United States and foreign institutions, including national and local health agencies, medical facilities, health education and training institutions, and faith- and community-based organizations involved in prevention, treatment and care of individuals with HIV/AIDS.

## **Subtitle B—Assistance for Women, Children, and Families**

### **Sec. 311. Policy and Requirements.**

This section amends section 312 of the 2003 Act to provide for additional policy and other requirements. Subsection (a) provides for collaboration among all relevant actors that combat HIV/AIDS. Subsection (b) revises section 312(b) of the 2003 Act to provide for requirements regarding the 5-year strategy required by section 101 of the 2003 Act, including establishing targets for reaching 80 percent of pregnant women for prevention of mother-to-child transmission (PMTCT) of HIV; for requiring that up to 15 percent of those receiving treatment and up to 15 percent of those receiving care from U.S. HIV/AIDS assistance are children; for integrating care and treatment with PMTCT programs; and for expanding programs to care for children orphaned by HIV/AIDS.

### **Sec. 312. Annual Reports on Prevention of Mother-to-Child Transmission of the HIV Infection.**

This section amends section 313 of the 2003 Act by extending the duration of the annual PMTCT report required by such section and requires that such report include additional information on the number of women who receive various types of assistance related to PMTCT.

**Sec. 313. Strategy to Prevent HIV Infections Among Women and Youth.**

This section provides for a comprehensive, integrated and culturally appropriate global HIV/AIDS prevention strategy that addresses the vulnerabilities of women and youth. Subsection (a) provides a statement of policy regarding this matter. Subsection (b) requires the strategy and describes its elements. Subsection (c) provides, in formulating and implementing the strategy required by subsection (b), coordination with relevant actors involved in combating HIV/AIDS. Subsection (d) provides for guidance to field missions based on the strategy described in subsection (b). Subsection (e) requires a report on the implementation of the strategy.

**Sec. 314. Clerical Amendment.**

This section makes a clerical amendment to the 2003 Act.

**TITLE IV—AUTHORIZATION OF APPROPRIATIONS**

**Sec. 401. Authorization of Appropriations.**

This section increases the authorization under section 401(a) of the 2003 Act to \$10 billion for each of the fiscal years 2009 to 2013.

**Sec. 402. Sense of Congress.**

This section amends the sense of Congress language included in section 402(b) of the 2003 Act to eliminate specific spending directives in the legislation, including the 55% directive, expressed as a sense of Congress, for treatment, and the directive, again expressed as a sense of Congress, that one-third of prevention funds be used for abstinence programs.

**Sec. 403. Allocation of Funds.**

This section amends section 403(a) of the 2003 Act to maintain focus on balanced prevention programming. In particular, the new subsection (a) provides that 20 percent of all funds authorized for HIV/AIDS programs by the Act shall be used to support HIV prevention programs. In addition, the revised section 403(a) includes a requirement that the Coordinator provide balanced funding for prevention activities for sexual transmission of HIV/AIDS and ensure that behavioral change programs, including abstinence, delay of sexual debut, monogamy, fidelity and partner reduction, are implemented and funded in a meaningful and equitable way in the strategy for each host country based on objective epidemiological evidence as to the source of infection and in

consultation with the government of each host country involved in HIV/AIDS prevention activities. The new subsection also provides that the Coordinator shall establish a HIV sexual transmission prevention strategy governing the expenditure of funds authorized by the Act used to prevent the sexual transmission of HIV in any host country with a generalized epidemic. In each such host country, if this strategy provides less than 50 percent of such funds for behavioral change programs (defined to include abstinence, delay of sexual debut, monogamy, fidelity, and partner reduction), the Coordinator shall, within 30 days of the issuance of this strategy, report to the appropriate congressional committees on the justification for this decision. Finally, this section extends the focus of the Act relating to orphans and vulnerable children.

#### **Sec. 404. Prohibition on Taxation by Foreign Governments.**

Subsection (a) provides that none of the funds appropriated pursuant to the authorization of the 2003 Act, as amended by this Act, may be made available to provide assistance for a foreign country under a new bilateral agreement governing the terms and conditions under which such assistance is to be provided unless such agreement includes a provision stating that assistance provided by the United States shall be exempt from taxation, or reimbursed, by the foreign government, and the Secretary of State shall expeditiously seek to negotiate amendments to existing bilateral agreements, as necessary, to conform with this requirement.

Subsection (b) provides for a de minimus exception to this section.

Subsection (c) authorizes that any funds withheld pursuant to subsection (a) shall be reprogrammed for HIV/AIDS assistance to another country.

Subsection (d) provides that subsection (a) shall not apply if the Secretary of State determines that a country does not assess such taxes, has a mechanism for reimbursement of such taxes, or that U.S. foreign policy interests outweigh the purposes of subsection (a).

Subsection (e) provides for the issuance of regulations regarding this section.

Subsection (f) provides definitions.

### **TITLE V—SUSTAINABILITY AND STRENGTHENING OF HEALTH CARE SYSTEMS**

#### **Sec. 501. Sustainability and Strengthening of Health Care Systems.**

This section amends the 2003 Act by adding a new title relating to sustainability and strengthening of health care systems in countries as part of overall efforts to combat HIV/AIDS. The new title also directs U.S. representatives to relevant international financial institutions to support the exemption of health expenditures from any proposed national budget caps or other limits.

**Sec. 502. Clerical Amendment.**

This section makes a clerical amendment to the 2003 Act to reflect the new title.