

117TH CONGRESS  
2D SESSION

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To establish and implement a multi-year Legal Gold and Mining Partnership Strategy to reduce the negative environmental and social impacts of illicit gold mining in the Western Hemisphere, and for other purposes.

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IN THE SENATE OF THE UNITED STATES

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Mr. RUBIO (for himself and Mr. MENENDEZ) introduced the following bill; which was read twice and referred to the Committee on

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**A BILL**

To establish and implement a multi-year Legal Gold and Mining Partnership Strategy to reduce the negative environmental and social impacts of illicit gold mining in the Western Hemisphere, and for other purposes.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “United States Legal  
5       Gold and Mining Partnership Act”.

6       **SEC. 2. FINDINGS.**

7       Congress makes the following findings:

1                             (1) The illicit mining, trafficking, and commercialization of gold in the Western Hemisphere—

3                                 (A) negatively affects the region's economic  
4                                 and social dynamics;

5                                 (B) strengthens transnational criminal organizations and other international illicit actors;

7                                 and

8                                 (C) has a deleterious impact on the environment and food security.

10                             (2) A lack of economic opportunities and the weak rule of law promote illicit activities, such as illicit gold mining, which increases the vulnerability of individuals in mining areas, including indigenous communities, who have been subjected to trafficking in persons, other human rights abuses, and population displacement in relation to mining activity, particularly in the artisanal and small-scale mining sector.

19                             (3) Illicit gold mining in Latin America often involves and benefits transnational criminal organizations, drug trafficking organizations, terrorist groups, and other illegal armed groups that extort miners and enter into illicit partnerships with them in order to gain revenue from the illicit activity.

(4) Illicit gold supply chains are international in nature and frequently involve—

(A) the smuggling of gold and supplies,  
such as mercury;

5 (B) trade-based money laundering; and

(C) other cross-border flows of illicit assets.

(5) In Latin America, mineral traders and exporters, local processors, and shell companies linked to transnational criminal networks and illegally armed groups all play a key role in the trafficking, laundering, and commercialization of illicit gold from the region.

(B) about 80 percent of the gold mined in Venezuela is mined through illicit means and a large percentage of such gold is sold—

1 designated by the Office of Foreign Assets  
2 Control of the Department of the Treas-  
3 ery, pursuant to Executive Order 13850,  
4 and is operated by the Maduro regime; or  
5 (ii) through other trafficking and  
6 commercialization networks from which the  
7 Maduro regime benefits financially.

(7) Illegal armed groups and foreign terrorist organizations, such as the Ejército de Liberación Nacional (National Liberation Army—ELN), work with transnational criminal organizations in Venezuela that participate in the illicit mining, trafficking, and commercialization of gold.

## 19 SEC. 3. DEFINITIONS.

20 In this Act:

(B) the Committee on Foreign Affairs of  
the House of Representatives.

(A) typically employs rudimentary, simple, and low-cost extractive technologies and manual labor-intensive techniques;

10 (B) is frequently subject to limited regula-  
11 tion; and

(C) often features harsh and dangerous working conditions.

16 (A) any person included on any list of—

17 (A) the Department of State;

18 (B) the Department of the Treasury;

19 (C) the Department of Homeland Security,  
20 including U.S. Customs and Border Protection  
21 and U.S. Immigration and Customs Enforce-  
22 ment;

(D) the Department of Justice, including the Federal Bureau of Investigation and the Drug Enforcement Administration;

- (E) the Department of the Interior;
- (F) the United States Agency for International Development; and
- (G) other Federal agencies designated by the President.

## **6 SEC. 4. LEGAL GOLD AND MINING PARTNERSHIP STRATEGY.**

8       (a) STRATEGY REQUIRED.—The Secretary of State,  
9 in coordination with the heads of relevant Federal depart-  
10 ments and agencies, shall develop a comprehensive, multi-  
11 year strategy, which shall be known as the Legal Gold and  
12 Mining Partnership Strategy (referred to in this section  
13 as the “Strategy”), to combat illicit gold mining in the  
14 Western Hemisphere.

15 (b) ELEMENTS.—The Strategy shall include policies,  
16 programs, and initiatives—

17                   (1) to interrupt the linkages between ASM and  
18                   illicit actors that profit from ASM in the Western  
19                   Hemisphere;

1        aerosol contamination linked to detrimental health  
2        impacts;

3                (3) to counter the financing and enrichment of  
4        actors involved in the illicit mining, trafficking, and  
5        commercialization of gold, and the abetting of their  
6        activities by—

7                        (A) promoting the exercise of due diligence  
8        and the use of responsible sourcing methods in  
9        the purchase and trade of ASM;

10                  (B) preventing and prohibiting foreign per-  
11        sons who control commodity trading chains  
12        linked to illicit actors from enjoying the benefits  
13        of access to the territory, markets or financial  
14        system of the United States, and halting any  
15        such ongoing activity by such foreign persons;  
16        and

17                  (C) supporting the capacity of financial in-  
18        telligence units, customs agencies, and other  
19        government institutions focused on anti-money  
20        laundering initiatives and combating the financ-  
21        ing of criminal activities and terrorism to exer-  
22        cise oversight consistent with the threats posed  
23        by illicit gold mining;

1                             (4) to build the capacity of foreign civilian law  
2                             enforcement institutions in the Western Hemisphere  
3                             to effectively counter—

4                             (A) linkages between illicit gold mining, il-  
5                             licit actors, money laundering, and other finan-  
6                             cial crimes, including trade-based money laun-  
7                             dering;

8                             (B) linkages between illicit gold mining, il-  
9                             licit actors, trafficking in persons, and forced or  
10                             coerced labor, including sex work and child  
11                             labor;

12                             (C) the cross-border trafficking of illicit  
13                             gold, and the mercury, cyanide, explosives, and  
14                             other hazardous materials used in illicit gold  
15                             mining; and

16                             (D) surveillance and investigation of illicit  
17                             and related activities that are related to or are  
18                             indicators of illicit gold mining activities;

19                             (5) to ensure the successful implementation of  
20                             the existing Memoranda of Understanding signed  
21                             with the Governments of Peru and of Colombia in  
22                             2017 and 2018, respectively, to expand bilateral co-  
23                             operation to combat illicit gold mining;

24                             (6) to work with governments in the Western  
25                             Hemisphere, bolster the effectiveness of anti-money

1        laundering efforts to combat the financing of illicit  
2        actors in Latin America and the Caribbean and  
3        counter the laundering of proceeds related to illicit  
4        gold mining by—

5                (A) fostering international and regional co-  
6        operation and facilitating intelligence sharing,  
7        as appropriate, to identify and disrupt financial  
8        flows related to the illicit gold mining, traf-  
9        ficking, and commercialization of gold and  
10      other minerals and illicit metals; and

11                (B) supporting the formulation of strate-  
12      gies to ensure the compliance of reporting insti-  
13      tutions involved in the mining sector and to  
14      promote transparency in mining-sector trans-  
15      actions;

16                (7) to support foreign government efforts—

17                (A) to increase regulations of the ASM sec-  
18      tor;

19                (B) to facilitate licensing and formalization  
20      processes for ASM miners;

21                (C) to create and implement environmental  
22      safeguards to reduce the negative environmental  
23      impact of mining on sensitive ecosystems; and

1                             (D) to develop mechanisms to support reg-  
2                             ulated cultural artisanal mining and artisanal  
3                             mining as a job growth area;

4                             (8) to engage the mining industry to encourage  
5                             the building of technical expertise in best practices,  
6                             environmental safeguards, and access to new tech-  
7                             nologies;

8                             (9) to support the establishment of gold com-  
9                             modity supply chain due diligence, responsible  
10                            sourcing, tracing and tracking capacities, and stand-  
11                            ards-compliant commodity certification systems in  
12                            countries in Latin America and the Caribbean, in-  
13                            cluding efforts recommended in the OECD Due Dili-  
14                            gence Guidance for Responsible Supply Chains of  
15                            Minerals from Conflict-Affected and High Risk  
16                            Areas, Third Edition (2016);

17                            (10) to reduce the negative environmental im-  
18                            pacts of ASM, particularly—

19                             (A) the use of mercury in preliminary re-  
20                             fining;

21                             (B) the destruction of tropical forests;

22                             (C) the construction of illegal and unregu-  
23                             lated dams and the resulting valley floods;

24                             (D) the pollution of water resources and  
25                             soil; and

(E) the release of dust, which can contain toxic chemicals and heavy metals that can cause severe health problems;

4 (11) to aid and encourage ASM miners—

9 (B) to utilize environmentally safe and sus-  
10 tainable mining practices, including by scaling  
11 up the use of mercury-free gold refining tech-  
12 nologies, and mining methods and technologies  
13 that do not result in deforestation, forest de-  
14 struction, air pollution, water and soil-contami-  
15 nation, and other negative environmental im-  
16 pacts associated with ASM;

17 (C) to reduce the costs associated with for-  
18 malization and compliance with mining regula-  
19 tions;

(D) to fully break away from the influence  
of illicit actors who leverage the control of terri-  
tory and use violence to extort miners and push  
them into illicit arrangements:

- 1                         (E) to adopt and utilize environmentally  
2                         safe and sustainable mining practices, includ-  
3                         ing—  
4                             (i) mercury-free gold refining tech-  
5                         nologies; and  
6                             (ii) extractive techniques that do not  
7                         result in—  
8                             (I) forest clearance and water  
9                         contamination; or  
10                           (II) the release of dust or uncon-  
11                         trolled tailings containing toxic chemi-  
12                         cals;
- 13                         (F) to pursue alternative livelihoods out-  
14                         side the mining sector; and
- 15                         (G) to fully access public social services in  
16                         ASM-dependent communities;
- 17                         (12) to support and encourage socioeconomic  
18                         development programs, law enforcement capacity-  
19                         building programs, and support for relevant inter-  
20                         national initiatives, including by providing assistance  
21                         to achieve such ends by implementing the Strategy;  
22                         and
- 23                         (13) to promote responsible sourcing and due  
24                         diligence at all levels of gold supply chains.

1       (c) CHALLENGES ASSESSED.—The Strategy shall in-  
2 clude an assessment of the challenges posed by, and policy  
3 recommendations to address—

4                 (1) linkages between ASM sector production  
5 and trade, particularly relating to gold, to the activi-  
6 ties of illicit actors, including linkages that help to  
7 finance or enrich such illicit actors or abet their ac-  
8 tivities;

9                 (2) linkages between illicit or grey market  
10 trade, and markets in gold and other metals or min-  
11 erals and legal trade and commerce in such commod-  
12 ities, notably with respect to activities that abet the  
13 entry of such commodities into legal commerce, in-  
14 cluding—

15                     (A) illicit cross-border trafficking, includ-  
16 ing with respect to goods, persons and illegal  
17 narcotics;

18                     (B) money-laundering;

19                     (C) the financing of illicit actors or their  
20 activities; and

21                     (D) the extralegal entry into the United  
22 States of—

23                             (i) metals or minerals, whether of  
24 legal foreign origin or not; and

(ii) the proceeds of such metals or  
minerals;

8 (4) factors that—

9 (A) produce linkages between ASM miners  
10 and illicit actors, prompting some ASM miners  
11 to utilize mining practices that are environ-  
12 mentally damaging and unsustainable, notably  
13 mining or related ore processing practices  
14 that—

15 (i) involve the use of elemental mer-  
16 cury; or

(B) lead some ASM miners to operate in the extralegal or poorly regulated informal sector, and often prevent such miners from improving the socioeconomic status of themselves and their families and communities, or hinder their ability to formalize their operations, en-

1           hance their technical and business capacities,  
2           and access finance of fair market prices for  
3           their output;

4           (5) mining-related trafficking in persons and  
5           forced or coerced labor, including sex work and child  
6           labor; and

7           (6) the use of elemental mercury and cyanide in  
8           ASM operations, including the technical aims and  
9           scope of such usage and its impact on human health  
10          and the environment, including flora, fauna, water  
11          resources, soil, and air quality.

12          (d) FOREIGN ASSISTANCE.—The Strategy shall de-  
13          scribe—

14           (1) existing foreign assistance programs that  
15          address elements of the Strategy; and

16           (2) additional foreign assistance resources need-  
17          ed to fully implement the Strategy.

18          (e) SUBMISSION.—Not later than 180 days after the  
19          date of the enactment of this Act, the President shall sub-  
20          mit the Strategy to the appropriate congressional commit-  
21          tees.

22          (f) BRIEFING.—Not later than 180 days after sub-  
23          mission of the Strategy, and semiannually thereafter for  
24          the following 3 years, the Secretary of State, or the Sec-  
25          retary's designee, shall provide a briefing to the appro-

1 prial congressional committees regarding the implemen-  
2 tation of the strategy, including efforts to leverage inter-  
3 national support and develop a public-private partnership  
4 to build responsible gold value chains with other govern-  
5 ments.

6 **SEC. 5. CLASSIFIED BRIEFING ON ILLICIT GOLD MINING IN**

7 **VENEZUELA.**

8 Not later than 90 days after the date of the enact-  
9 ment of this Act, the Secretary of State, or the Secretary's  
10 designee, in coordination with the Director of National In-  
11 telligence, shall provide a classified briefing to the appro-  
12 priate congressional committees, the Select Committee on  
13 Intelligence of the Senate, and the Permanent Select Com-  
14 mittee on Intelligence of the House of Representatives  
15 that describes—

16 (1) the activities related to illicit gold mining,  
17 including the illicit mining, trafficking, and commer-  
18 cialization of gold, inside Venezuelan territory car-  
19 ried out by illicit actors, including defectors from the  
20 Revolutionary Armed Forces of Colombia (FARC)  
21 and members of the National Liberation Army  
22 (ELN); and

23 (2) Venezuela's illicit gold trade with foreign  
24 governments, including the Government of the Re-

1       public of Turkey and the Government of the Islamic  
2       Republic of Iran.

3 **SEC. 6. INVESTIGATION OF THE ILLICIT GOLD TRADE IN**  
4 **VENEZUELA.**

5       The Secretary of State, in coordination with the Sec-  
6       retary of the Treasury, the Attorney General, and allied  
7       and partner governments in the Western Hemisphere,  
8       shall—

9               (1) lead a coordinated international effort to  
10       carry out financial investigations to identify and  
11       track assets taken from the people and institutions  
12       in Venezuela that are linked to money laundering  
13       and illicit activities, including mining-related activi-  
14       ties, by sharing financial investigations intelligence,  
15       as appropriate and as permitted by law; and

16               (2) provide technical assistance to help eligible  
17       governments in Latin America establish legislative  
18       and regulatory frameworks capable of imposing and  
19       effectively implementing targeted sanctions on—

20                       (A) officials of the Maduro regime who are  
21       directly engaged in the illicit mining, traf-  
22       ficking, and commercialization of gold; and

23                       (B) foreign persons engaged in the laun-  
24       dering of illicit gold assets linked to designated  
25       terrorist and drug trafficking organizations.

**1 SEC. 7. LEVERAGING INTERNATIONAL SUPPORT.**

2        In implementing the Legal Gold and Mining Partner-  
3 ship Strategy pursuant to section 4, the President should  
4 direct United States representatives accredited to relevant  
5 multilateral institutions and development banks and  
6 United States ambassadors in the Western Hemisphere to  
7 use the influence of the United States to foster inter-  
8 national cooperation to achieve the objectives of this Act,  
9 including—

10              (1) marshaling resources and political support;  
11              and

12              (2) encouraging the development of policies and  
13              consultation with key stakeholders to accomplish  
14              such objectives and provisions.

**15 SEC. 8. PUBLIC-PRIVATE PARTNERSHIP TO BUILD RESPON-  
16 SIBLE GOLD VALUE CHAINS.**

17              (a) **BEST PRACTICES.**—The Administrator of the  
18 United States Agency for International Development (re-  
19 ferred to in this section as the “Administrator”), in co-  
20 ordination with the Governments of Colombia, of Ecuador,  
21 and of Peru, and with other democratically-elected govern-  
22 ments in the region, shall consult with the Government  
23 of Switzerland regarding best practices developed through  
24 the Swiss Better Gold Initiative, a public-private partner-  
25 ship that aims to improve transparency and traceability  
26 in the international gold trade.

1       (b) IN GENERAL.—The Administrator shall coordi-  
2 nate with the Governments of Colombia, Ecuador, Peru,  
3 and other democratically-elected governments in the re-  
4 gion determined by the Administrator to establish a pub-  
5 lic-private partnership to advance the best practices identi-  
6 fied in subsection (a), including supporting programming  
7 in participating countries that will—

8              (1) support formalization and compliance with  
9 appropriate environmental and labor standards in  
10 ASM gold mining;

11              (2) increase access to financing for ASM gold  
12 miners who are taking significant steps to formalize  
13 their operations and comply with labor and environ-  
14 mental standards;

15              (3) enhance the traceability and support the es-  
16 tablishment of a certification process for ASM gold;

17              (4) support a public relations campaign to pro-  
18 mote responsibly-sourced gold;

19              (5) facilitate contact between vendors of respon-  
20 sibly-sourced gold and United States companies; and

21              (6) promote policies and practices in partici-  
22 pating countries that are conducive to the formaliza-  
23 tion of ASM gold mining and promoting adherence  
24 of ASM to internationally-recognized best practices  
25 and standards.

1       (c) MEETING.—The Secretary of State or the Admin-  
2 istrator, without delegation and in coordination with the  
3 governments of participating countries, should—

4           (1) host a meeting with senior representatives  
5           of the private sector and international governmental  
6           and nongovernmental partners; and

7           (2) make commitments to improve due diligence  
8           and increase the responsible sourcing of gold.

9 **SEC. 9. AUTHORIZATION OF APPROPRIATIONS.**

10          There is authorized to be appropriated to the Sec-  
11 retary of State \$10,000,000 to implement the Legal Gold  
12 and Mining Partnership Strategy developed pursuant to  
13 section 4.