

**TEMPLATE FOR SUBMISSION OF TEXTUAL PROPOSALS DURING THE 29TH SESSION:
COUNCIL - PART I**

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.

1. Name of Working Group:

OEWG

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

Federal Republic of Germany

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

DR 77

Red text is in original draft; **blue text** indicates Germany's textual proposals

4. 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 77 [OEWG]

General anti-avoidance rule

...

~~2. The Secretary General shall provide the Contractor with written notice of any proposed determination under paragraph 1 above. The Contractor may make written representations to the Secretary General within 60 Days of the date of such written notice. The Secretary General shall consider such representations and shall determine the liability for a royalty payment under this part for the original or revised amount. [If the Contractor is not satisfied with the Secretary General's determination, the Contractor may request a review of that decision in writing and provide any further information the Contractor wishes the Secretary General to consider within 30 Days of a decision being made. The Secretary General shall then re-consider and either affirm, revise, or revoke the decision, taking into account the further information provided by the Contractor, within 60 Days.]~~

[2 ALT 2.] The Secretary-General shall provide the Contractor with written notice of any proposed determination under paragraph 1 above. The Contractor may make written representations to the Secretary-General within 60 Days of the date of such written notice. The [Secretary-General] shall consider such representations and shall determine the liability for a royalty for the original or revised amount. [If the Contractor is not satisfied with the Secretary-General's determination, the Contractor may request a review of that decision in writing and provide any further information the Contractor wishes the [Secretary-General/the Council] to consider. The Commission and Finance Committee shall consider any such representations made by the Contractor at their respective next available meetings provided that the representations have been circulated at least 30 Days in advance of the respective meetings. The Commission shall then prepare its report and recommendations to the Council

based on consultation with the Finance Committee. The Council shall then re-consider and either affirm, revise, or revoke the decision made by the [Secretary-General]].

...

{4. If the Contractor ~~incurs~~ ~~is found to be in~~ is in a ~~gross and persistent breach~~ ~~serious, persistent and willful violation~~ ~~non-compliance of payment of a~~ ~~of royalty~~ any payment obligations in accordance with this Part, the Council shall suspend or rescind the [exploitation] contract pursuant to regulation 103 of these Regulations ~~and the Contactor's company principals shall be barred from direct or indirect involvement with any Contractor or subcontractor operating in the Area for a period of [10] years~~.}

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

- Para 2: Germany supports the inclusion of 2.ALT instead of para 2. The additions in para 2.ALT helpfully include roles for other ISA organs, including the LTC and the Finance Committee, in the management of payments. This broadening of the role of ISA organs is important so as to not rely exclusively on the discretion of the Secretary General.
- Para 4: Germany supports the inclusion and suggested changes to para 4 but prefers to refer to “serious, persistent and willful violation” which is consistent with Article 18 of Annex III to the Convention relating to contractor compliance.