

**XVIIIth INTERNATIONAL
HYDROGRAPHIC CONFERENCE
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**REPORTS ON THE WORK OF THE IHO
FOR THE PERIOD
2007 - 2011**

**Addendum 1 to
WORK PROGRAMME No. 1
CORPORATE AFFAIRS**

REPORT ON WORK TO REVISE IHO PUBLICATION S-23

Report on work to revise IHO Publication S-23 – “Limits of Oceans and Seas”

A. DESCRIPTION OF ACTIVITY UP TO THE XVIIth IHC IN 2007

1. Work to develop a new edition of the publication S-23 began in 1977. The XIth IHC by Decision No 17 tasked the Bureau to undertake a revision of IHO Publication S-23, Limits of Oceans and Seas, in order to replace the existing, but out of date, 3rd edition dated 1953. In 1986 a final draft of the 4th edition of S-23 was submitted to all Member States (refer to CL N°6/1986 dated 27 February 1986). This draft 4th edition of 1986 was not approved. After the XVth IHC in 1997 the Directing Committee, in order to progress the work, decided to engage the services of a consultant.
2. In August 2002 a final draft of the 4th edition was again submitted to Member States for approval (refer to CL N°30/2002 dated 9 August 2002). In this draft 4th edition the two pages referring to the sea area between the Korean peninsula and the Japanese archipelago were not included, with an explanation given in the CL that an addendum could be issued to address the matter at a later stage. It was emphasized in the CL that the matter was of a highly sensitive political nature and was not a technical one and that the Bureau had endeavoured to finalize these two pages without success over the previous three years.
3. As a result of contacts made by Japan and the Republic of Korea to Member States' representatives and their governments, the new Directing Committee that took up its post on 1st September 2002 was immediately faced with a plethora of questions, coming from HOs, Ministries and Embassies of the Member States regarding the omission of the two pages in the draft 4th edition. As the matter of concern was beyond the technical purpose of the Organization and the Directing Committee was therefore not in a position to respond to these questions, it decided to interrupt the voting procedure and informed Member States in CL N°38/2002 dated 19 September 2002. At the time that the voting was interrupted, the Bureau had not received any voting response from Member States.
4. In January 2003, at the time of a meeting of the Strategic Planning Working Group (SPWG) in Goa, India, the Heads of the delegations of Japan and the Republic of Korea met with the President of the Directing Committee. They informed him that the two States had decided to start discussions on the issue concerning the naming of the sea area between the Korean peninsula and the Japanese archipelago, asking the Directing Committee not to take any action until the outcome of their bilateral discussions was known. Based on the reports provided by the two States it can be concluded that no significant progress was made prior to the XVIIth IHC in 2007.

B. DESCRIPTION OF ACTIVITY FROM XVIIth IHC IN 2007 TO THE XVIIIth IN 2012

5. At the XVIIth IHC in 2007, the President of the Conference proposed the publication of a 4th edition of S-23 in two volumes. One volume could incorporate all the agreed issues and could be published immediately, while a second volume would cover unresolved matters being withheld until any outstanding issues could be resolved. This proposal was not accepted.
6. Since then, several options have been proposed on how the sea area between the Korean peninsula and the Japanese archipelago could be named in S-23, but these have been rejected by either one or both of the interested States or else did not receive the support of the appropriate majority of Member States. In 2009 Member States overwhelmingly supported a proposal made by the Directing Committee for the establishment of a WG whose Terms of Reference (ToR) set the following task to *“Produce a revised edition of Special Publication S-23, Limits of Oceans and Seas, and submit a report of its work together with a 4th edition of the publication to the IHB no later than June 2011, for the subsequent approval of Member States”*. The Rules of Procedure (RoP) indicated that *“Decisions of the WG should generally be made by consensus”*.

7. The resulting S-23 WG worked mainly by correspondence and had two face-to-face meetings. The first meeting took place in Monaco on 1st June 2009 prior to the 4th EIHC and was attended by 39 delegates from 14 Member States. The second meeting was hosted in Singapore by the Hydrographic Department of the Maritime and Port Authority and was attended by 42 delegates from 13 Member States. The Report of the S-23 WG, that was circulated to Member States via CL 24/2012 dated 20 February 2012, provides an account of its work. All the details concerning the subject discussed, the minutes of the meetings, the positions expressed by the members of the WG and the letters of the Chair Group have been posted on the IHO web site. The notable issues reported in the records are:
 - a. During the first meeting nobody volunteered to Chair the S-23 WG. France, supported by others, proposed that the President of the Directing Committee should take the Chair. Although any IHO WG should in principle be chaired by a representative of a Member State, in the absence of any volunteer and in order for the work to be progressed, Vice Admiral Alexandros Maratos accepted the position. Rear Admiral Christian Andreasen from USA, and past President of the IHB, was elected as Vice Chair and Ing. en chef Michel Huet from the Bureau as the Secretary;
 - b. The steps to be followed by the WG in order to progress its work on S-23 were agreed;
 - c. In accordance with the agreed work plan, it was accepted that the WG would look into three identified "areas of concern". The naming of the sea area between the Korean peninsula and the Japanese archipelago, whether Malacca and Singapore Straits should be considered as part of the Indian Ocean region or the South China Sea and the Eastern Archipelagic Seas region and proposals by China for changes in names and limits in the South China Sea, East China Sea and Yellow Sea;
 - d. There was consensus between the members of the WG that the Malacca and Singapore Straits should be considered as a single, continuous waterway, forming a separate administrative division in S-23. Members of the WG also agreed to amend the western limit of the Malacca Strait as proposed by India;
 - e. Concerning the amendments proposed by China, discussions took place during the second meeting of the S-23 WG in Singapore with follow up communication between the Chair Group and members of the WG. There was consensus between the members of the WG for some of the proposals and no consensus for two of them. These were summarized in Annex B of the Report of the WG.
8. Discussions on how to name the sea area between the Korean peninsula and the Japanese archipelago in S-23 took by far most of the time of the WG. The WG report provides a detailed description of the discussions and the problems faced. The following should be noted concerning this issue:
 - a. During the second meeting of the WG it was agreed that Australia, France, Japan and the Republic of Korea would provide the Chair with their proposals in order for them to be circulated to the members of the WG for their consideration. In September 2010 France informed the members of the WG that *"it decided to withdraw its proposal, as it was not supported by the interested States and cease participating in the S-23 WG activities, due to the diplomatic dimension of the S-23 WG activities and consequently finding it impossible to provide the WG with relevant and neutral technical proposals only"*. The proposals that were presented are indicated in paragraph 3.2 of the WG report. From the responses it was apparent that there was no clear support for either of the proposals made by Japan or the Republic of Korea, while the proposal by Australia was recognized by some responders as one that could form the basis for a possible solution to this sea area;

- b. Based on the presentation, study and analysis of the proposals and comments made, the Chair Group, based on the task given to it by the WG to propose a “way forward”, proposed to the members of the WG as a “way forward”, to name this sea area as it appears in the current edition and, on the same page, to include the name(s) of State(s) expressing any reservation(s), with the indication whether the reservation refers to the name and/or to the geographical limits, details of which would then be included in an Annex. The Chair Group also proposed an “Important Notice” to be included in the Preface of S-23, which would indicate the technical nature of the S-23 publication, its restriction that it is not intended to be used for political and juridical purposes and should not be accepted as such by any legal or juridical body. From the responses received it was clear that there was not consensus on this proposed way forward;
- c. Based on the analysis of the views expressed by members of the WG, three groups of positions were identified: those which supported one name with reservations to be inserted in an Annex, those which supported more than one name to appear on the relevant page in S-23 and not in an Annex, and those, being the majority, indicating that the States concerned must come to an agreement before an update could be published and that more time should be given for such an agreement to be reached;
- d. Based on the views expressed by the majority of the WG, the WG overwhelmingly supported the proposal by the Chair Group to extend its work until early 2012 to give more time to progress matters. The Chair and Secretary of the WG had separate meetings with delegations from Japan and the Republic of Korea in October 2011 in order to explore possible ways forward. Japan and the Republic of Korea had direct consultations on 4th November 2011. These meetings were all unsuccessful in finding a way forward.

C. WAY FORWARD

9. The work of the S-23 WG and the positions expressed by various members of the WG have been affected significantly by diplomatic lobbying of the interested States. The highly political nature of the issue is, to a large degree, overwhelming the technical purpose of the publication and of the Organization. Based on the history of efforts over the last 20 years to find a way forward in naming this sea area, it has to be recognized that a new edition of the publication S-23 can not be progressed until an agreement between the interested States is reached. This position has been reflected most recently in the responses expressed by various Member States to CL 24/2012.
10. In the circumstances, noting the lack of any significant progress made over such a considerable number of years and considering that the proposals of the S-23 WG have not been accepted by Member States as indicated in CL 38/2012, the question that now has to be asked is whether Member States still wish to pursue the development of an up-to-date edition of S-23. If the answer to this question is YES, then Member States must be prepared to indicate how this can now be achieved. If the answer is NO, then Member States must decide whether the current but out of date 3rd edition of S-23, which has not been revised for nearly 60 years, will continue to be an active, but ineffective, IHO reference publication or whether the publication should be discontinued. In deciding the way forward, Member States should also consider the adverse effect on the reputation and the credibility of the Organization and its publications if it is unable to resolve this matter after so long.