

**TEMPLATE FOR SUBMISSION OF TEXTUAL PROPOSALS DURING THE 28TH SESSION:  
COUNCIL - PART II**

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

**1. Name of Working Group:**

Open Ended Working Group

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

Canada and Australia

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

DR 73: Overpayment of Royalty

**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.**

**Regulation 73  
Overpayment  
of royalty**

1. Where a royalty return shows any overpayment of royalties, a Contractor may apply to the Secretary-General to request a refund of any such overpayment.
2. Where no such request is received by the Secretary-General within 90 Days of the due date of submission of the relevant royalty return, the Authority shall carry forward any overpayment and credit it against a future royalty amount payable under ~~this Part, or,~~ if the contract has expired, refund the amount within 90 days.
3. Any request to reduce a royalty-related amount payable by a Contractor must be made within six-months after the Day ~~within five-years after the Day~~ the relevant royalty return was lodged with the Authority.
4. Where any final royalty return shows an amount to be refunded, the Secretary-General shall refund such amount within 90 days provided he or she determines that such refund is properly due. The Secretary-General may request, and the Contractor shall provide, such additional information or confirmation, as he or she considers necessary to determine that such refund is correct and due to a Contractor.

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

Regarding Regulation 73, Canada and Australia are of the view that a five year period is too long. The scenario of the ISA having to repay a contractor five years after the fact could put the ISA in an awkward position. We can envision situations where the methodology for the benchmark prices used to calculate a royalty changes retroactively, and a contractor uses this to apply for a refund. An alternative that should be considered is a more limited period, for example, before the date that the applicable annual financial report for that year is submitted.