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Jeffrey Goettman
Deputy United States Trade Representative
Office of the United States Trade Representative
600 17th Street NW
Washington, DC 20508

Subject: Comments of the National Ocean Industries Association in response to the Request for Comments on the Design of a Plurilateral Agreement on Trade in Critical Minerals and Policy Actions To Strengthen the Resilience of Critical Mineral Supply Chains

Deputy U.S. Trade Representative Jeffrey Goettman,

Thank you for the opportunity to provide comments on the design of a plurilateral agreement on trade in critical minerals and policy actions to strengthen the resilience of critical mineral supply chains. The National Ocean Industries Association represents companies investing in the commercial development and production of critical minerals and rare earth elements from the seabed in U.S. and international waters. There is vast potential to safely secure massive amounts of critical minerals and rare earth elements in offshore areas. We thus encourage the United States Trade Representative to consider and promote ocean mineral development in the planning and design of trade agreements. The United States already has a statutory and regulatory regime in place that covers both U.S. territorial waters *and* international waters. As we discuss below, it is critical that trade agreements align with U.S. law and do not disrupt potential investment in any prospective region.

For more than 50 years, NOIA has represented the interests of all segments of the offshore energy industry, including offshore oil and gas, ocean minerals, and offshore carbon sequestration. Our membership includes energy project developers, leaseholders, operators, and companies throughout the entire supply chain that make up an innovative ecosystem contributing to the safe and responsible exploration, development, and production of energy and mineral resources.

U.S. Economic and National Security Interests Require a Commitment to Development, Production, and Processing of Critical Minerals and Rare Earth Elements, and Specifically Through Ocean Mineral Development

As described by Daniel Yergin, Peter Orzag, and Atul Arya in the March/April volume of Foreign Affairs, the global economy is making a move toward “big shovels,” precipitated by vastly more mining and processing of critical minerals that are needed to support the oncoming growth in electrical power generation and new

technologies. As well-stated by Yergin, Orzag, and Arya, "China already has a dominant position in mining and predominant position in processing of minerals into metals essential for renewable energy infrastructure. It accounts for over 60 percent of the world's rare-earth mining production (compare with nine percent for the United States) and more than 90 percent of the processing and refining of rare earths. It produces 77 percent of the world's graphite, processes 98 percent of it, and processes over 70 percent of the world's lithium and cobalt and almost half of the copper."

The President has made clear the urgency of addressing this increasingly dire situation through his initiatives to bolster U.S. interests in the critical mineral sector. In addition to U.S. onshore mining regions, the U.S. outer continental shelf and the high seas provide major opportunities for our country to prospect for and develop the critical minerals that we will need for decades to come. While China's lead in land-based mining and processing is clear, it does not lead in seabed mining. This presents a unique and strategic opportunity for US global leadership in ocean mineral development.

Ocean mineral exploration, development, and processing presents a substantial opportunity for the United States to secure vital supplies of critical minerals and rare earth elements. Ocean minerals include shallow-water deposits, such as phosphorites and heavy mineral sands (containing titanium, zirconium, REEs), and deep-sea deposits, primarily consisting of sulfides, cobalt-rich crusts, metalliferous muds, and, perhaps of greatest present interest to industry, polymetallic nodules, with high concentrations of cobalt, copper, manganese, nickel, tellurium, titanium, and rare-earth elements. The Cook Islands, Japan, Norway, Brazil, Sweden, Tonga, Fiji, Papua New Guinea, and other nations have already taken steps to explore for and/or develop critical minerals in their national waters. With no active exploration licenses in its national waters, the U.S. is at risk of falling behind. Ocean mineral exploration presents a very real opportunity for U.S. leadership in this space. To ensure this opportunity can be realized, future trade agreements and domestic policy frameworks should explicitly recognize ocean minerals, including those recovered by U.S.-trusted allied countries, as eligible "domestic production" for the purposes of supply chain incentives, trade preferences, and strategic stockpiling.

Federal Policy Is Key to Enable Investment in Ocean Mineral Development

Given the economic and national security interests at stake, it is vitally important that we advance policies that enable long-term U.S. leadership in ocean mineral exploration, development, and processing. We encourage the Administration – and the U.S. Trade Representative – to continue to take the steps necessary to enable research, exploration, and production of critical minerals in areas of the U.S. outer continental shelf and international waters. The advancement of the U.S. ocean mineral exploration and production industry will support American prosperity through capital investment, job creation, manufacturing, technology leadership, and economic and national security.

The Trump Administration Has Taken Strong Action in Support of Ocean Mineral Development

The Trump Administration has maintained a laser focus on promoting U.S. leadership in the procurement of critical minerals, including through offshore mineral exploration. On December 20, 2017, President Trump signed Executive Order 13817, "A Federal Strategy to Ensure Secure and Reliable Supplies of Critical Minerals," with the goal of reducing the nation's vulnerability to disruptions in the supply of critical minerals. On September 30, 2020, President Trump signed Executive Order 13953, "Addressing the Threat to the Domestic Supply Chain From Reliance on Critical Minerals From Foreign Adversaries and Supporting the Domestic Mining and Processing Industries," which makes it the policy of the U.S. to "prioritize the expansion and protection of the domestic supply chain for minerals and the establishment of secure critical minerals supply chains." This Executive Order further directs federal agencies to allocate their resources to fulfill these purposes.

On January 20, 2025, President Trump signed Executive Order 14156, "Declaring a National Energy Emergency," directing federal agencies to "facilitate the identification, leasing, siting, production, transportation, refining, and generation of domestic energy resources," including critical minerals. Finally, on April 24, 2025, President Trump took action specific to offshore mineral exploration, issuing Executive Order 14285, "Unleashing America's Offshore Critical Minerals and Resources," framing offshore and seabed critical minerals as vital to U.S. national security, economic strength, and supply chain resilience. This E.O. emphasizes the critical importance of reducing dependence on foreign adversaries – particularly China – for strategic minerals used in defense, technology, and clean energy.

The U.S. Has an Established Statutory and Regulatory Framework for Ocean Mineral Development in U.S. *and* International Waters

The U.S. Department of the Interior (DOI), through the Bureau of Ocean Energy Management (BOEM), has the authority to evaluate the U.S. OCS for mineral development potential and to lease offshore acreage for critical mineral development. BOEM has also issued regulations allowing leasing of non-oil and gas minerals, including critical minerals. BOEM's regulations cover pre-leasing activities, such as prospecting through geological and geophysical surveys, as well as leasing offshore acreage for the right to explore for and develop offshore minerals. BOEM is developing a National Offshore Critical Mineral Inventory (NOCMI) initiative to locate, identify, and understand potential critical minerals on the OCS. The Bureau of Safety and Environmental Enforcement (BSEE), also within DOI, has authority over safety and environmental requirements, including compliance with BSEE regulations and BOEM-approved plans. BOEM has not yet held any lease sales for critical minerals but has taken steps forward for lease sales offshore American Samoa and the Mariana Islands, and by initiating the process for potential mineral lease sales offshore Virginia and Alaska. As the U.S. expands its offshore mineral strategy, it is important that the regulatory environment provides predictable and timely pathways for

exploration and permitting, enabling both established and emerging operators to invest with confidence.

Concurrently, international waters, located beyond any one nation's Exclusive Economic Zone (EEZ) – or 200 nautical miles from coastlines – have been the focus of extensive mineral exploration over many decades. Polymetallic nodules, which contain nickel, cobalt, copper, and manganese, found in the Clarion Clipperton Zone (CCZ) of the Pacific Ocean, are the primary focus for current-day exploration and commercial recovery efforts. The National Oceanic and Atmospheric Administration (NOAA) at the U.S. Department of Commerce has authority for ocean mineral exploration from the deep seabed beyond national jurisdiction by U.S. citizens and entities pursuant to the Deep Seabed Hard Mineral Resources Act (DSHMRA). DSHMRA was enacted in 1980 in response to growing interest in mining valuable minerals on the deep ocean floor, particularly polymetallic nodules. NOAA promulgated implementing regulations for exploration licenses and commercial recovery permits in 1981 and 1989, respectively. NOAA also issued four exploration licenses and completed a programmatic environmental impact statement (EIS) covering the CCZ. NOAA then completed four regional EISs. DSHMRA covers exploration (surveying, sampling, testing), commercial recovery (mining and extraction), transportation, and processing related to seabed minerals, and applies only to hard mineral resources, not oil, gas, or living resources.

NOAA implements DSHMRA primarily through its Office of Coastal Management and ensures compliance with the National Environmental Policy Act. Once a license is issued, NOAA monitors compliance with license conditions, requires regular reporting, can modify, suspend, or revoke licenses, and coordinates with other federal agencies as needed. Currently, there are two active exploration licenses held by Lockheed Martin. Additional companies have applications under review by NOAA.

Key Considerations for Design of Plurilateral Agreements – The Term "Domestic Resources" Must Include Seabed Minerals

For purposes of any future plurilateral agreement, "domestic resources" should be understood to include seabed minerals recovered by U.S. entities from areas beyond national jurisdiction. DSHMRA establishes the U.S. legal framework for exploration and commercial recovery of polymetallic nodules and other minerals in the deep seabed by U.S. citizens and recognizes such resources as part of the U.S. resource base for national supply. Treating these materials as domestic production supports the statute's objective of securing reliable supplies of nickel, cobalt, copper, manganese, and other minerals for the United States and its partners.

Furthermore, seabed mineral development should be embedded as a standing item in bilateral trade agreements with coastal states and in government-to-government strategic dialogues. We further suggest that plurilateral agreements include mutual recognition of exploration and exploitation licenses between the U.S. and allied jurisdictions. Additional consideration should be given for plurilateral agreements to

include environmental compliance equivalence as a condition of preferential market access. Finally, any plurilateral agreements should include formal recognition of seabed minerals as responsibly sourced when produced under the agreement's standards.

Moving forward, the Administration should continue with its mineral dominance strategy by streamlining approvals and processes for U.S. companies to invest in deep sea mining and other ocean mineral development projects in all regions of the world. As the U.S. Trade Representative considers how to design plurilateral agreements related to critical minerals, we encourage careful and deliberate consideration of the need to ensure certainty and durability in investment in ocean mineral projects.

Conclusion

NOIA and its members stand ready to work with the United States Trade Representative and the Administration to advance our common objective of securing critical mineral supplies for the U.S. economy. Please contact Erik Milito (milito@noia.org) with any follow-up questions or to set up a meeting.

Very Respectfully,

Erik Milito
President
National Ocean Industries Association