



IHB File No.S3/7050

CIRCULAR LETTER 91/2009  
18 December 2009

### NAVIGABLE INLAND WATERS

Reference: IHB CL 74/2009 dated 11 November 2009

Dear Hydrographer,

1 The IHB would like to thank the following 47 Member States who have replied to the reference: Argentina; Australia; Bangladesh; Belgium; Brazil; Canada; Chile; Croatia; Cyprus; Ecuador; Estonia; Finland; France; Germany; Greece; Guatemala; Iceland; India; Ireland; Italy; Japan; Korea Rep of; Monaco; Morocco; Mozambique; Netherlands; New Zealand; Oman Sultanate of; Pakistan; Papua New Guinea; Peru; Poland; Portugal; Qatar; Romania; Russian Federation; Saudi Arabia; Singapore; South Africa; Spain; Suriname; Sweden; Thailand; Tunisia; Ukraine; UK; and the USA. Forty-six Member States supported the definition of Navigable Inland Waters with one Member State voting NO. Nine Member States provided comments and these, together with explanatory responses, are included at Annex A.

2 Taking due note of the comments provided by some Member States the Hydrographic Dictionary Working Group and the IHB have made some small adjustments to the proposed definition that now reads:

*Navigable Inland\* Waters* - Those areas of water, within land boundaries, such as rivers, lakes, lagoons, channels, etc, affording passage to a vessel and for which navigational supporting tasks, such as hydrography and nautical cartography may be required.

\*Note: This definition must not be confused with the legal definition of Internal Waters given in UNCLOS Article 8.

The definition above will be included in S-32 at the next opportunity.

On behalf of the Directing Committee  
Yours sincerely,

Robert WARD  
Director, IHB

Annex A: Member States Comments

COMMENTS BY MEMBER STATES

**Argentina:**

YES This Office accepts the proposal, but considers that it is convenient to include again the expression “that cannot be considered as maritime water”, as was originally proposed in Annex B of the HCIWWG Report (CONF. EX4/REP.02 Page 9).

*Comment by the HDWG/IHB: It is considered that the wording used in the definition means that this is not “maritime water” and that there is therefore no need to add this expression to the definition.*

**Canada:**

NO Our legal Counsel has reviewed the proposed definition and has raised the following thoughts relating to the proposed definition of Navigable Inland Waters:

1) With respect to the phrase “upon which vessels need to navigate”, a vessel might need to navigate in some waters but it is not possible. Therefore the use of the verb “need” would broaden the definition even to waters where it is not possible to navigate. I do not think IHO Member States want that.

2) With respect to the “Note”, this note would be relevant if the phrase to be defined by HDWG/HSSC and the phrase defined in UNCLOS were identical. But they are not. One is “Navigable inland waters” and the other is “internal waters”. So, some could be confused by this note. If the note is really needed, there are better ways to draw someone’s attention to the difference between this definition and the one in UNCLOS. Alternatively, the terms of Article 8 of UNCLOS – which provide that “waters on the landward side of the baseline of the territorial sea form part of the internal waters of the state” – could have been used in the definition of “Navigable Inland Waters”.

3) Finally, the use of the word “navigable” without further specifics could cause problems because the legal meaning of “navigable” may differ from one State to another. Any definition should leave it to the Member State to define the term “navigable”.

In view of these comments, Canada proposes the following revised definition:

“Navigable Internal Waters – Those waters on the landward side of the baselines of the territorial sea which are navigable and for which navigational tasks, such as hydrographic services and nautical cartography may be required. The determination of what internal water is navigable within a State is the responsibility of that State.”

*Comment by HDWG/ IHB: The report of the HCIWWG, as approved by the 4<sup>th</sup> EIHC requested the HDWG/HSSC to define Navigable INLAND Waters. Definitions included in the IHO Publication S-32 are not intended to be of a legal nature but rather to provide guidance as to their accepted meaning within the hydrographic community. The note is simply intended to draw the reader’s attention to the fact that the “inland” waters here are not the same as those “internal” waters in UNCLOS. It is particularly relevant in the French text where both “inland waters” and “internal waters” translate as “eaux intérieures”. It is hoped that the revised definition above allays some of the concerns expressed by Canada.*

**Chile:**

YES The note must be considered as part of the definition, in the sense that it neither affects nor must it be confused with the definition of inland waters.

*Comment by the HDWG/IHB: Agreed the note is an integral part of the definition.*

**Ecuador:**

YES Ecuador agrees taking into consideration the following change:

*Navigable Inland\* Waters* – Those navigable areas of water, within land boundaries, such as rivers, lakes, lagoons, channels, etc, upon which vessels **SHOULD** navigate and for which navigational supporting tasks, such as hydrography and nautical cartography may be required.

*Comments by the HDWG/IHB: The definition is identifying inland waters which are “navigable” it is not indicating that vessels “should” navigate here, simply that they may “need” to navigate here and hence they are navigable in land waters. The definition has been amended to say “affording passage to a vessel”.*

**France:**

YES France suggests adopting, in the French language, a name which is more in keeping with the usage in force, notably within the European Commission so as to reduce the risk of confusion with the legal term of “Eaux intérieures” used by the UNLOS. The definition of “Navigable Inland Waters” would then become in the French language:

**“Voies navigables intérieures”**\*: Les zones d’eaux navigables, à l’intérieur de limites terrestres, telles que les fleuves, les lacs, les lagons, les chenaux, etc., sur lesquelles des bâtiments sont amenés à naviguer et pour lesquelles des tâches d’aide à la navigation, telles que l’hydrographie et la cartographie marine sont nécessaires.

\*Note: Il ne faut pas confondre cette définition avec celle, juridique, des Eaux intérieures qui est donnée dans l’Article 8 de la Convention des Nations unies sur le droit de la mer (UNCLOS).

*Comments by the HDWG/IHB: France has provided a revised definition, in French, taking into account the amendments made to the definition as set out in paragraph 2 of this letter. This will be included in the French edition of S-32.*

**Oman Sultanate of:**

YES Suggest add second note against land boundaries to read “not to be confused with recognised international boundaries”

*Comments by the HDWG/IHB: “Land boundaries”, within the definition, is simply being used to indicate where these “inland” areas of water exist. They may or may not be recognised International boundaries*

**Pakistan:**

YES Navigable creeks having connection with sea and run through marshy areas may also be deliberated.

*Comments by the HDWG/IHB: It would be difficult to include every possible term in the definition which therefore includes a non exhaustive list concluding with “etc” to cover other “areas of water” which are navigable.*

**Papua New Guinea:**

YES I agree that the definition must not be confused with the UNCLOS Article 8. Some time it is confusing with the national merchant shipping act which encompasses internal waters which most refer as navigable inland waters.

*Comments by the HDWG/IHB: As suggested in the comment Merchant Shipping Acts are “national” legislation and terms adopted may vary from State to State. UNCLOS however is and international Convention which is highly relevant to Hydrography and Nautical Cartography.*

**Sweden:**

YES Is the word “channel” appropriate? Also used as “Open Sea” – The English Channel for example. Can the word “Canal” be used instead? (I leave it to the Native English speakers)

*Comments by the HDWG/IHB: The definition includes a non exhaustive selection of common terms “such as rivers, lakes, lagoons, channels, etc”. The use of channel is considered an appropriate term.*