

STOP CHINA’S EXPLOITATION OF CONGOLESE CHILDREN AND ADULT FORCED LABOR THROUGH COBALT MINING ACT

DECEMBER 17, 2024.—Committed to the Committee of the Whole House on the State
of the Union and ordered to be printed

Mr. SMITH of Missouri, from the Committee on Ways and Means,
submitted the following

R E P O R T

together with

DISSENTING VIEWS

[To accompany H.R. 7981]

[Including cost estimate of the Congressional Budget Office]

The Committee on Ways and Means, to whom was referred the bill (H.R. 7981) to ensure that goods made using or containing cobalt extracted or processed with the use of child or forced labor in the Democratic Republic of the Congo do not enter the United States market, having considered the same, reports favorably thereon with an amendment and recommends that the bill as amended do pass.

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The amendment is as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the “Stop China’s Exploitation of Congolese Children and Adult Forced Labor through Cobalt Mining Act”.

SEC. 2. FINDINGS.

Congress makes the following findings:

(1) Cobalt is an essential component of most lithium-ion batteries, which are key components in many smartphones, laptops, and electric vehicles, among other electronic devices. According to the International Energy Agency (IAE), worldwide demand is expected to increase over 1,000 percent for lithium and 600 percent for cobalt by 2040, as demands for alternative energy systems and battery storage are expected to grow significantly during this period.

(2) More than one-half of the world’s cobalt resources are in the DRC, which supplied approximately 70 percent of the global cobalt mine production in 2021.

(3) Fifteen of the DRC’s 19 cobalt mines are reportedly owned wholly or in part by companies located in the People’s Republic of China.

(4) Numerous analysts report significant concerns with forced labor, including forced or indentured child labor, in the DRC mining industry.

(5) Approximately 15 to 30 percent of cobalt produced in the DRC comes from artisanal and small-scale mining. An estimated 255,000 miners work in artisanal and small-scale mining in the DRC, of whom at least 40,000 are children.

(6) Section 307 of the Tariff Act of 1930 (19 U.S.C. 1307) states that it is illegal to import into the United States “goods, wares, articles, and merchandise mined, produced, or manufactured wholly or in part” by forced labor, including forced or indentured child labor. Such merchandise is subject to exclusion or seizure and may lead to criminal investigation of the importer.

SEC. 3. INVESTIGATION.

(a) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act, the Forced Labor Enforcement Task Force, established under section 741 of the United States-Mexico-Canada Agreement Implementation Act (19 U.S.C. 4681), in consultation with the heads of other relevant Federal agencies, shall complete and submit to the appropriate congressional committees the results of an investigation into the alleged use of forced labor in the cobalt mining industry of the DRC that—

(1) contains a strategy for the United States Government to effectively enforce section 307 of the Tariff Act of 1930 (19 U.S.C. 1307) to prevent the importation into the United States of cobalt mined by forced labor that includes measures that—

(A) can trace the origin of goods and offer greater supply chain transparency relating to cobalt from the DRC; and

(B) ensure that cobalt mined by forced labor does not enter the United States;

(2) contains a strategy to ensure that cobalt mined by forced labor does not enter the United States market as goods imported from third countries; and

(3) contains a strategy to ensure that cobalt mined by forced labor denied entry to the United States market does not later enter the United States market.

(b) MATTERS TO BE INCLUDED.—The investigation required by subsection (a) shall include the following:

(1) A list of—

(A) entities in the DRC that potentially mine or process cobalt using forced labor; and

(B) categories of downstream products that include cobalt mined in the DRC and are, therefore, identified as priority sectors for enforcement under section 307 of the Tariff Act of 1930 (19 U.S.C. 1307).

(2) Recommendations for efforts, initiatives, and tools and technologies to be adopted to ensure that U.S. Customs and Border Protection can accurately identify and trace cobalt mined by forced labor in the DRC.

(3) A description of how the list of entities required by subparagraph (A) of paragraph (1) shall be regularly updated and reported to the appropriate congressional committees.

(4) A strategy to coordinate and collaborate with appropriate nongovernmental organizations and private sector entities to implement the enforcement strategy for cobalt mined with forced labor and to create and update the list of entities required in subparagraph (A) of paragraph (1).

(c) FORM.—The report required by subsection (a) and any publicly published updates described by subsection (d) shall be submitted in unclassified form, but may include a classified annex, if necessary.

(d) UPDATES.—After the submission of the strategy required by subsection (a), the Forced Labor Enforcement Task Force shall provide briefings to the appropriate congressional committees on a semiannual basis and, as applicable, on—

(1) any updates to the strategy required by subsection (a);

(2) any additional actions taken to prevent the importation of cobalt mined with forced labor, including actions described in this Act; and

(3) any action U.S. Customs and Border Protection has taken to enforce section 307 of the Tariff Act of 1930 (19 U.S.C. 1307) with respect to cobalt mined in the DRC.

(e) SUNSET.—This section shall cease to have effect on the earlier of—

(1) the date that is 8 years after the date of the enactment of this Act; or

(2) the date on which the President submits to the appropriate congressional committees a determination that forced labor in the DRC mining industry has ended.

SEC. 4. DEFINITIONS.

In this Act:

(1) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term “appropriate congressional committees” means—

(A) the Committee on Ways and Means of the House of Representatives; and

(B) the Committee on Finance of the Senate.

(2) ARTISANAL AND SMALL-SCALE MINING.—The term “artisanal and small-scale mining” means—

(A) means mining with minimal to no mechanization; and

(B) includes the use of intensive hand tools.

(3) DRC.—The term “DRC” means the Democratic Republic of the Congo.

(4) FORCED LABOR.—The term “forced labor” has the meaning given that term in section 307 of the Tariff Act of 1930 (19 U.S.C. 1307).

I. SUMMARY AND BACKGROUND

A. PURPOSE AND SUMMARY

H.R. 7981, the *Stop China’s Exploitation of Congolese Children and Adult Forced Labor through Cobalt Mining Act*, as ordered reported by the Committee on Ways and Means on April 17, 2024, requires the interagency Forced Labor Enforcement Task Force (FLETF) to identify and address instances of forced labor in cobalt supply chains from the Democratic Republic of the Congo (DRC).

B. BACKGROUND AND NEED FOR LEGISLATION

Cobalt is an essential component of most lithium-ion batteries—components in smartphones, laptops, and electric vehicles. Worldwide demand is expected to increase over 1,000 percent for lithium and 600 percent for cobalt by 2040. Chinese entities reportedly have ownership stakes in 15 of the DRC’s 19 cobalt mines. The DRC supplies approximately 70 percent of the world’s cobalt, which is often controlled by Chinese entities and allegedly mined with the

use of forced labor. 15 to 30 percent of cobalt produced in the DRC comes from artisanal and small-scale mining. An estimated 40,000 of the 255,000 miners in artisanal and small-scale mining in the DRC are children.

Thus, H.R. 7981 will require effective enforcement to block cobalt mined by forced labor in the DRC. The legislation will require the FLETF to identify what products and priority sectors the U.S. government should apply its Section 307 (19 U.S.C. 1307) prohibition and will consider the risk of transshipment or downstream products that potentially reenter the U.S. through a third country.

C. LEGISLATIVE HISTORY

Background

H.R. 7981 was introduced on April 15, 2024, by Representative Christopher Smith and was referred to the Committee on Ways and Means.

Committee Hearing

On July 10, 2023, the Committee held a field hearing entitled “Trade in America: Agriculture and Critical Supply Chains—Kimball, Minnesota.”

Committee Action

The Committee on Ways and Means marked up H.R. 7981, the “Stop China’s Exploitation of Congolese Children and Adult Forced Labor through Cobalt Mining” on April 17, 2024, and ordered the bill, as amended, favorably reported (with a quorum being present).

D. DESIGNATED HEARING

Pursuant to clause 3(c)(6) of rule XIII, the following hearing was used to develop and consider H.R. 7981:

On July 10, 2023, the Committee held a field hearing entitled “Trade in America: Agriculture and Critical Supply Chains—Kimball, Minnesota.”

II. EXPLANATION OF THE BILL

PRESENT LAW

Section 307 of the Tariff Act of 1930 states that it is illegal to import into the United States “goods, wares, articles, and merchandise mined, produced, or manufactured wholly or in part” by forced labor, including forced or indentured child labor. Such merchandise is subject to exclusion or seizure and may lead to criminal investigation of the importer.

REASON FOR CHANGE

The current law prohibits the import of goods derived from forced or indentured child labor. H.R. 7981 mandates the interagency FLETF to identify the products and priority sectors subject to the Section 307 prohibition. It also requires the FLETF to rigorously assess the risk of transshipment or downstream products reentering the U.S. through a third country. Furthermore, the legislation demands transparent and comprehensive information sharing with Congress regarding the enforcement actions of U.S. Customs

and Border Protection under Section 307, along with a prompt evaluation of the need for additional improvements.

EXPLANATION OF PROVISIONS

Section 1. Short Title

The short title of this Act is the “Stop China’s Exploitation of Congolese Children and Adult Forced Labor through Cobalt Mining Act.”

Section 2. Findings

Section 2 provides Congress’s findings. Congress finds that more than half of the world’s cobalt resources are in the Democratic Republic of the Congo (DRC), which supplied approximately 70 percent of the global cobalt mine production in 2021. Worldwide demand for cobalt is expected to increase over 600 percent by 2040.

Further, Congress finds that 15 of the DRC’s 19 cobalt mines are reportedly owned wholly or in part by companies located in the People’s Republic of China. Numerous analysts report significant concerns with forced labor in the DRC mining industry. Congress recognizes that Section 307 of the Tariff Act of 1930 (19 U.S.C. 1307) prohibits imports into the United States of goods manufactured wholly or in part by forced labor.

Section 3. Investigation

Section 3 requires the interagency FLETF to complete and submit to the appropriate congressional committees the results of an investigation into alleged use of forced labor in the cobalt mining industry of the DRC.

This section establishes that the investigation should include (1) a list of entities in the DRC that potentially mine or process cobalt using forced labor and (2) categories of downstream products that include cobalt mined in the DRC, which are identified as priority sectors for exploration under section 307.

Lastly, this section requires (1) semiannual briefing updates to Congress regarding updates to the strategy; (2) updates on additional actions to prevent the importation of cobalt mined with forced labor; and (3) updates on any action U.S. Customs and Border Protection has taken to enforce section 307 with respect to cobalt mined in the DRC.

Section 4. Definitions

Section 4 defines terms used in the Act.

EFFECTIVE DATE

The provision is effective no later than 180 days after the date of enactment of this Act.

III. VOTE OF THE COMMITTEE

In compliance with the Rules of the House of Representatives, the following statement is made concerning the vote of the Committee on Ways and Means during the markup consideration of H.R. 7981, “Stop China’s Exploitation of Congolese Children and Adult Forced Labor through Cobalt Mining Act,” on April 17, 2024.

H.R. 7981 was ordered favorably reported to the House of Representatives as amended by a roll call vote of 30 yeas to 12 nays and 1 abstention (with a quorum being present). The vote was as follows:

Representative	Yea	Nay	Present	Representative	Yea	Nay	Abstain
Mr. Smith (MO)	X	.....	.....	Mr. Neal .....	.....	X	.....
Mr. Buchanan	X	.....	.....	Mr. Doggett .....	.....	X	.....
Mr. Smith (NE)	X	.....	.....	Mr. Thompson .....	.....	X	.....
Mr. Kelly	X	.....	.....	Mr. Larson .....	.....	X	.....
Mr. Schweikert	X	.....	.....	Mr. Blumenauer .....	.....	X	.....
Mr. LaHood	X	.....	.....	Mr. Pascrell .....	.....	.....	X
Dr. Wenstrup	X	.....	.....	Mr. Davis .....	.....	X	.....
Mr. Arrington	X	.....	.....	Ms. Sanchez .....	.....	X	.....
Dr. Ferguson	X	.....	.....	Ms. Sewell	X	.....	.....
Mr. Estes	X	.....	.....	Ms. DelBene	X	.....	.....
Mr. Smucker	X	.....	.....	Ms. Chu .....	.....	X	.....
Mr. Hern	X	.....	.....	Ms. Moore .....	.....	X	.....
Ms. Miller	X	.....	.....	Mr. Kildee .....	.....	X	.....
Dr. Murphy	X	.....	.....	Mr. Beyer	X	.....	.....
Mr. Kustoff	X	.....	.....	Mr. Evans .....	.....	X	.....
Mr. Fitzpatrick	X	.....	.....	Mr. Schneider	X	.....	.....
Mr. Steube	X	.....	.....	Mr. Panetta	X	.....	.....
Ms. Tenney	X	.....	.....	Mr. Gomez .....	.....	X	.....
Mrs. Fischbach	X	.....	.....	.....	.....	.....	.....
Mr. Moore	X	.....	.....	.....	.....	.....	.....
Mrs. Steel	X	.....	.....	.....	.....	.....	.....
Ms. Van Duyne	X	.....	.....	.....	.....	.....	.....
Mr. Feenstra	X	.....	.....	.....	.....	.....	.....
Ms. Malliotakis	X	.....	.....	.....	.....	.....	.....
Mr. Carey	X	.....	.....	.....	.....	.....	.....

IV. BUDGET EFFECTS OF THE BILL

A. COMMITTEE ESTIMATE OF BUDGETARY EFFECTS

In compliance with clause 3(d) of rule XIII of the Rules of the House of Representatives, the following statement is made concerning the effects on the budget of the bill, H.R. 7981, as reported. The estimate prepared by the Congressional Budget Office (CBO) is included below.

B. STATEMENT REGARDING NEW BUDGET AUTHORITY AND TAX EXPENDITURES BUDGET AUTHORITY

In compliance with clause 3(c)(2) of rule XIII of the Rules of the House of Representatives, the Committee states that the bill involves no new or increased budget authority. The Committee states further that the bill involves no new or increased tax expenditures.

V. COST ESTIMATE PREPARED BY THE CONGRESSIONAL BUDGET OFFICE

In compliance with clause 3(c)(3) of rule XIII of the Rules of the House of Representatives, requiring a cost estimate prepared by the CBO, the following statement by CBO is provided.

H.R. 7981, Stop China's Exploitation of Congolese Children and Adult Forced Labor Through Cobalt Mining Act As ordered reported by the House Committee on Ways and Means on April 17, 2024			
By Fiscal Year, Millions of Dollars	2024	2024-2029	2024-2034
Direct Spending (Outlays)	0	0	0
Revenues	0	0	0
Increase or Decrease (-) in the Deficit	0	0	0
Spending Subject to Appropriation (Outlays)	0	12	not estimated
Increases <i>net direct spending</i> in any of the four consecutive 10-year periods beginning in 2035?	No	Statutory pay-as-you-go procedures apply?	No
		Mandate Effects	
Increases <i>on-budget deficits</i> in any of the four consecutive 10-year periods beginning in 2035?	No	Contains intergovernmental mandate?	No
		Contains private-sector mandate?	No

H.R. 7981 would require the Forced Labor Enforcement Task Force (FLETF) to investigate the alleged use of forced labor in the cobalt mining industry in the Democratic Republic of the Congo (DRC). The bill would require the FLETF to report to the Congress within 180 days on a strategy to prevent cobalt mined by forced labor from being imported and to provide semi-annual briefings on any updates to that strategy.

The FLETF is composed of seven member agencies, and those agencies determine how many people they will assign to the task force. Funding for the task force is provided by the member agencies out of their own appropriations. Under the bill, the required work would cease after the earlier of eight years or when the President submits to the Congress a determination that forced labor in the DRC mining industry has ceased.

Based on information provided by the Department of Homeland Security and the cost of similar activities, CBO expects that the FLETF would need about 10 full-time employees, at an average cost of \$200,000 per person in 2025 and upgrades to its information technology systems to investigate the use of forced labor and write the report. On that basis, and accounting for anticipated inflation, CBO estimates that implementing H.R. 7981 would cost \$12 million over the 2024–2029 period.

The CBO staff contact for this estimate is Margot Berman. The estimate was reviewed by H. Samuel Papenfuss, Deputy Director of Budget Analysis.

MARK P. HOELLER

(For Phillip L. Swagel, Director, Congressional Budget Office).

VI. OTHER MATTERS TO BE DISCUSSED UNDER THE RULES OF THE HOUSE

A. COMMITTEE OVERSIGHT FINDINGS AND RECOMMENDATIONS

With respect to clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee made findings and recommendations that are reflected in this report.

B. STATEMENT OF GENERAL PERFORMANCE GOALS AND OBJECTIVES

With respect to clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, the Committee advises that the bill does not authorize funding, so no statement of general performance goals and objectives is required.

C. INFORMATION RELATING TO UNFUNDED MANDATES

This information is provided in accordance with section 423 of the Unfunded Mandates Reform Act of 1995 (Pub. L. No. 104–4).

The Committee has determined that the bill does not contain Federal mandates on the private sector. The Committee has determined that the bill does not impose a Federal intergovernmental mandate on State, local, or tribal governments.

D. CONGRESSIONAL EARMARKS, LIMITED TAX BENEFITS, AND LIMITED TARIFF BENEFITS

With respect to clause 9 of rule XXI of the Rules of the House of Representatives, the Committee has carefully reviewed the provisions of the bill and states that the provisions of the bill do not contain any congressional earmarks, limited tax benefits, or limited tariff benefits within the meaning of the rule.

E. DUPLICATION OF FEDERAL PROGRAMS

In compliance with clause 3(c)(5) of rule XIII of the Rules of the House of Representatives, the Committee states that no provision of the bill establishes or reauthorizes: (1) a program of the Federal Government known to be duplicative of another Federal program; (2) a program included in any report from the Government Accountability Office to Congress pursuant to section 21 of Public Law 111–139; or (3) a program related to a program identified in the most recent Catalog of Federal Domestic Assistance, published pursuant to the Federal Program Information Act (Pub. L. No. 95–220, as amended by Pub. L. No. 98–169).

VII. CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

The bill, as reported, does not propose to repeal or amend a statute or part thereof.

VIII. DISSENTING VIEWS

Committee Democrats recognize child labor and forced labor taint the global supply chain of cobalt, a critical component in lithium ion batteries and other products important for modern technologies, including electric vehicles. An estimated four-fifths of the world's cobalt remains buried under the ground in the Democratic Republic of the Congo (DRC).

Companies based in China dominate the mining and refining of cobalt in the DRC. Chinese companies own about 80 percent of the DRC's cobalt output, refine the mineral in China, and then sell the product to battery makers around the world.

As pointed out by Committee Democrats during the markup, child labor and forced labor in the cobalt mining sector in the Democratic Republic of the Congo (DRC) is well-documented. The U.S. Department of Labor Bureau of International Labor Affairs (ILAB) has programs to combat child labor and forced labor in the DRC cobalt mining sector. Committee Democrats have supported increased funding for these and other ILAB programs aimed at ending child labor and forced labor globally.

During the markup, Rep. Moore (D-WI) offered an amendment to strengthen H.R. 7981, as amended. The amendment would have expanded the scope of the investigation required by H.R. 7981 to include cobalt, copper, gold, lithium, tantalum, tin, tungsten, and titanium. The amendment would have prohibited the entry of covered minerals mined wholly or in part in the DRC into the United States unless the Commissioner of U.S. Customs and Border Protection determines the entry was not produced wholly or in part by forced labor. Additionally, the amendment would have required the Forced Labor Enforcement Task Force to devise a strategy for working with allies and partners to ensure that covered minerals mined by forced labor do not enter the United States or other countries. Committee Democrats present at the markup unanimously supported the amendment. Committee Republicans unanimously opposed the amendment.

Rep. Pascrell (D-NJ) also introduced an amendment to strengthen H.R. 7981, as amended. The amendment would have required a strategy specifically to address the use of forced labor from Chinese, Uyghur, and Turkic peoples by entities in the Democratic Republic of the Congo cobalt mining sector. The amendment would prohibit the entry of cobalt mined wholly or in part in the DRC into the United States unless the Commissioner of U.S. Customs and Border Protection determines the entry was not produced wholly or in part by forced labor. Committee Democrats present at the markup unanimously supported the amendment. Committee Republicans unanimously opposed the amendment.

The majority of Democratic Members present at the markup opposed favorably reporting H.R. 7981, as amended, to the House of Representatives.

Sincerely,

RICHARD E. NEAL,
Ranking Member.

DISSENTING VIEWS

First, thank you, Mr. Chairman, for recognizing that forced labor continues to be an issue the Congress needs to work to prevent.

House Democrats have fought for strong enforcement of the U.S. prohibition against imports made with forced labor, notably as the main proponents of the Uyghur Forced Labor Prevention Act and the establishment of the Forced Labor Enforcement Task Force in the USMCA.

And, House Democrats have supported increased funding for programs to combat child labor and forced labor, including programs at the U.S. Department of Labor Bureau of International Labor Affairs. Republicans instead have proposed cutting funds for these programs.

And, I know that this Committee has a critical role to play in building on that record and helping to end forced labor in our supply chains.

One area of longstanding interest for me has been in the mining of critical minerals, especially in places like the Democratic Republic of the Congo (DRC).

I served on the House Financial Services Committee in 2010, when Congress passed the Dodd-Frank Act.

As you will all recall, the Dodd-Frank Act directs the SEC to issue rules requiring certain companies to disclose their use of conflict minerals if those minerals are “necessary to the functionality or production of a product” manufactured by those companies. Under Dodd-Frank, these minerals include tantalum, tin, gold, and tungsten.

There were significant concerns that the exploitation and trade of these minerals by armed groups helped to finance conflict in the DRC and contributed to an emergency humanitarian crisis.

Section 1502 of Dodd-Frank and the SEC’s related Conflict Minerals Rule helped improve the global minerals supply chain transparency and break links between the minerals trade and violent conflict in the DRC.

Transparency reforms are an important part of a much broader peacebuilding and good governance effort in the DRC that must be further expanded.

I thank the Chairman for continuing the conversation around minerals mined using forced labor in the DRC and preventing these minerals from entering the United States market. I agree that this continues to be a problem that must be addressed.

However, the investigation and report included in this Committee Print is not enough to tackle this problem.

Child labor and forced labor in the cobalt mining sector in the DRC is well documented.

We cannot ignore the existing evidence that child and forced labor taint the global supply chain of cobalt.

And we should feel compelled to take meaningful action because of the prominent role that cobalt plays in our economy because it's a critical component in products important for modern technologies, including portable telephones and electric vehicles.

An estimated four-fifths of the world's cobalt is buried under the ground in the DRC. So focusing on the DRC definitely makes sense.

So, while I am grateful to the Chairman for his interest in addressing forced labor, I cannot support this proposal because another study and report of a well-known egregious problem isn't enough.

GWEN MOORE,
Member of Congress.

