

8 January 2025

Dr Sean Turner
Committee Secretary
Senate Economic Legislation Committee
Department of the Senate
Parliament House
CANBERRA ACT 2600

Dear Dr Turner,

Inquiry into the Future Made in Australia (Production Tax Credits and Other Measures) Bill 2024

Thank you for the opportunity to make a submission to this Inquiry.

We are writing to the committee on behalf of Fair Futures, a for-purpose consultancy that works at the intersection of sustainability and human rights.

We strongly support this Bill which would support the development of Australia's critical minerals industry. Australia, like most countries in the world, is currently heavily dependent on imports of critical minerals that are being sourced and/or manufactured in countries with poor human rights records. While these minerals may appear "cheap", the real price of these minerals can include human rights abuses, up to and including forced labour and slavery. At present, there are no mechanisms in place to enable these hidden human costs to be factored into price so Australian critical minerals remain financially uncompetitive by global standards. Enabling Australia to mine and produce these critical minerals, in conditions protected by Australian labour standards, would go a very long way to ensuring that Australia's energy transition is both green and "fair", rather than being built on the back of human rights abuses overseas.

As we detail in our submission, there are numerous instances of human rights abuses in the supply chains of many critical minerals, including nickel, rare earth elements, silicon and cobalt. This is a key reason why we support the Critical Minerals Production Tax Incentive (CMPTI). It is simply not fair or realistic to expect Australian miners and manufacturers that pay decent wages and maintain fair working conditions to compete with those who do not. This incentive will make it feasible for Australian producers to bring processed critical minerals to the market, whilst remaining competitive on price against international producers

that benefit from “cheap” exploitative labour practices. This is a significant benefit of the CMPTI, which we believe should be elevated.

Critical minerals and modern slavery risk

Following are selected examples which help illustrate why it is important to consider the hidden costs of “cheap” imported critical minerals.

Nickel

Indonesia is the largest miner of nickel ore, as well as the largest exporter of refined nickel.¹ As of 2020, any export of unprocessed nickel ore from Indonesia is banned.² Nickel from Indonesia is listed on the 2024 List of Goods produced by Child Labor or Foreign Labor, published by the US Government.³ There have been reports of workers being deceptively recruited in China to work in Indonesian nickel smelters.⁴ These reports suggest that upon arrival, these workers have allegedly received lower wages and longer work hours than agreed upon, had their passports confiscated, been subject to arbitrary deduction of wages and experienced physical and verbal violence.

There have also been reports of exploitative and dangerous working conditions in Indonesian nickel smelters generally. Exploitative working practices include non-transparent recruitment practices, unstable contracts, punitive measures in response to taking sick leave and extreme working hours.⁵ There have been allegations of numerous serious injuries and deaths occurring as a result of inadequate or non-existent personal protective equipment.⁶

Rare earth elements

¹ “Nickel Production by Leading Country 2023,” Statista, accessed December 31, 2024, <https://www.statista.com/statistics/264642/nickel-mine-production-by-country/>.

² “Prohibition of the Export of Nickel Ore – Policies,” International Energy Agency: IEA, March 19, 2024, <https://www.iea.org/policies/16084-prohibition-of-the-export-of-nickel-ore>.

³ US DOL, “2024 List of Goods Produced by Child Labor or Forced Labor” (US Department of Labor), accessed December 31, 2024, https://www.dol.gov/sites/dolgov/files/ilab/child_labor_reports/tda2023/2024-tvpra-list-of-goods.pdf.

⁴ Ibid.

⁵ Catur Widi, “The Chaotic Labor Disputes in Indonesia Morowali Industrial Park (IMIP)” (Rasamala Hijau Indonesia, Trend Asia, September 2024), <https://trendasia.org/wp-content/uploads/2024/10/BUKU-TrendAsia-English-Agustus-24-3.pdf>.

⁶ Permata Adinda, “Between Nickel and A Hard Place: Plight of Indonesian and Chinese Workers Behind Electric Vehicle Boom,” Project Multatuli, May 27, 2023, <https://projectmultatuli.org/en/between-nickel-and-a-hard-place-plight-of-indonesian-and-chinese-workers-behind-electric-vehicle-boom/>.

China is the largest producer of rare earth elements (REEs), accounting for nearly 70% of global supply.⁷ However, China sources much of its supply of REEs from the neighbouring region of Kachin State, Myanmar. REE mining is illegal in Kachin State, but under-the-table deals have allegedly been made between Chinese businesses and local militias to set up mines.⁸ It is reported that child labour is occurring in the mining and quarrying process.

In March 2022, satellite technology showed 2700 illegal mining collection pools in Kachin State.⁹ Once REEs are extracted, the polluted sites are abandoned, leaving toxic chemicals to leak into the waterways. This in turn destroys ecosystems and agricultural livelihoods. Local people's complaints about this pollution have been met with threats, intimidation and violence from militias.¹⁰

Lithium

Australia is the largest lithium miner in the world, followed by Chile and China.¹¹ China accounts for around 72 percent of global lithium refining capacity.¹² Many companies have lithium processing operations in Xinjiang Uyghur Autonomous Region (Xinjiang) in Western China. Labour conditions in Xinjiang have received scrutiny for concerns of forced labour of Uyghur and other Muslim nationals in China's 'labour transfers' and 're-education' schemes.¹³ For example, in 2022, the UN's High Commissioner for Human Rights expressed concern that there is "large-scale arbitrary deprivation of liberty of members of Uyghur and other predominantly Muslim communities" in Xinjiang.¹⁴ According to researchers at Sheffield Hallam University, the Chinese government has invested significant resources into moving the processing of raw materials such as lithium and cobalt into Xinjiang.¹⁵

⁷ "Rare Earths: Mine Production Top Countries 2023," Statista, accessed December 31, 2024, <https://www.statista.com/statistics/268011/top-countries-in-rare-earth-mine-production/>.

⁸ "Myanmar's Poisoned Mountains," Global Witness, August 9, 2022, <https://en/campaigns/natural-resource-governance/myanmars-poisoned-mountains/>.

⁹ Ibid.

¹⁰ "Mapping the Impacts and Conflicts of Rare-Earth Elements Challenges for the Green and Digital Transition" (ODG, Environmental Justice Atlas, Institute for Policy Studies and CRAAD-OI, November 2023), <https://odg.cat/wp-content/uploads/2023/11/Mapping-Impacts-Conflicts-Rare-Earth-Elements.pdf>.

¹¹ "Global Lithium Mine Production Top Countries 2023," Statista, accessed December 31, 2024, <https://www.statista.com/statistics/268789/countries-with-the-largest-production-output-of-lithium/>.

¹² Daniel Quiggin and Richard King, "Cobalt Refining Power Gives China an Advantage in the Race for EV Battery Dominance," Resource Trade, July 4, 2023, <https://resourcetrade.earth/publications/critical-metals-ev-batteries>.

¹³ "OHCHR Assessment of Human Rights Concerns in the Xinjiang Uyghur Autonomous Region, People's Republic of China" (United Nations Office of the High Commissioner on Human Rights, 2022), pp. 37, 1, <https://www.ohchr.org/sites/default/files/documents/countries/2022-08-31/22-08-31-final-assesment.pdf>

¹⁴ Ibid, p 43.

¹⁵ Laura Murphy et al., "Driving Force: Automotive Supply Chains and Forced Labor in the Uyghur Region" (Sheffield Hallam University, October 2024), <https://www.shu.ac.uk/helena-kennedy-centre-international-justice/research-and-projects/all-projects/driving-force>.

Companies that process lithium in China have been found to use Uyghur forced labour under state-sponsored programs.¹⁶

Cobalt

The Democratic Republic of the Congo (DRC) is by far the largest cobalt miner in the world, accounting for nearly three-quarters of global cobalt production in 2023.¹⁷ Cobalt from the DRC is listed on the 2024 US List of Goods produced by Child Labor or Foreign Labor.¹⁸ Several forms of modern slavery have been identified in cobalt mines in the DRC: wage slavery, forced labour, debt, bondage and child labour (for both mining and prostitution at mine sites).¹⁹ Although these instances of modern slavery are usually concentrated in artisanal and small-scale mines (which make up around 20-30% of the DRC's cobalt production), substandard working conditions have also been found in industrial cobalt mines. These conditions include exploitation, labour rights abuses, excessive working hours, pay below the living wage, unsafe working conditions, degrading treatment, discrimination and racism.²⁰

Most of the world's refined cobalt comes from China, producing 76% of the global supply.²¹ As with lithium, a growing amount of cobalt processing is occurring in Xinjiang, which has a high risk of forced Uyghur labour.²²

Silicon

China is the largest global producer of silicon.²³ Uyghur forced labour in Xinjiang has been reported at the point of quartz extraction, as well as in the production of metallurgical grade

¹⁶ Ibid

¹⁷ "Global Cobalt Production by Country 2023," Statista, accessed December 31, 2024, <https://www.statista.com/statistics/264928/cobalt-mine-production-by-country/>.

¹⁸ US DOL, "2024 List of Goods Produced by Child Labor or Forced Labor" (US Department of Labor), accessed December 31, 2024, https://www.dol.gov/sites/dolgov/files/ilab/child_labor_reports/tda2023/2024-tvpra-list-of-goods.pdf.

¹⁹ Benjamin K. Sovacool, "When Subterranean Slavery Supports Sustainability Transitions? Power, Patriarchy, and Child Labor in Artisanal Congolese Cobalt Mining," *The Extractive Industries and Society* 8, no. 1 (March 1, 2021): 271–93, <https://doi.org/10.1016/j.exis.2020.11.018>.

²⁰ RAID and CAJJ, "The Road to Ruin? Electric Vehicles and Workers' Rights Abuses at DR Congo's Industrial Cobalt Mines" (Rights and Accountability in Development, Centre d'Aide Juridico-Judiciaire, November 2021), https://raid-uk.org/wp-content/uploads/2023/03/report_road_to_ruin_evs_cobalt_workers_nov_2021.pdf.

²¹ "Most of the World's Cobalt Is Mined in the Democratic Republic of Congo, but Refined in China," Our World in Data, accessed December 31, 2024, <https://ourworldindata.org/data-insights/most-of-the-worlds-cobalt-is-mined-in-the-democratic-republic-of-congo-but-refined-in-china>.

²² Laura Murphy et al., "Driving Force: Automotive Supply Chains and Forced Labor in the Uyghur Region" (Sheffield Hallam University, October 2024), <https://www.shu.ac.uk/helena-kennedy-centre-international-justice/research-and-projects/all-projects/driving-force>.

²³ "Silicon Production Worldwide by Country 2023," Statista, accessed January 1, 2025, <https://www.statista.com/statistics/268108/world-silicon-production-by-country/>.

silicon and solar-grade polysilicon.²⁴ Notably, solar-grade polysilicon is the primary material in 95% of solar modules,²⁵ and 35% of the global supply of polysilicon comes from Xinjiang.²⁶

Although the Solar Sunshot program aims to support the manufacturing of solar panels here in Australia, including potential support for polysilicon production, this will take several years to come to fruition. Meanwhile, several major suppliers of solar panels in the Australian market have been identified by researchers at Sheffield Hallam University as having significant modern slavery risks.²⁷ ²⁸ As we have argued in other submissions, for these reasons we believe it is important that the Future Made in Australia goes right back to the source, to support the mining of silicon and manufacture of polysilicon locally.

Recommendation

The Statement of Compatibility with Human Rights accompanying this Bill states that Schedules 1 and 2 do not engage with any applicable rights or freedoms. However, we suggest amending this statement to reflect the fact that the CMPTI positively engages with human rights, namely the right to just and favourable conditions of work (article 7 of the ICESCR), and the right to freedom from slavery and forced labour (article 8 of the ICCPR). The CMPTI contributes to Australia's obligations to prevent forced labour by encouraging domestic supply, produced under Australia's robust labour conditions.

We would be more than happy to discuss any of the issues raised in this submission with the Committee, or provide further information.

Kind regards,
Fiona David and Shannon Hobbs.

²⁴ Laura Murphy and Nyrola Elimä, "In Broad Daylight: Uyghur Forced Labour and Global Solar Supply Chains" (Sheffield Hallam University, 2021), <https://www.shu.ac.uk/helena-kennedy-centre-international-justice/research-and-projects/all-projects/in-broad-daylight>.

²⁵ Ibid.

²⁶ Laura Murphy and Alan Crawford, "Over-Exposed: Uyghur Region Exposure Assessment for Solar Industry Sourcing" (Sheffield Hallam University, 2023), <https://www.shu.ac.uk/helena-kennedy-centre-international-justice/research-and-projects/all-projects/over-exposed>.

²⁷ Joshua S Hill, "Australia's Top 10 Most Installed Solar Panels and Inverter Brands," One Step Off The Grid, February 22, 2023, <https://onestepoffthegrid.com.au/australias-top-10-most-installed-solar-panels-and-inverter-brands/>.

²⁸ Laura Murphy and Alan Crawford, "Over-Exposed: Uyghur Region Exposure Assessment for Solar Industry Sourcing" (Sheffield, UK: Sheffield Hallam University, November 2023), <https://www.shu.ac.uk/helena-kennedy-centre-international-justice/research-and-projects/all-projects/over-exposed>.