

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

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: Costa Rica**

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

DR 70

- 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 70

Payment of royalty shown by royalty return

1. A Contractor shall pay the royalty due for a royalty return period on the Day the royalty return is required to be lodged.

2. Payments to the Authority ~~may~~ shall be made in United States dollars or other foreign currency which is freely convertible and approved in accordance with the relevant guidelines.

[2.bis. A Contractor shall declare the currency to be used in the payment of royalties prior to the commencement of Commercial Production.]

[2.ter. A Contractor may only change the currency used for the payment of royalties on the anniversary of the fifth year of Commercial Production and at the end of every subsequent fifth year of Commercial

Production.]

2. ter. The currency to be used in the payment of royalties must be stated in the contract of exploitation and declared before the commencement of commercial production. Such currency may be changed by previous request of the contractor and approval by the council at the end of every subsequent fifth year of Commercial Production.

3. All payments made to the Authority shall be made gross net and shall be free of any deductions, transmission fees, levies or other charges.

~~4. The Council [or the Secretary-General] may approve the payment of any royalty due by way~~

~~of instalment where special [and extenuating] circumstances exist [, that justify payment by instalment],~~

~~in accordance with relevant Standards, [that justify payment by instalment, taking account of rules, regulations and procedures of the Authority] that provide for incentives, on a uniform and nondiscriminatory basis, to Contractors.~~

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

There should be in place appropriate guidelines that establish a list of freely convertible currencies that can be used by contractors at the time of starting commercial operations. The currency to be used should be an integral part of the contract for exploitation and therefore its modification should be approved by the Council to ensure that the change of currency is a situation that does not affect the profits received by the contract, according to the fluctuations of the requested currency at the time of the change.

Regarding sub paragraph 4 Costa Rica supports its complete deletion as it is not clear what a special circumstance refers to. The payment by way of installment is attributed to a circumstance where the contractor is in default due to non-payment, and because of that there is a necessity to break down outstanding payments. On the contrary, a special circumstance, force majeure, or fortuitous event attribute an exemption from liability, where the contractor can pay after such circumstance, which is out of their control, passes.