



IHB File No. S3/8152

CIRCULAR LETTER 114/2007  
07 December 2007

ENTRY INTO FORCE OF  
NEW IHO TECHNICAL RESOLUTION A3.13

References: A. CL11/2007 dated 30 January 2007  
B. CL 67/2007 dated 19 July 2007

Dear Hydrographer,

1. The IHB would like to thank the following Member States who replied to CL 11/2007 and CL 67/2007 concerning the adoption of a new Technical Resolution A3.13: Algeria, Argentina, Australia, Bahrain, Belgium, Brazil, Canada, China, Croatia, Denmark, Ecuador, Estonia, Finland, France, Germany, Greece, Iceland, India, Indonesia, Islamic Republic of Iran, Italy, Japan, Rep of Korea, Latvia, Netherlands, New Zealand, Norway, Papua New Guinea, Peru, Poland, Portugal, Russian Federation, Serbia, Singapore, Slovenia, South Africa, Spain, Sri Lanka, Sweden, Tunisia, Turkey, Ukraine, United Kingdom and United States of America.

The IHB has received 44 replies. Two Member States, while supporting the general intent of the proposal, voted NO. One of those Member States subsequently reconsidered its position and voted YES, while at the same time continuing to express certain reservations.

Four Member States provided substantive comments on the proposal, which was first developed and endorsed by the 10<sup>th</sup> meeting of the Committee on the Worldwide ENC Database (WEND). These comments are shown in Annex A to this Circular Letter, together with comments from the IHB.

There are currently 80 Member States of the IHO. Three Member States have been suspended. Therefore in accordance with paragraph 6 of Article VI of the Convention on the IHO the majority required for adoption of a Technical Resolution is 39. TR A3.13 is therefore adopted and has entered into force.

A copy of Resolution TR A3.13 is included at Annex B for information. IHO Publication M-3 – *Resolutions of the IHO* will be amended in due course to include TR A3.13.

On behalf of the Directing Committee  
Yours sincerely,

A handwritten signature in blue ink, appearing to read 'Robert Ward', is written over a white background.

Captain Robert WARD  
Director

Annex A: Member States' Comments  
Annex B: Technical Resolution A3.13 – ENC Distribution and Use of the Term ENC

**TR A1.21 - MEMBER STATES' COMMENTS**

**Canada**

1. Canada is highly supportive of the intent of this resolution but it does not support the use of “must” as it is written within the proposed A3.13 resolution.

Canada is supportive of the wording proposed by the UK as it better expresses the intent of the resolution and it does uphold the overarching mandate of the IHO as a consultative and technical organization in providing clear guidance to ENC Producing States for ENC distribution and protects the usage of the term ENC from being misused.

**IHB Comments:** The mood of the meeting was also that the IHO should make a strong statement and commitment to the important matter of the status of ENC. For this reason, the consensus view at WEND/10 was to use “must” rather than “should”.

**Peru**

Peru expressed concern over relatively minor details of the Spanish translation of the proposed Resolution.

**IHB Comments:** An agreed Spanish translation will be developed and included in the Spanish version of M-3.

**Spain**

Spain expressed concern over relatively minor details of the Spanish translation of the proposed Resolution.

**IHB Comments:** An agreed Spanish translation will be developed and included in the Spanish version of M-3.

**United Kingdom**

UK fully supports the general purpose of TRA3.13. However, the proposed resolution appears to overreach the existing mandate of the IHO, as a consultative and technical organisation, by the frequent use of the word “must” in the text. It is considered that it is possible to express the Member States’ common understanding of the issues identified by the WEND Committee in an advisory manner.

UK also has reservations concerning the use of the term “governmental responsibility for ENC”, which would appear to indicate a considerably broader obligation than that considered necessary to support the apparent aim of this TR.

In order to address these comments, the following alternative wording is proposed, which UK is content to raise in an appropriate forum:

***A3.13 ENC Distribution and Use of the Term ENC***

- (a) *An “Electronic Navigational Chart (“ENC”) should:*
- (i) *be made universally available in an IHO-recognized, non-proprietary format; and*
  - (ii) *be distributed using a method of authentication capable of confirming its source and integrity.*
- (b) *The hydrographic office or other responsible government institution should accept liability for ENC data to the same extent as it accepts liability for other navigational products and services it issues and supplies.*
- (c) *Additionally, in order to reinforce the principle expressed at paragraph (b) above, use of the term ENC should be discouraged in connection with any digital chart product not issued by or under*

*the authority of a hydrographic office or other responsible government institution and/or whose exchange dataset does not conform to current IHO standards.*

Revised UK position on TR A3.13

In recent weeks the UK has reconsidered its position with regard to voting on TRA3.13. UK still considers that the frequent use of the word “must” in the text rather than, as UK considers appropriate, the word 'should' appears to overreach the existing mandate of IHO, as a consultative and technical organisation. UK would wish IHO to avoid such terms in future; however we believe there is a need for unambiguous statements with regard to ENC as set out in the draft TR which outweigh these concerns. For this reason UK changes its vote to be supportive of the resolution.

**IHB Comments:** There was an extended discussion at the 10<sup>th</sup> meeting of WEND regarding the use of either the term “governmental responsibility” or the term “liability”. The consensus was that “governmental responsibility” was a more acceptable term to most Member States. It has therefore been used in the proposed Resolution. The mood of the meeting was also that the IHO should make a strong statement and commitment to the important matter of the status of ENC. For this reason, the consensus view at WEND/10 was to use “must” rather than “should”.

**TECHNICAL RESOLUTION A3.13 - ENC DISTRIBUTION AND  
USE OF THE TERM ENC**

**A3.13 ENC DISTRIBUTION AND USE OF THE TERM ENC**

- (a) The distribution of ENC must have a suitable method of authentication to confirm its source and integrity;
- (b) The governmental responsibility for ENC is the same as that applicable to other navigational products and services issued by or on the authority of the respective issuing government;
- (c) ENC must be made universally available in an IHO recognized non-proprietary format, and
- (d) The term ENC must not be qualified in any way to refer to any product that is not government authorized.