

**TEMPLATE FOR SUBMISSION OF TEXTUAL PROPOSALS DURING THE 30TH SESSION:
COUNCIL - PART 2**

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(s) of Delegation(s) making the proposal:

UK

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

DR77(1)

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.

4. Where the Secretary-General reasonably considers that a Contractor has entered into any scheme, arrangement or understanding or has undertaken any steps which, directly or indirectly:
- (d) Result in the avoidance, postponement or reduction of a liability for any payment ~~[of a royalty]~~ under this Part;
 - (d) Have not been carried out for bona fide commercial purposes; ~~or~~ and
 - (d) Have been carried out solely or mainly for the purposes of avoiding, postponing or reducing a liability for any payment ~~[of a royalty]~~;

The Secretary- General shall determine the liability for a ~~royalty~~ [payment under thispart] as if the avoidance, postponement or reduction of such liability had not been carried out by the Contractor and in accordance with this Part.

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

We support the intent of this Regulation; to address deliberate avoidance activities, as is done in domestic tax law. However, we have some detailed comments on the drafting which we suggest is amended:

Paragraph 1(c), the word between clauses should be “and” not “or” as presumably the Authority would only want to treat activities as avoidance if they met all these criteria, rather than one of them. It would not be proportionate for the SG to treat as avoidance activities something which results in a reduction of liability if it is done for legitimate commercial reasons.

Paragraph 1(d) needs either to be incorporated into the chapeau of para. 1, or to follow on below all the subparas without being lettered, to set out what the SG is to do. It does not fit with the chapeau as it is not describing steps. The easiest way to

achieve this is to delete the “(d)” and left justify the text so it applies to each of (a)-(c).