



THIS CIRCULAR LETTER REQUIRES YOU TO VOTE

IHB File No. S3/7020

CIRCULAR LETTER 03/2009/bis¹
12 January 2009

WORKING GROUP ON THE REVISION OF SPECIAL PUBLICATION 23
"LIMITS OF OCEANS AND SEAS" (S-23WG)

Reference: IHB CL 78/2008 dated 06 October

Dear Hydrographer,

1 The Directing Committee would like to thank the following 36 Member States who responded to the Circular Letter referenced above. (Argentina, Australia, Bahrain, Bangladesh, Belgium, Brazil, Cuba, Denmark, Estonia, Finland, France, Germany, Greece, Guatemala, Iceland, Italy, Japan, Korea DPR, Korea Rep of, Latvia, Mexico, Monaco, Netherlands, New Zealand, Norway, Pakistan, Peru, Poland, Romania, Singapore, South Africa, Suriname, Sweden, Ukraine, UK, USA). The replies can be summarized as follows:

.1 17 Member States agreed with a regional approach to S-23 as suggested by the Baltic Sea Hydrographic Commission (BSHC) nine of them provided comments

.2 17 Member States did not agree with a regional approach and 14 of them provided comments indicating various alternatives that could be considered in order to update the current 3rd edition of S-23; and

.3 2 Member States abstained from indicating a position.

2 The responses and comments of Member States are indicated in Annex A and Annex B respectively.

3 The opinion of all the respondents is that S-23 is an important publication, its update is long overdue and there is a need for a new edition as soon as possible. Furthermore there is a wide acknowledgement and agreement that delaying the publication of a new edition of S-23 has negative effects on the IHO.

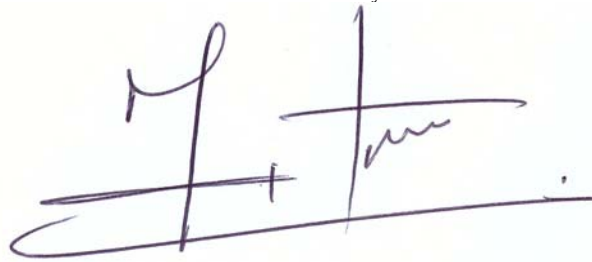
4 The Directing Committee has considered the significant level of response to CL78/2008 and the positions and comments expressed by the responding Member States and notes that all are keen to see an updated edition of S-23 published as soon as possible. Many have identified possible ways to achieve this. As a result, the Directing Committee proposes to Member States the establishment of an

¹ NB: This CL provides the complete comments by Greece and USA and replaces CL 3/2009 distributed on 12 January 2009.

S-23 Revision Working Group. The purpose of this WG will be to harness the obvious interest shown by Member States in their most recent responses and to develop a revised edition of S-23 for the subsequent approval of Member States. The WG should consider the current edition of S-23, the work that has been done in the past, the positions and comments expressed by Member States on CL 78/2008 and any possible other views that may come forward. The Directing Committee is seeking the widest possible participation of Member States' in the proposed WG so as to develop a document that will serve the interests of the IHO and its Member States and that can be published as soon as possible.

5 Member States are requested to complete the attached voting form in Annex D indicating their support for a Working Group and providing any comments on the proposed ToR and RoP of the Working Group, see Annex C. Please return to the IHB no later than the 23 March 2009.

On behalf of the Directing Committee
Yours sincerely,

A handwritten signature in dark ink, consisting of a large, stylized 'M' followed by a horizontal line and a vertical stroke, and a smaller signature to the right.

Vice Admiral Alexandros MARATOS
President

- Annex A: Member States replies
- Annex B: Member States comments
- Annex C: ToR and RoP of the Working Group
- Annex D: Voting paper

Member States	Agree	Disagree	Abstain	Comments
Argentina		X		
Australia		X		X
Bahrain	X			
Bangladesh	X			
Belgium		X		X
Brazil	X			X
Cuba		X		
Denmark	X			X
Estonia	X			
Finland	X			X
France		X		X
Germany	X			X
Greece		X		X
Guatemala		X		X
Iceland	X			
Italy		X		X
Japan		X		X
Korea DPR		X		X
Korea Rep of		X		X
Latvia	X			X
Mexico			X	X
Monaco		X		
Netherlands		X		X
New Zealand	X			X
Norway			X	X
Pakistan	X			X
Peru		X		X
Poland	X			
Romania	X			
Singapore		X		X
South Africa		X		X
Suriname	X			
Sweden	X			X
Ukraine	X			
UK	X			X
USA		X		X

MEMBER STATES COMMENTS:

AUSTRALIA

1. Australia is committed to the earliest publication of the 4th edition of S-23 and applauds any attempt to achieve this.
2. Australia does not support the BSHC proposal in the first instance as a regional publication scheme could lead to:
 - a. loss of a global perspective and potential regional renaming and changing limits of globally significant waters, which would increase the risk of disagreements and disputes and undermine the standing of the publication
 - b. increased potential for dispute amongst regional neighbours,
 - c. increased likelihood of inconsistent naming of waters that overlap the limits of regional jurisdictions,
 - d. loss of consistency in the maintenance and update process - will it remain with the IHO or will be at a Regional Hydrographic Commission jurisdiction level?
 - e. the proposal also retains the extant 3rd edition (1953) of S-23.
3. Australia has no opinion on the naming of the body of water separating the Korean Peninsula and the Japan archipelago, this is a matter for negotiation between neighbouring States. However, the lack of agreement on this matter should not prevent the publication of S-23 Edition
4. This publication is urgently required to provide an up-to-date source of information describing the Names and Limits of the Oceans and Seas for the benefit of all users globally (refer CL78/2008 paragraph 2).
5. Australia's response to CL 38/2002 proposed 3 alternatives to enable publication of S-23 Edition 4 and take into account the unresolved naming differences of Member States for the same sea area. These options are repeated below:
 - a. publishing names and spatial details of the sea area in question incorporating dual naming principles (IHO Technical Resolution A 4.2) and also have any Member States' reservations recorded with details depicted at Appendix A, or
 - b. Publishing names and spatial details of the sea area in question as submitted by the differing Member States, and then issue a page addendum when the issues relating to the dispute sea name or limits is resolved. Again the Member States' reservations can be depicted in Appendix A, or
 - c. publish the 4th edition of IHO Publication S-23 without pages of the sea names and spatial details of the sea area, and issue a page addendum when the issues relating to the sea area is resolved.
6. The approach at sub-paragraph 5c was taken at the XVII IH Conference and represents the current status of S-23 4th Edition, June 2002 – Final Draft. The outcome is described in CL86/2007.
7. Australia considers that a fair and pragmatic solution in the case of disputed names is that Member States' reservations are clearly recorded on the affected page. Details of these reservations, including explanatory maps if required, can then be contained in Appendix A. The principle of dual naming, as detailed in IHO Technical Resolution A4.2 could also be applied as described at sub-paragraph 4a above.
8. Australia's main interest is in the publication of this technical document which contains established procedures for recording States' disagreement or reservation over the limits or names of oceans and seas.

BELGIUM

The redaction of a S-23 on a regional basis doesn't belong to the duties of the regional hydrographic commissions.

The redaction of Regional Schemes by the regional commissions will result in extra work for the commissions and a need for extra resources.

A timely solution is not guaranteed by the BSHC proposal, it can take the same time as an action in agreement with CL86/2007 to produce a S-23 publication.

BRAZIL

Brazil agrees on a new edition of S-23 based on a regional scheme, containing all possible update data, and registry data which are not yet consensual.

DENMARK

As a member of BSHC, Denmark is aware of the urgent need to provide up-to-date information concerning the naming of sea areas, particularly for areas such as the Baltic region.

By delegating the responsibility of updating the publication to the regional commission, a faster and smoother process will be ensured.

FINLAND

In our understanding the BSHC proposed a new IHO publication organized on a regional basis, and may thus have another document number than S-23?

FRANCE

Following the 2 CLs referenced above, SHOM would like to thank the DC for their efforts in trying to establish a solution to allow the publication of S23 "Limits of oceans and Seas" .

SHOM has carefully studied, from a strict technical point of view, the proposal from the BSHC. Whilst recognizing the merits of the innovative proposal, SHOM believes that difficulties could result from it not allowing a smooth implementation of the proposal. The main difficulty concerns geographical entities which straddles several commissions and the BSHC proposal does not seem to be adapted to this situation. It is difficult to comprehend that there is a possibility of complicating the issue when dealing on a regional basis and it may also compromise the standardisation and harmonization objectives of the IHO. SHOM believes that it would be a sensitive matter maintaining the centralisation of the SCUFN whilst the Limits of Oceans and Seas would be decentralised.

Noting the irreconcilable positions on the naming of the zone situated between the Japanese archipelago and the Korean peninsula, and the interest nevertheless, of the international community², to be able to use the publication S-23, SHOM suggests the possibility of the following ideas within the technical role of the Organisation:

1. Prepare a new draft of the 4th edition of S-23 in only one volume, in which the disputed names would be identified with a footnote summarising in a factual manner and as short as possible the different positions expressed. Different options could be examined and submitted to the opinion of the Member States.

- (i) Deletion of the disputed names concerned, which would then be replaced by an explanatory footnote.
- (ii) Keep the disputed names in their form adopted in the 3rd edition, with an explanatory footnote.
- (iii) The adoption of the name which received approval by simple majority of the Member States (according to the article VII of the IHO convention).
- (iv) A list of all proposed names in alphabetical order, accompanied by an explanatory note.

2. Reprint the 3rd edition in the same state, without modifying the date or the edition number, with an appropriate foreword.

3. Examine the possibility of solving their differences through an international arbitrary procedure relying on the recommendations of the UN.

² Even for the IHO's own needs notably the publication of section B-550 of M-4

In this way SHOM hopes to contribute to the search for a technical solution able to express the feelings felt by all Member States in the interest of international navigation and in the spirit of cooperation to which we are all committed.

GERMANY

The BSHC approach for a regional scheme is not intended as a regional replacement for S-23, and therefore does not eliminate the need for an updated, comprehensive, worldwide S-23. A regional scheme could contain eg more detail than intended for S-23, to serve regional purposes, and will be useful as source for S-23.

The BSHC scheme , in particular , will not affect any waters outside the BSHC region and should be considered as being within the competence of BSHC as the responsible Regional Hydrographic Commission.

GREECE

Greece does not agree with the BSHC's proposal for a regional Scheme of S-23 which could easily lead to undesirable fragmentation.

As a second option, Greece could accept the publication of the 4th edition of S-23 with the inclusion of pages as they appear in the 3rd edition (1953) of this document for those regions where such an agreed and more update reference is not yet available and with a brief explanatory footnote in the respective pages.

GUATEMALA

Even if, at this date, Guatemala has not made comments on Circular Letter N° 86/2007, a great number of IHO Member States are concerned by the review and updating of the Special Publication S-23. On another hand, there is an ongoing demand of updated information about the contents of such publication by both, public and private entities.

The 4th edition release is essential. To this respect there are some proposals as, for example, those from the Chairman of the XVIIth International Hydrographic Conference and the 13th Meeting of the Baltic Sea Hydrographic Commission, in addition to the points of view of Japan, the Republic of Korea and the Democratic People's Republic of Korea.

Guatemala, as an IHO Member State, respects the proposals presented by the Chairman of the above mentioned International Hydrographic Conference, the Baltic Sea Hydrographic Commission and also the position of the above mentioned States. In this sense, Guatemala considers that a complete review must be done, as well as the correspondent S-23 updating by the concerned body. And, if a consensus should not be reached on any aspect of the 4th edition contents, this should remain the same as in the 3rd edition, as it was accepted in due course, is therefore valid at this date and there would not be any reason to omit it or change it.

On another hand, what is intended here is to find a solution to this problem. An option could be to abolish the Special Publication S-23 "Limits of Oceans and Seas" and to replace it by another with a different name but the same purpose, taking as a basis a different variant to oceans and seas, aiming only at avoiding disagreements and obtaining thus the intended target. It is possible that, amongst the criteria to be considered could be the geographical areas forming the different hydrographic regions, the use of parallels and meridians as reference, areas such as A, B, C, D amongst others.

ITALY

S-23 has to be maintained, in our opinion, as an unique product and, in this view, subject to a comprehensive revision.

JAPAN

Japan shares the concern of the IHB and the IHO Member States that the update of the IHO Special Publication 23 'Limits of Oceans and Seas' (S-23) is long overdue.

However, the BSHC proposal apparently abandons the efforts for the comprehensive revision of S-23. Such an approach would diminish the significance and the integrity of S-23, and thus would undermine the credibility of the IHO. In addition, if each Regional Hydrographic Commission

separately publishes the list of the names of its responsible sea area, S-23 users will surely be confused because there will be no publication covering all sea areas.

KOREA DPR

The Hydrographic Department of DPRK strongly opposes the suggestion that the 3rd edition of S-23 should be continued to be used as reference document for the sea area where the sea name was still not agreed. If IHO implements the Technical Resolution in this way, it will cause complicated problems in implementing the other items of the Technical Resolution.

KOREA Rep of

The Government of the Republic of Korea is of the view that the current edition of S-23 does not reflect the names of oceans and seas in an appropriate manner, and in this light, further subscribes to the position of the international community in its hope for an expeditious revision of the current S-23. The Korean Government retains the position that it is highly desirable to publish a revised version of the current edition. However, recognizing the efforts made by the BSHC to overcome the difficulties surrounding the situation, the Korean Government considers the proposal made by the BSHC to be a positive provisional alternative.

Notwithstanding the Korean Government expresses its deep concern on the recommendation made by the BSHC to continue to apply the third edition of the S-23 as a reference point for the regions on which agreement has not been reached. The concern particularly stems from the fact that there exists a high possibility of extended delay at the East Asia Hydrographic Commission (EAHC) in revising the naming of the sea areas. However, the Korean Government remains hopeful that the IHO, with a view to reaching a constructive agreement, will work out viable measures, including setting a timetable for the revision.

LATVIA

Latvia supports the proposal as it would allow to publish at least those parts of S-23 that are confirmed and cause no political conflict. Other positive aspect would be that RHCs should take up more responsibilities and provide IHB with greater support and input.

MEXICO

Because we consider that this voting has a character more political than technical, this General Directorate of Oceanography, Hydrography and Meteorology abstains from voting, as any position will affect any of the two involved countries, reason why it has been decided not to give an opinion.

It is essential that, in this case, we discuss on the sense of a total respect of the Terms of Reference established by the IHO, as well as the Rules of Procedure of such an Organization and, according to the Regulations of the Conference – Article 16, it must be authorized to give the pertinent consideration to this matter as a whole, including the proposals of the involved parties, within the IHO, before the voting of the Member States.

NETHERLANDS

NL acknowledges the present situation that the RHCs already can contribute to the content of S23 and can facilitate further decision making within its community.

NL acknowledges also that the users of S23 have a merely global interest and that a single global document should stay available; thus a further splitting into RHC-chapters is not desirable.

- NL is also afraid that if splitting into regions will take place, that especially the EAHC will deliver white pages only since there will be no consensus in this EAHC-document on this matter. In fact the situation will be even worse for this region.
- NL very much regrets the lack of progress along the lines of the proposed solution by IHB/President IHV17th in accordance with CL 86/2007.
- NL agrees on the negative side effects as addressed by IHB with CL78.
- Therefore NL strongly supports an overruling initiative by the IHB supported by the appropriate majority of its Members to act in accordance with the proposal as described with CL86/2007: disputed matters to be transferred to a second Volume as the 'not-to-be-published volume'.

NEW ZEALAND

New Zealand is keen to see a new S-23 document proceed in some form, and while we don't have any "strong" views, we do see the merits of developing S-23 on a regional basis. This response has been made in consultation with the New Zealand Ministry of Foreign Affairs and Trade (MFAT).

NORWAY

Norway will refrain from voting on this circular letter. The whole S-23 issue is a political matter that has to be dealt with and solved by the countries involved. Norway will support this proposal when a common agreement has been reached.

As Norway sees it, the proposal from BSHC does not contribute any new substance to the matter. With this proposal the S-23 will be fragmented and the responsibility for the publication will be spread to many RHCs.

PAKISTAN

Issuance of a new edition of S-23, compiled with inputs at RHC's level (on the lines of M-11) is agreed to provide that:

- a. Overall responsibility to issue S-23 remains with IHO. RHCs to only provide updates.
- b. IHO may issue clear guidelines for and scope / mandate of RHCs w r t:
 - (1) Alteration / addition of names and / or limits.
 - (2) Format to be adhered to All regions should be covered with map sheets also
- c. Consensus of RHC members on names and limits should be mandatory.

IHO may specify the period after which the review of the respective selection may be undertaken by the respective RHC. The guidelines / scope discussed earlier should be robust enough to preclude start of new issues / disputes which may stall the revision of S-23 / respective regional section.

Digital format of S-23 (as a whole or at regional level) may also be looked into.

PERU

This Directorate thinks that the updating task of the Special Publication S-23: "Limits of Oceans and Seas", might exceed the responsibilities of the Regional Hydrographic Commissions. It is likely that some areas would not be totally covered. Therefore, we consider that their updating should be done by the IHB, as it is the case for the other publications.

SINGAPORE

"IHO should continue to engage the parties concerned to find a resolution rather than sending it down to Regional Commissions to resolve the issue. Furthermore, Singapore does not agree with the IHB's reason that the area and extent of responsibilities of INT Chart producer States and Regional Commissions is interchangeable, as some INT chart producer States do not belong to the region in which they produce charts".

SOUTH AFRICA

It is the opinion that this will not resolve the issue and delay the publication of S-23 even further. It is proposed that the 4th edition of S-23 is published indicating that the area 7.6 on the chartlet is still a subject under discussion with reference to the various circular letters and proceedings of the Conference.

SWEDEN

As an interim solution a regional scheme is acceptable. I find this solution also to be in line with the increased importance of regional cooperation in accordance with the new structure of the IHO. According to the new structure, the regional work will be coordinated by the Inter Regional Coordination Committee (IRCC).

UNITED KINGDOM

Our understanding of CL 78/2008 is that it is the intention to produce a revised IHO publication, divided into sections, one to each Regional Hydrographic Commission (RHC). It will be the

responsibility of each RHC to agree the limits of seas within its region, and, only when agreed, for that section to be incorporated in the publication. A precedent for such an approach has already been set by IHO Miscellaneous Publication M11 which is the IHO Catalogue of INT Charts. We also understand the existing Edition 3 of S-23 will continue to serve as the reference document for those regions until regional agreement has been reached.

We believe that, for IHO to remain a credible international organization, it must be in a position to provide up-to-date information where this has been agreed. Under these circumstances, we consider that CL 78/2008, as we understand it, presents a logical proposal to address a long running issue and therefore support the proposals.

USA

The U.S. is very opposed to the proposal to develop S-23, "Limits of Oceans and Seas", using names agreed upon by Regional Hydrographic Commissions (RHC). Under the current independent status of RHCs, not all Member States with national charting responsibilities within an RHC region are being accorded representation. Therefore, such nations would be denied any input into matters of concern to them under the proposed approach. Even though representation within RHCs is voluntary, when a nation volunteers to participate it still may not be accorded appropriate representation under the RHC internal rules, which makes the CL 78/2008 proposed approach totally unacceptable. In addition, many oceans and seas transcend the limits of individual RHCs and, in our view, should be addressed by the organization as a whole. RHC boundaries do not generally conform to water body limits. However, selected geographic regions of the world's oceans and seas could be used for a regional approach.

The U.S. recognizes that publication of S-23 is an important function of IHO and that resolution needs to be achieved concerning publication of a new edition. Thus the U.S. proposes an alternate regional approach.

The U.S. suggests that IHO Member States first should agree to certain premises as listed below. Then a geographic region (e.g., South Atlantic, Baltic Sea, Mediterranean and Black Seas, etc.), not an RHC, should be proposed for review and consideration of the S-23 entries within that area. A request should be made for input from all Member States that have territory within the region limits. Then, the regional names and limits in dispute, if any, should be submitted by Circular Letter to all Member States for decision as to the most commonly accepted name(s). S-23 should become an on-line digital publication and should be built region by region as agreement is reached, including both the names and defined limits. The following premises and approach to S-23 revision are proposed:

1. Premises:

- a) "Named oceans and seas" refer only to unique water bodies, i.e., a land bounded water area or a water body with a unique oceanographic character. Proposals that simply carve out a piece of a water body for naming shall not be accepted.
- b) "Named oceans and seas" do not have any relationship to sovereignty and are to be apolitical.
- c) If sovereignty for a water body is in dispute and the parties to the dispute are not in agreement on naming or limits, the issue shall be addressed through submission by Circular Letter to all IHO Member States to determine the most commonly accepted option. This majority decision of the Member States shall be adopted and the agreed name shall be included in S-23.
- d) Dual naming shall be avoided, except where the bordering nations are in agreement. Where this has been historic practice, dual naming should continue and the issue should not be reopened.
- e) Where a nation within the selected geographic region does not border the water body under consideration, but disagrees with a name selected by the nations adjoining the body of water, this shall not serve as a basis for dispute. In this situation, the name selected by adjoining nations shall be adopted.
- f) IHO Circular Letter summaries of voting to decide on names shall be reported anonymously, i.e., reports are to list only the number of Member States in favor

of/opposed to each name option. When a disputed name is presented to all IHO Member States, a simple majority of all responding Member States is required for adoption.

2. Approach to Considering Names for a Selected Geographic Region

- a) If a body of water falls within a single nation's sovereignty, then that nation may name the feature.
- b) If all nations bordering a body of water are in agreement on a name, then that name shall be accepted. If all names within an entire selected geographic region is agreed by all Member States within that region, then it is not necessary to present the agreed upon name to all IHO Member States for decision; the names adopted by the nations of the region may be published as a revised entry in S-23 without further vetting.
- c) Regional Hydrographic Commissions that encompass all or any part of a selected geographic region to be considered shall be encouraged to address S-23 revisions during their meetings, and resolve as many issues as possible. The RHC Member States shall individually report their agreements and disagreements to the Bureau (alternatively, RHC Members may submit a centrally compiled spreadsheet with their endorsements) for consolidation by the Bureau with the positions of any relevant Member States which do not have representation in the RHC. If all Member States of the selected region are in agreement, the names may be published without submission to all Member States.
- d) Where bordering states to a body of water are not in agreement over naming or limits, the issue shall be presented to all IHO Member States to determine the most commonly accepted option. Those Member States not in agreement may present historic usage documentation to other Member States to aid in their decision making as to the best option.
- e) The area limits for each water body shall be defined. If area limits are disputed, all options shall be presented to all Member States for resolution.

3. S-23 Publication Rules

- a) No selected geographic region of S-23 shall be accepted for publication or on-line distribution until the entire region has been named and delimited. As each region is agreed, it may be published as superseding that section of the existing S-23, Edition 3.
- b) Alternate names in use by IHO Member States may be included as a callable listing from within the digital version of S-23.
- c) In addition to alternate names for water bodies, the national representations of adopted names may be shown in the callable S-23 database.
- d) The current S-23 Edition 3 obviously remains in force, despite being out-of-date, until agreement is reached for each region.

**WORKING GROUP ON THE REVISION OF SPECIAL PUBLICATION S-23
(S-23WG)
LIMITS OF OCEANS AND SEAS**

Terms of Reference

The S-23WG shall:

- Produce a revised edition of Special Publication S-23, Limits of Oceans and Seas, making use of :
 - a) the current 3rd edition of S-23;
 - b) the work that has been done in the past years;
 - c) the positions and comments expressed by States in response to CL 78/2008,
 - d) other views that may come forward during the deliberations of the WG;
 - e) any other documents or material that may be considered appropriate;
- Submit a Report of the work of the WG together with a draft 4th edition of Special Publication S-23 to the IHB no later than December 2010, for the subsequent approval of Member States.

Rules of Procedure

- * Participation in the WG is open to all Member States;
- * The Chair and Vice-Chair shall be elected by the Members of the WG;
- * The IHB will participate as an observer and provide secretariat support if required.
- * The WG should work primarily by correspondence. Face-to-face meetings may be arranged if considered necessary by the WG;
- * If needed, experts can be invited to participate with the agreement of the Members of the WG;
- * RHCs should be involved, if required, to support the work of the WG.
- * The WG should normally work by consensus. If voting is required, decisions shall be taken by a simple majority of WG Members present and voting. When dealing by correspondence, a simple majority of all WG Members shall be required.

Note: The IHB, under the guidance of the Chair, shall open a section on the IHO website where the List of Members of the WG as well as all the working documents will be posted.

VOTING FORM

(to be returned to the IHB by 23 March 2009

E-mail: info@ihb.mc - Fax: +377 93 10 81 40)

Member State:

Contact:..... **E-mail:**

1 Do you agree with the establishment of the S-23 WG?

YES NO

2 Do you intend to participate in the WG if it is established

YES NO

3 If YES, please provide the details of the participant.

Name:

Email:.....

Address:

4 Do you agree with the ToR's and RoP's of the S-23 WG

YES NO

5 Comments:

.....
.....
.....
.....
.....

Name/Signature:Date: