

**TEMPLATE FOR SUBMISSION OF TEXTUAL PROPOSALS DURING THE 27<sup>TH</sup> SESSION:  
COUNCIL - PART III**

***Informal Working Group - Environment***

Please fill out one form for each textual proposal which your delegation(s) wish(es) to amend, add or delete and send to [council2022@isa.org.jm](mailto:council2022@isa.org.jm).

**1. Name(s) of Delegation(s) making the proposal:**

Proposal submitted by Poland

**2. Please indicate the relevant provision to which the textual proposal refers.**

Reg. 48 Alt 1 (3ter)

**3. Kindly provide the proposed amendments to the regulation or standard or guideline in the text box below, using the "track changes" function in Microsoft Word. Please only reproduce the parts of the text that are being amended or deleted.**

~~[3ter. The EMMP shall contain a monitoring programme for at least the first seven years of Exploitation, to be conducted by independent experts and in compliance with the applicable Standards.]~~

**4. Please indicate the rationale for the proposal. [150 word limit]**

- We do not support 3ter and the use of third-party "*independent experts*" to ensure a contractor complies with their obligations under an Environmental Monitoring and Management Plan (EMMP)
- Pursuant to Article 165 of the Convention, the Legal and Technical Commission (**Commission**) was established as a subsidiary organ of the Council to: supervise activities in the Area (Article 165(2)(c)), make recommendations on the protection of the marine environment (Article 165(2)(e)) and coordinate the implementation of the EMMP as approved by the Council (Article 164(2)(h)).
- We consider that it is the role of the Commission to coordinate the implementation of the EMMP and not that of unknown third party independent experts.
- We note that the Commission is the Authority's body of independent experts and consider it a duplication of powers, if the Draft Regulations require third party "*independent experts*" to ensure contractor compliance of its EMMP.
- In the event that the Commission requires additional expertise, the Commission has the power under Article 165(2)(e) to appoint its own expert.
- We therefore jointly recommend the removal of Draft Reg. 48 Alt 1 (3ter) as it is unnecessary, duplicative and infringes on explicit powers granted to the Commission under the Convention.

The use of “independent experts” to ensure the compliance of contractors with their obligations under the Environmental Monitoring and Management Plan would be tantamount to the abdication of duty on the part of the LTC, which is particularly charged with this responsibility under Article 65, inter alia, to: supervise activities in the Area (Article 165(2)(c)), make recommendations on the protection of the marine environment (Article 165(2)(e)) and coordinate the implementation of the EMMP as approved by the Council (Article 164(2)(h)).

Leaving the responsibility of monitoring compliance by contractors to their obligations under the Environmental Monitoring and Management Plan to “independent experts” could also have the effect of diluting the powers of the LTC under the Convention and denying the LTC of embedding themselves in that process (learning curve) in the initial seven-year exploitation period.