



## **Regulation 50 - Restriction on Mining Discharges (delivered 25 July 2022)**

Thank you Madame Facilitator.

DOSI welcomes the suggestions made in regulation 50. We would first like to seek clarification on the definition of Mining Discharge. Does it include plumes produced by the mining-vehicle on the seafloor *and* dewatering plumes from ships? We suggest that this be added/explained further, perhaps in the schedule on the use of terms.

We further would like to note that the current financial model assumes transport of dry minerals to shore, and thus, a significant dewatering plume mining-discharge at sea, as discussed during the Working group last Tuesday. We note that the impact of dewatering plume mining discharges has not been researched to date, but negative impacts and harmful effects to the environment from toxic on-board mining waste are likely. **We therefore want to stress the importance of having binding Standards for mining discharge that have stringent thresholds, so that no harm to the environment may occur.** This may also be linked to any technological requirements or standards, such as the depth where any mining discharge may be released, or any future on-board technologies that would eliminate any toxic and sediment loaded return-plumes. We therefore suggest clarifying paragraph 1a to specify that the Standard includes normative thresholds.

Regarding paragraph 2 and 2(bis), we note that these paragraphs accept the possibility that 'Serious Harm' could occur to the marine environment, as a result of the contractor's action. We appreciate this is included to cover emergency situations only. However, we see that this definition of emergency includes protection of property, such as mining machinery. DOSI believes this deserves a robust discussion of whether Serious Harm to the marine environment - that is the Common Heritage of Humankind - in order to protect the vessel or the installation should ever be permitted.

Further, given the severity of the consequences of a discharge, we believe that a significant evidential burden should be placed upon the contractor to demonstrate the necessity of the emergency discharge. Paragraph 2(bis) requires monitoring and mitigation of the harmful effects caused by that unpermitted discharge. DOSI suggests that the possibility of further steps should be included here, for example the contractor should be required to cover the costs of compensation or clean-up, in line with the polluter pays principle. In addition, punitive measures may be applied, such as monetary penalties or imposition of tighter compliance controls by the ISA, where contractor wrong-doing is identified. As currently drafted, an unpermitted mining discharge which causes serious harm to the environment is described in Draft Regulation 50 paragraph (3) as a 'notifiable event'. The draft regulation describes that a notifiable event is reported, but does not trigger any further action. This does not seem an appropriate response to any emergency event, let alone one that causes serious harm to the marine environment - a standard of harm that is expressly prohibited by UNCLOS.

Thank you Madame Facilitator.