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H.R. 3350, the Deep Seabed Hard Minerals Act, is designed to: (1) establish an interim program to encourage and regulate the recovery and processing of hard-mineral resources of the deep seabed (pending the adoption of a superseding international agreement relating to such activities which is ratified by and becomes binding upon the United States); (2) insure that the development of hard-mineral resources on the deep seabed is carried out in a manner that will protect the quality of the marine environment in any area affected by such development; (3) encourage the successful negotiation of the comprehensive Law of the Sea Treaty; and (4) encourage development of ocean-mining technology. There should be a primary authority responsible for determining the Federal role in deep-sea mining activities. There is a need to coordinate deep-sea mining with overall foreign policy objectives. A principal foreign policy objective concerns relations with developing countries which are major land-based producers of the minerals which could be mined from the ocean, holders of vast land reserves of these minerals, and which have more to lose than more advanced economies in the face of commodity (export) instability. The share of the revenues from deep-sea mining that should accrue to the public remains unresolved. (SW)

*Ms. Triche*

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UNITED STATES GENERAL ACCOUNTING OFFICE

WASHINGTON, D.C.

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TESTIMONY OF  
MONTE CANFIELD, JR. DIRECTOR  
ENERGY AND MINERALS DIVISION  
BEFORE THE  
HOUSE SUBCOMMITTEE ON INTERNATIONAL ECONOMIC POLICY AND TRADE,  
AND THE SUBCOMMITTEE ON INTERNATIONAL ORGANIZATIONS  
COMMITTEE ON INTERNATIONAL RELATIONS

Dear Mr. Chairman:

We appreciate the opportunity to present our views on H.R. 3350, the "Deep Seabed Hard Mineral Resources Act."

The purposes of H.R. 3350 are to (1) establish an interim program to encourage and regulate the recovery and processing of hard-mineral resources of the deep seabed (pending the adoption of a superseding international agreement relating to such activities which is ratified by and becomes binding upon the United States), (2) insure that the development of hard-mineral resources on the deep seabed is carried out in a manner that will protect the quality of the marine environment in any area affected by such development, (3) encourage the successful negotiation of a comprehensive law of the Sea Treaty, and (4) encourage development of ocean-mining technology.

While we are not opposed to enactment of legislation along the general lines of H.R. 3350, we believe the before such legislation is enacted the issues involved should be considered in the framework of a coherent deep-sea mining development program that establishes the

appropriate Federal role and clearly assigned responsibility for carrying that role out. Similarly, we believe that the provisions of any legislation that would authorize the mining of deep-sea mineral resources should be closely coordinated with and supportive of U.S. objectives under the Conference on the Law of the Sea as well as other essential foreign-policy objectives. Third, we believe it vitally important that the basic equity issue be very carefully addressed and that the public (whether that of the United States or the larger international community) be assured of receiving a fair market value return for the use of resources that would be developed through deep-sea mining.

The Comptroller General has provided the Subcommittees a draft GAO report on deep-sea mining issues. This report incorporates views on the international implications of deep-sea mining. The report is still with the agencies for comment and subject to change before final release. Substantial revisions are not expected.

The basic framework for guiding U.S. deep-sea mining activities has not yet been clearly defined. Basic differences of opinion persist about who should have program responsibilities. This is demonstrated not only in our draft report, but in the history of this legislation which has vacillated in assigning general authority to the Secretary of Interior and to the Secretary of Commerce.

The lack of a rational administrative structure indicates the absence of well-defined program goals. It causes severe interagency coordination problems as well. For example, 21 Federal agencies from six Departments and five independent agencies are involved just in oceanic research.

The basic finding of our report is that there should be a primary authority responsible for determining the Federal role. That authority should develop, for congressional approval, a comprehensive program to implement Federal responsibilities in accordance with national objectives. Particularly in the absence of any demonstrated immediate domestic need for the development of new sources of materials likely to be supplied through deep-sea mining, we believe sufficient time is available to develop a rational structure for governing U.S. deep-sea mining activities before their authorization.

An overriding organizational and policy concern addressed in the draft report is the clear need to coordinate deep-sea mining with overall foreign-policy objectives. Development of deep-sea supply sources could have potentially adverse effects on existing mineral supply systems and the revenues earned by some countries through established systems. This issue could have important ramifications for future U.S. relations with at least certain developing countries, and for that reason care must be taken to assure that any Federal deep-sea activities are consistent with overall U.S. foreign-policy objectives.

This Committee's jurisdiction over matters concerning U.S. foreign-policy, international organization activities, and commercial relations with other countries dictates an indepth analysis of the pending legislation with a view toward its likely foreign-policy repercussion and its effect on the current "North-South dialogue." H.R. 3350 is a domestic attempt to provide the legislative mandate to facilitate mining of the deep seabeds by U.S. interests, an issue of utmost international visibility and concern, which in the long run calls for an international solution.

Consequently, the need for this initiative to be consistent with and supportive of U.S. foreign-policy objectives as well as to facilitate the negotiation of an international accord on deep-sea mining is critical.

A principal foreign policy objective concerns our relations with the developing countries. They are major land-based producers of the minerals which could be mined from the ocean, are the holders of vast land reserves of these minerals (on which they depend for future economic growth), and have more to lose than more advanced economies in the face of commodity (export) instability.

U.S. commercial policy toward the developing countries has as one objective the promotion of stable growth for the export earnings of developing economies. And U.S. technical-assistance programs have sought the upgrading of developing economies to generate these export earnings. In addition, the United States has repeatedly made clear its interest in promoting developing countries' trade to stimulate their economies.

As these subcommittees are aware, continuous efforts are being made at the GATT-sponsored multilateral trade negotiations to give special attention to the need of developing countries. In particular, the United States has been exploring ways to provide special and preferential treatment to LDCs with regard to tariff and nontariff barriers that have deterred economic growth and that have deterred development of their natural resources.

At the same time, the developing countries have enunciated their goals for a new international economic order in numerous multilateral forums. Their objectives call for improving their terms of trade and

expanding their commodity export earnings in order to decrease the economic imbalance between developed and developing countries.

In this context of U.S. policy objectives and developing-country initiatives, the political and economic implications of increased raw material supplies on world markets as a consequence of mining manganese nodules are potentially significant. Producer nations face an uncertain future, and see their needs for higher stabilized raw material prices in jeopardy.

Mining the deep-sea beds will increase supplies of manganese, cobalt, copper, and nickel, to world markets. Commodity production figures show that developing countries supply approximately 15 percent of the world's nickel, 75 percent of the world's cobalt, and 40 percent of the world's manganese and copper. In 1970, exports of these minerals brought 19 developing-country producers a total of \$4.8 billion.

In addition to current production value associated with the nodule minerals, vast developing-country reserves of these metals represent the basis of future economic growth.

Conservative projections based on the existence of four major mining consortia show that, in 1985, manganese nodules could provide mineral supplies equivalent to 20 percent of 1975 world manganese production, 24 percent of 1975 world nickel production, 2.2 percent of 1975 world copper production, as well as a new cobalt source one-third larger than 1975 world cobalt production. The infusion of the added supplies of minerals from seabed mining can be expected to adversely affect producer country export earnings.

U.S. foreign-policy objectives that strive to improve the export trade position of developing countries as a means of fostering economic growth, combined with the strong initiatives these countries have made in this behalf, make it imperative that any such legislation with

extensive foreign policy implications, incorporate provisions that demonstrate U.S. interest in the common heritage concept, complement U.S. foreign-policy initiatives, and assure that benefits will accrue to the international community.

The question of what share of the revenues from deep-sea mining should accrue to the public also remains unresolved. Section 103 states that priority of right for the issuance of licenses to applicants shall be established on the basis of the chronological order in which applications are filed with the Secretary. These exclusive licenses would be to developmental firms or consortia covering broad, and as yet undefined, geographical areas. The firms would then retain all financial benefits from resource recovery. We believe there is a strong public interest 1/ in deep seabed mineral resources and that a licensing system that would provide for only private financial benefit is inappropriate. Rather, we think the public should be assured of receiving a fair market value return from the use of its resources.

It is very difficult for us to see how this can be accomplished in the absence of any competition for the development rights, particularly when there is such a dearth of public information on the eventual economic

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1/We do not know what "public" will ultimately own this resource, but it is clearly not a free good. If the public turns out to be an international public, the same logic should apply as if it were the U.S. public.

worth of the resources that exist. The Assistant Secretary of Interior for Energy and Minerals has testified that the resources available from ocean mining are very large by any standard, but that the public data now available is insufficient to determine how large these resources are for purposes of licensing specific areas of economic concentration.

A similar situation has existed in oil and gas leasing on the Outer Continental Shelf. There, protection of the public's interest has been aided by a competitive bidding system. Geological information financed by the Government is made available to the public. Information obtained by private parties under exploration permits is also made available to the Government, but not to the detriment of the lessee's competitive interests.

We support a similar bidding, royalty, and information-sharing system for the granting of leases to ocean mining firms. Such a system would provide that:

- Exploration and actual commercial development are explicitly distinguished.
- Permits to explore the deep-sea area be issued. These permits should be issued to any potential bona fide bidder that wants to explore. To avoid unnecessary duplication of exploration, any bona fide potential bidder should be able to buy in on the exploration information by paying a pro-rata share of the exploration cost.
- Information obtained under exploration permits must be shared with the Government. Such information should help the Government estimate the value of the resource to be leased.

- Following the exploration phase there be a call for nominations of areas to be leased. In addition, the Government should have the option of offering tracts that it feels are potentially valuable even if no nominations are received on those tracts.
- Leases be issued for commercial development in these areas in an open, competitive-bid basis in a manner similar to Outer Continental Shelf oil and gas leases.
- Payments stemming from lease arrangements be put in an escrow account pending final international agreement about how financial benefits from deep-sea mineral development would be distributed.
- Exploration or commercial developmental action must take place within a specified time period or else suffer forfeiture of lease rights.

The systems would entail Government determination of a minimum economic worth of resources susceptible to development within given tracts. This valuation would serve (as in the case of offshore oil and gas leases) to help determine whether or not the developmental bids were sufficient and whether the leases should be issued. Payments received could then be held in the escrow account now provided for in Section 202 of the bill.

We note that Section 202 does provide for the reservation of a portion of the revenues derived from ocean mining for future contribution to such international authority as may be established over deep-seabed resources. However, actual implementation of such an escrow account is left to the passage of additional legislation. We believe that in the absence of any demonstrated, near-term domestic need for development of new sources of materials likely to be supplied through deep-sea mining,

and given the importance of the revenue sharing principle, legislation should not be enacted that leaves the issue of escrow account payments open to later, indefinite resolution.

The Government must have at its disposal far more data than is presently available to make that tract valuation process viable. In lieu of expensive and time-consuming Government-financed surveys, we recommend a system of information sharing on ocean mineral resources similar to that for oil and gas resources. It is very important to stress that proprietary information submitted by private firms would not be publicly disseminated or otherwise made available to competing bidders until after the lease sale. The information-sharing system we propose should not, as a consequence, have discernible adverse effects on capital formation or investment potential. Neither should competitive leasing have detrimental effects on the investment potential of ocean mining.

On a related point, we agree with past Administration testimony that investment decisions will, as they should, depend largely on whether the venture's economic incentive justifies its risks. Accordingly, we concur with the Administration's position that special Government guarantees against losses from prospective international agreements are unnecessary.

We recognize that for deep-sea mineral development (unlike the oil and gas leases) the Government does not exercise sovereignty in international waters, nor does it wish to imply that it does. We do not think, however, that whether the Government issues licenses or leases to its citizens should influence that question as long as the receipts from the leasing process were held in escrow pending a decision about how they should be distributed to the resource-owning public.

With regard to environmental protection, our draft report explains that, for lack of adequate and timely funding, the planned environmental (DOMES) test of the early commercial prototype mining operations by the National Oceanic and Atmospheric Administration might not be possible. This would have delayed the preparation of required environmental impact statements and Federal assurances that planned mining operations were environmentally sound. We recommend that the Secretary of Commerce evaluate the program's status and provide funding to assess the environmental impact of the key prototype tests.

Since the time of our work, the prototype tests, then scheduled for May 1977, were delayed until March 1978. Further, \$1.1 million was made available in 1977, and an additional \$900,000 was appropriated for 1978. The tests are planned to monitor the ocean surface effect of the prototype operation in April or May 1978 and the ocean bottom effect in March 1978. The Department of Commerce has requested \$1.985 million in 1979 to monitor both surface and subsurface effects simultaneously during tests scheduled for that year. Assuming that the funds are appropriated, this schedule should allow the Government to carry out environmental safeguards before full-scale recovery operations in the early 1980s.

We think that H.R. 3350 generally provides security of tenure to the mining companies and proper environmental safeguards--two principal requirements for nodule mining recognized in our draft report. We think, however, that it is equally important that the public's interest in the resources be recognized and that the Government's role in ocean mining be better defined before full-scale operations are authorized. Accordingly, we recommend that the Congress not enact H.R. 3350 without:

- Resolving the appropriate Government role in the deep-sea mining and other institutional problems identified in the draft GAO report.
- Careful alignment of deep-sea mining and overall foreign-policy objectives, with particular emphasis on U.S. policies toward the developing producer countries. This should be predicated on information the executive branch will be obtaining in its first-initiated effort to evaluate the effect of increasing mineral supplies on world markets.
- Adequate provisions for public recovery of a fair market value return on ocean mineral resources through a competitive leasing system.
- Development of specific provisions for operating a revenue-sharing escrow account into which the receipts from the leasing program would be placed, pending their distribution.