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IHB File No. S3/7020

24 May 2011

**S-23 WG Letter No. 03/2011**

**S-23 WORKING GROUP REPORTING TO MEMBER STATES**

Reference: a) S-23 WG Letter No. 06/2010 dated 20 December 2010  
b) S-23 WG Letter No. 01/2011 dated 23 February 2011  
c) S-23 WG Letter No. 02/2011 dated 21 March 2011

Dear Members of the S-23 WG,

**1. Introduction**

1.1 The Chair Group in reference c) has considered the responses provided to reference a) proposing the issues that should be included in the report to Member states. It has to be emphasized once more that, in accordance with its Terms of Reference, the S-23 WG has been tasked to "Produce a revised 4<sup>th</sup> edition of IHO Publication S-23, Limits of Oceans and Seas and submit it together with a report of the work of the WG to the IHB no later than June 2011, for the subsequent approval of Member States".

1.2 It has to be noted that the Chair Group has indicated in paragraph 5.2 of reference c) a two steps procedure of presenting to Member States a final revised 4<sup>th</sup> edition. Firstly to seek the opinion of Member States on the elements referred to in sub-paragraphs a) - e) of the second bullet of paragraph 5.2 and afterward considering the positions and views that would be expressed, to improve the 2002 draft edition of S-23 accordingly, as indicated in sub-paragraph f) of the second bullet of paragraph 5.2 and present it to Member States for approval.

1.3 The following seventeen (16) members of the S-23 WG have provided comments on reference c): Argentina, Australia, China, Cyprus, Ecuador, Iran, Italy, Japan, Korea (DPR of), Korea (Rep. of), Nigeria, Pakistan, South Africa, Ukraine, United Kingdom and USA.

**2. Brief presentation of the responses to reference c).**

2.1 All responses received have been posted on the IHO web site under S-23 WG ([www.iho-ohi.net/mtg\\_docs/com\\_wg/S-23WG/S-23WG2/S-23WG2.htm](http://www.iho-ohi.net/mtg_docs/com_wg/S-23WG/S-23WG2/S-23WG2.htm)). From an analysis of the responses the following can be observed:

- Cyprus, Japan, Italy, South Africa, UK and USA agree with the way forward, with USA providing a more detailed and improved text for the "Important Notice" which is attached as Annex A for your consideration. USA furthers indicates that concerning the naming of the sea area between Korean Peninsula and Japanese Archipelago, although the WG's RoP states "Decisions should generally be made by consensus", without adequately defining the term consensus, US believes that general agreement has been reached in this case;

- Korea (DPR of) and Korea (Rep. of) do not agree with the way forward. Their position is that both names “East Sea” and “Japan Sea” should be used simultaneously on the same page;
- Argentina, Ecuador, Iran and Pakistan indicate that for the naming of sea area between Korean Peninsula and Japanese Archipelago there should be a consensus between the relevant parties. Ecuador further states that it agrees without objection to the terms of points a), b), and e) of paragraph 5.2. On this issue please note the comment made in the third bullet of paragraph 3.1;
- Australia indicates that an attempt to seek a compromise that may be acceptable to both Japan and Korea through an alternative proposal was unsuccessful and should not be pursued;
- Nigeria indicates that there should be an agreement between the interested States and highlighted that the proposed way to report to Member States is elaborate and would enable them to validate the facts and make necessary inputs; and
- China indicates that decisions should generally be made by consensus as it is clearly stated in the RoP of the WG established and this should be strictly complied faithfully. It also provides its position concerning its proposals.
- Ukraine supports the use of the second name “East Sea” concurrently with the name “Japan Sea”, but the way of inclusion of the second name should be decided by agreement and consent of the relevant parties.

### **3. Brief presentation of responses to reference b).**

3.1 The following six (6) members of the S-23 WG have provided comments on reference b); China, Japan, Oman, Turkey, United Kingdom and USA.

3.2 All responses received on reference b) have been posted on the IHO web site under S-23 WG ([www.iho-ohi.net/mtg\\_docs/com\\_wg/S-23WG/S-23WG2/Actions/Actions\\_from\\_S-23WG2\\_and\\_Status.pdf](http://www.iho-ohi.net/mtg_docs/com_wg/S-23WG/S-23WG2/Actions/Actions_from_S-23WG2_and_Status.pdf)). From the analysis of the responses the following can be observed:

- China with its two responses provides its position on the development of the proposals made. Concerning the first sentence of the last part of both China’s letters indicating that “China urges the IHO to respect and treat fairly comments and amendments offered by Member States”, the following have to be noted:
  - The term “IHO” is not correct as the discussions take place within the S-23 WG;
  - Comments and amendments at this stage are offered by members of the WG and not Member States, as indicated in all letters of the S-23 WG and as shown in paragraphs 1.3 and 3.1 of this letter;
  - IHO (Member States) will provide their comments and views when the S-23 WG submits its report;
  - The Chair Group of the S-23 WG acts on the decisions taken, respects and treats fairly all comments and amendments offered by members of the S-23 WG, presenting them and indicating their status.
- Japan agrees with the proposals regarding actions 1 and 4. As for action 3, it requests further information from the secretariat. It rejects the proposals on actions 5 and 6;
- Oman agrees with the proposals on actions 1, 3, 5 and 6;

- Turkey indicates that “It will not support and/or make any comment on any proposal(s) for the sea areas around China and Taiwan, unless relevant States are agreed on”;
- UK comments only on action 3, concerning the Gulf of Tonkin, indicating that the Chinese comments have confirmed that the Vietnamese name and the Chinese name have the same meaning in English. However the two names are visually different and UK does not wish to favour one language form over the other, adding that the name “Gulf of Tonkin” remains a valid English language conventional form for this gulf on English language products; and
- USA agrees with the proposals on actions 1 and 4, further requesting a footnote in relation to action 3, mentioning the use of “Gulf of Tonkin” in English language navigational charts and documents. Its comment for action 5 has been accommodated in the draft introductory text of the S-23, Annex B enclosed.

3.3 Annex A presents the status of the Chinese proposals as they have been agreed, not agreed and commented by members of the S-23 WG.

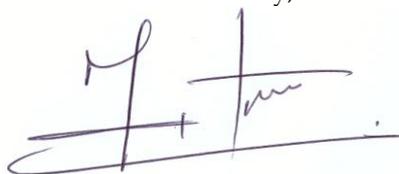
#### **4. Report to Member States**

4.1 A draft report to Member States highlighting the way of work of the S-23 WG, the views and positions expressed on the issues of consideration, has been prepared by the Chair Group and is attached in Annex C for your consideration. Views and comments on the report from the members of the WG will be considered and included in the report in order to be brought up to the attention of Member States.

4.2 The report with its attachments will be passed to IHB to be brought to the attention of Member States in accordance with the ToR of the S-23 WG. The positions and comments of Member States will be examined by the WG, in order to finalize the 4th edition of S-23 that will be presented to Member States for approval. The two step procedure for facilitating the revision of S-23 is an easier, more deliberate approach for expression of opinions, which should avoid delays by considering as a first step the “areas of concern” recognized by the members of the S-23 WG.

Please provide your comments **by 24<sup>th</sup> of June 2011**.

Yours sincerely,



Vice Admiral Alexandros MARATOS  
Chairman

Annex A: China’s proposals  
Annex B: Important Notice  
Annex C: S-23 WG Report

CHINA'S PROPOSALS CONSIDERED AT THE 2<sup>ND</sup> S-23 WG MEETING - STATUS

Action No.	Proposals	Decisions of the 2 <sup>nd</sup> S-23 WG Meeting	Positions of WG Members and Status of Proposals (May 2011)
1	To consider the South China Sea an independent area	<b>(Meeting participants</b> to provide comments on China's proposal to make the <i>South China Sea</i> an independent area within S-23 as soon as possible in order to determine the way forward.)	<p>1) USA opposed the proposal to make South China Sea an independent area. See comment by USA (29 Sep 2010). Oman commented (1 Oct 2010): <i>"Not clear how this area is going to be when forming South China Sea as an independent area. In principle, Oman has no objection of forming a separate administrative division in S-23 provided there is acceptance by littoral States of South China Sea"</i>.</p> <p>2) China subsequently indicated that they can accept changing the title of the relevant chapter of S-23 to "South China Sea and Eastern Archipelagic Seas". See China's letter of 24 Jan 2011, section 1.</p> <p>3) As a result, it was proposed (Para. 2 of S-23WG Letter 01/2011, dated 23 Feb 2011) to change the title of S-23 Chapter 6 from "South China and Eastern Archipelagic Seas" to "South China Sea and Eastern Archipelagic Seas".</p> <p>4) Support for the above proposal was expressed by Japan, Oman and USA. No objection received.</p> <p><u>Conclusion:</u> Title of S-23 Chapter 6 revised to read "South China Sea and Eastern Archipelagic Seas". No further action.</p>
2	To subsume Natuna Sea into South China Sea	<b>China</b> to re-consider its position on <i>Natuna Sea</i> and/or provide additional information to the <b>Chair</b> for circulation to meeting participants.	<p>Information awaited from China</p> <p><u>Conclusion:</u> No change, as the requested information has not been received.</p>
3	To rename Beibu Gulf the existing Gulf of Tonkin	<b>China</b> to provide the Chair with the official agreement with Vietnam about <i>Beibu Gulf</i> and information on actual technical usage of this name, for circulation to	<p>1) China provided the following website: <a href="http://www.fmprc.gov.cn/chn/pds/wjb/zzjg/bjhysws/bhfg/t556665.htm">http://www.fmprc.gov.cn/chn/pds/wjb/zzjg/bjhysws/bhfg/t556665.htm</a>. See China's e-mail of 12 Aug 2010, section 1.3. Japan commented (5 Nov 2010): <i>"The requested agreement could not be found on the Eng version of the above website; only a reference to the agreement between China and Viet Nam on the delimitation of the Beibu Bay Territorial Sea. As a result, we cannot check if Vietnam also uses the term 'Beibu</i></p>

Action No.	Proposals	Decisions of the 2 <sup>nd</sup> S-23 WG Meeting	Positions of WG Members and Status of Proposals (May 2011)
		meeting participants. Based on the responses received, the <b>Chair</b> to propose a way forward.	<p><i>Gulf</i>. The press release provided by China does not answer this question either.”</p> <p>2) China subsequently provided correspondence between the Permanent Mission of PR China to the UN, and the UN Secretariat. See China’s letter of 24 Jan 2011, section 2, and Doc. UN LA TR/12102005/I-41860.</p> <p>3) Noting these documents, WG members were asked whether they agree to use only the name ‘Beibu Gulf’ as proposed by China (Para. 3 of S-23 WG Letter 01/2011, dated 23 Feb 2011).</p> <p>4) Japan asked for confirmation that Viet Nam has agreed to use solely ‘Beibu Gulf’. UK did not want to favour ‘Beibu Gulf’ vs ‘Bắc Bộ Gulf’ and noted that ‘Gulf of Tonkin’ remains a valid name for English-language products. USA requested a footnote mentioning the use of ‘Gulf of Tonkin’ in English-language navigational charts and documents. Oman supported using solely ‘Beibu Gulf’.</p> <p><u>Conclusion:</u> Considering the information provided by China, further considering that Vietnam is not an IHO Member State and that it is difficult to communicate with official agencies in Vietnam on this issue, the Chair Group proposes:</p> <ol style="list-style-type: none"> <li>1. To use only the name ‘Beibu Gulf’ in S-23 and if needed revisit it in the future.</li> <li>2. To put a reservation on the relevant page and provide the details of Gulf of Tonkin in the Annex.</li> </ol>
4	To amend to Taiwan Dao the name of this island	<b>Meeting participants</b> to provide the Chair with their views on China’s proposal to name the island “Taiwan Dao” instead of “TAIWAN” as soon as possible. Based on the responses received, the <b>Chair</b> to propose a way forward.	<p>1) Japan and USA have not agreed with the proposed changes. See also China’s e-mail of 12 Aug 10, section 1.4, and China’s letter of 24 Jan 2011, section 3.</p> <p>2) Based on the responses received, it was suggested that there was not enough support to make the proposed change (Para. 4 of S-23 WG Letter 01/2011, dated 23 Feb 2011).</p> <p>3) Japan and USA expressed support for the above approach. No objection received.</p> <p><u>Conclusion:</u> No support for change from “Taiwan” to “Taiwan Dao”. No further action.</p>
5	To consider Bo Hai a separate body from	<b>China</b> to provide the Chair with written technical justification for separation of	1) The following comment was included in China’s letter of 24 Jan 2011, section 4: “ <i>Since recorded history began, Bo Hai has been treated as Chinese internal waters and is separated and independent from the Yellow Sea. China and its neighbouring countries have clearly delineated in their maps and charts that Bo Hai</i>

Action No.	Proposals	Decisions of the 2 <sup>nd</sup> S-23 WG Meeting	Positions of WG Members and Status of Proposals (May 2011)
	Yellow Sea	<i>Bo Hai</i> from the <i>Yellow Sea</i> . The <b>Chair</b> to circulate it to the meeting participants for final approval.	<p><i>and Yellow Sea are well separated."</i></p> <p>2) Based on the above comment, it was proposed to accept that <i>Bo Hai</i> be considered a separate body from <i>Yellow Sea</i> (Para. 5 of S-23 WG Letter 01/2011, dated 23 Feb 2011).</p> <p>3) Oman expressed support for the proposal. Japan rejected the proposal, considering that "<i>China has not shown technical grounds, or those from the perspective of international law, which support its assertion that 'Bo Hai has been treated as Chinese internal waters'". USA asked for "clear introductory language in S-23 to facilitate notice to all users that the limits prescribed are not IHO endorsements of a coastal State's legal position with regard to the law of the sea".</i></p> <p><u>Conclusion:</u> The Chair Group proposes that China's proposal be accepted, considering the arguments provided by USA which will be inserted in the introductory pages of S-23.</p>
6	To amend the line of demarcation between <i>Bo Hai</i> and <i>Yellow Sea</i>	<b>China</b> and <b>USA</b> to provide the Chair with written technical justification for their respective proposals regarding the line of demarcation between <i>Bo Hai</i> and the <i>Yellow Sea</i> . These, together with <b>IHB</b> findings on the justification for the existing line dating back to 1986, to be circulated to meeting participants by the <b>Chair</b> for final approval.	<p>1) USA has proposed the following line: "<i>a line connecting the southern extremity of the Liaodong Peninsula passing through Beihuangcheng Dao, the island about 22 nautical miles to the south, then along the following chain of islands: Nanhuangchen Dao, Daqin Dao, Tuoji Dao, Beichangshan, and Miao Dao.</i>"</p> <p>2) Investigation was conducted at the IHB on the origin of the 1986 line, also used in the 2002 draft S-23 4<sup>th</sup> edition, i.e. "<i>A line joining Laotieshan Cape (38°44'N, 121°08'E) in Liaodong Peninsula and Penglai Cape (37°50'N, 120°45'E) in Northern Bank of Shandong Peninsula</i>". This line was proposed by UK and agreed by China at that time.</p> <p>3) The following comment was included in China's letter of 24 Jan 2011, section 4: "<i>The demarcation between Bo Hai and Yellow Sea rectified by China i.e. from Laotieshan Xijiao, the southwestern extremity of Liaodong Bandao, southward to Dazhushan Dao, thence to Penglai Tou, the northern extremity of Shandong Bandao, has been in use for centuries. The administrative regions so formed have been in operation for ages with physical markings permanently established in these three places. We will take note of the demarcation proposed by others member states.</i>"</p> <p>4) Based on the responses received, it was proposed to adopt the limit proposed by China (Para. 6 of S-23 WG Letter 01/2011, dated 23 Feb 2011).</p> <p>5) Oman expressed support for the proposal. Japan rejected the proposal for the same reason that for Action 5, however adding "<i>unless other coastal States agree with the proposal</i>".</p> <p><u>Conclusion:</u> Since no objection from other coastal States has been expressed, China's proposal is</p>

Action No.	Proposals	Decisions of the 2 <sup>nd</sup> S-23 WG Meeting	Positions of WG Members and Status of Proposals (May 2011)
			accepted. No further action.
7	To amend the southeastern limit of the Yellow Sea	Discussions to take place between <b>China</b> and <b>Rep of Korea</b> regarding the changes proposed by China on the southeastern limit of the <i>Yellow Sea</i> . Outcome of these discussions to be sent to the <b>Chair</b> as soon as possible for circulation to the meeting participants.	<p>1) It has been reported that no discussions took place on this issue between China and Rep. of Korea.</p> <p>2) Outcome of such discussions is therefore still awaited.</p> <p><u>Conclusion:</u> No change to the SE limit of the Yellow Sea until information will be provided by China and Rep. of Korea.</p>

**IMPORTANT NOTICE**

*(Preface to S-23 4<sup>th</sup> Edition)*

The 4th edition of S-23 has been drawn up and [approved by Member States] taking into account proposals put forward by Member States, established WGs, the IHB and others since 1977, when decision was taken by the XI International Hydrographic Conference to update this publication. Although several attempts have been made to update the document, the last official publication of S-23 was in 1953. Since 1953, areas of certain water bodies as well as their names and names of adjacent land features have changed. Some of these areas and names are clearly recognized; however, many areas and names are controversial. These subjects are politically sensitive in nature and are likely to remain sensitive. The IHO Member States that have voted to approve this new publication of S-23 recognize the overwhelming need to move forward on a new edition of S-23 as a reference for modern, technical hydrographic purposes. The IHO Member States are fully aware that controversies over names and areas remain. They strongly urge users of this publication not to use this document as support for any political claims or disputes, as that is not the purpose for which it was intended. S-23 does not have any legal or political connotation whatsoever and must not be accepted as such by any legal or juridical body.

This latest revision of S-23 offers a new way of highlighting potential controversial subjects, as follows:

1. Some States that are adjacent to certain water bodies have accepted and use names and limits of oceans and seas that are different from the ones appearing in this publication. Where States use different names or limits compared to the ones indicated on specific pages, a reservation footnote has been inserted concerning different or alternative names, limits or both. A special Annex is appended to this document that provides details and arguments of the reservations.

2. The Annex is a useful tool through which the various producers of hydrographic products and users are informed of different or alternative names and limits that various States are using. In this way, hydrographic products that are derived from S-23 definitions are technically more representative of names and limits used in the oceans and seas.

## REPORT OF S-23 WORKING GROUP TO MEMBER STATES

- References:
- a) CL 03/2009/bis1 dated 12 January 2009
  - b) CL 22/2009/rev1 dated 08 April 2009
  - c) Final minutes, S-23 WG first meeting, Monaco, 1<sup>st</sup> June 2009
  - d) Final minutes, S-23 WG second meeting, Singapore, 5-7 July 2010
  - e) S-23 WG Letter No. 06/2010 dated 20 December 2010
  - f) S-23 WG Letter No. 01/2011 dated 23 February 2011
  - g) S-23 Letter No. 02/2011 dated 21 March 2011
  - h) S-23 Letter No. 03/2011 dated -- May 2011

### 1. INTRODUCTION

1.1 S-23 is an IHO technical publication referring to "Limits of Oceans and Seas". The 3<sup>rd</sup> edition dated 1953 remains the current edition but is out of date. The XI International Hydrographic Conference (IHC) in 1977 with its decision No. 17 tasked the Bureau to undertake a revision of this publication. Regrettably, after 35 years, this work has yet to be completed. A brief background history of the efforts to revise the S-23 Publication and the problems encountered is contained in Annex E of reference c). It may be noted that the different positions of Korea and Japan in naming the sea area between the Korean Peninsula and the Japanese Archipelago, is a significant reason for the lengthy deliberations and delay in the progress of the revision of this publication.

1.2 Bilateral discussions have taken place between Korea and Japan for more than five years without any agreement. Various options proposed in naming this sea area have been rejected by one or both of the interested States or did not receive the appropriate majority by Member States.

1.3 Member States overwhelmingly supported the proposal of the Directing Committee for the establishment of a WG with the following task in accordance with the approved Terms of Reference (ToR) 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 draft 4<sup>th</sup> edition of the publication to the IHB no later than June 2011, for the subsequent approval of Member States"**. Rules of Procedures (RoP) indicate that **"Decisions of the WG should generally be made by consensus"**. References a) and b) provide the details for the establishment of the S-23 WG. The final ToR and RoP are included in Annex g) of reference c) and the membership of the WG can be found on the S-23 Working Group page of the IHO website.

### 2. WORK OF THE S-23 WG

2.1 The S-23 WG, in accordance with its RoP worked mainly by correspondence and had two face-to-face meetings. The first meeting took place in Monaco on the 1<sup>st</sup> June 2009, organized by the Bureau, prior to the 4<sup>th</sup> Extraordinary International Hydrographic Conference (EIHC) and was attended by 39 delegates from fourteen Member States. The second meeting was organized in Singapore by the Hydrographic Department of the Maritime and Port Authority (HD/MPA) and was attended by 42 delegates from thirteen Member States.

#### First meeting of the S-23 WG

2.2 VAdm Alexandros Maratos, the President of the Directing Committee, chaired the opening of the first meeting providing the history of attempts to revise publication S-23, the

importance of the publication and the establishment and task given to the S-23 WG by Member States. VAdm Maratos asked for nominations for the post of the Chair of the WG. Nobody volunteered to Chair the WG. After discussions and an exchange of views France, supported by others proposed, due to the significance of the work of the WG, that VAdm Maratos should Chair it. Although the WG should be chaired by a Member State, VAdm Maratos accepted the proposal asking for positive participation and contribution of all members of the S-23 WG. RAdm Christian Andreassen from USA and past President of the IHB, was elected as Vice-Chair of the S-23 WG.

2.3 In order to progress its work on S-23 the following steps were agreed:

- Step 1, IHB to set up an S-23 WG on the IHO web site;
- Step 2, France (SHOM) to provide the IHB with standards, definitions and rules of procedures for toponymy. IHB to post these documents on the IHO website;
- Step 3, IHB to circulate a list of areas of possible concern to WG members by end July 2009;
- Step 4, WG members to comment on this list by end September 2009;
- Step 5, IHB to circulate a final list to WG members. Member States in any areas of possible concern then to be asked to provide their comments/positions; and
- Step 6, Based on the comments received from interested Member States in any areas of concern, IHB to draft a paper on the matter, circulate it to WG members and consider whether a face-to-face meeting is appropriate.

2.4 The minutes of the first meeting of the S-23 WG are posted on the IHO web site under [http://www.iho-ohi.net/mtg\\_docs/com\\_wg/S-23WG/S-23WG1/S-23WG1\\_Minutes\\_final.pdf](http://www.iho-ohi.net/mtg_docs/com_wg/S-23WG/S-23WG1/S-23WG1_Minutes_final.pdf).

2.5 In accordance with step 3 of the agreed work plan and the search conducted into the archives of the Bureau, three possible areas of concern were identified:

- The naming of the sea area between the Korean Peninsula and the Japanese Archipelago;
- Whether the Malacca and Singapore Straits should be located in the Indian Ocean or the South China Sea and Eastern Archipelagic Seas; and
- Proposals by China for changes in names and limits in the South China Sea, East China Sea and Yellow Sea.

The details of the “areas of concern” are posted on the IHO web site under [http://www.iho-ohi.net/mtg\\_docs/com\\_wg/S-23WG/S-23WG\\_Misc/Areas\\_of\\_Concern/S-23\\_Areas\\_of\\_concern.pdf](http://www.iho-ohi.net/mtg_docs/com_wg/S-23WG/S-23WG_Misc/Areas_of_Concern/S-23_Areas_of_concern.pdf).

#### Second meeting of the S-23 WG

2.6 In accordance with Steps 4 and 5, members of the WG examined and accepted these areas to be examined as “areas of concern”. No additional areas were proposed by the members of the WG. Members of the WG agreed that a second face-to-face meeting was needed to examine in detail the “areas of concern” and take appropriate decisions and actions. The second meeting took place in Singapore as indicated in paragraph 2.1.

2.7 The meeting considered in detail the three areas of concern. The following should be highlighted as the result of the considerations and decisions taken:

- There was consensus between the members of the WG that the Malacca and Singapore Straits should be considered as an independent sea area, forming a separate

administrative division in S-23. The meeting also agreed to amend the western limit of the Malacca Strait as proposed by India;

- Concerning the amendments proposed by China the meeting accepted/not accepted some while for others further information was needed from China before a final decision could be taken by the WG. Details on the decisions taken are indicated in paragraph 11.2 of reference d);
- Concerning the naming of the sea area between the Korean Peninsula and the Japanese Archipelago an extensive discussion took place and the interested States presented their positions. The meeting agreed that Australia, France, Japan and Korea (Rep. of) would provide the Chair with their proposals in order for them to be circulated to the members of the WG for their consideration. It was further decided that the Chair based on the responses received, should propose to the members of the WG “a way forward” for consideration. The details of this issue are given in paragraph 11.3 of reference d).

2.8 The meeting also considered two proposals coming from Oman and Morocco. After detailed discussion the following were decided, as indicated in paragraphs 11.4 and 12.1 of reference d):

- The proposal from Oman to change the “Gulf of Oman” to “Sea of Oman” did not receive enough support;
- The meeting agreed to Morocco’s proposal to change the name “Ras Espartel”, which was misspelled in the 1986 and 2002 draft 4th editions of S-23, to the correct spelling “Ras Spartel” as indicated in the current 3<sup>rd</sup> edition. There was no support to change the name “Punta Almina” shown in the 2002 draft 4th edition of S-23 to “Ras Al-mina”, as the location concerned is under Spanish jurisdiction.

2.9 The minutes of the second meeting of S-23 WG are posted on the IHO web site under [http://www.iho-ohi.net/mtg\\_docs/com\\_wg/S-23WG/S-23WG2/Minutes/S-23WG2\\_Minutes.htm](http://www.iho-ohi.net/mtg_docs/com_wg/S-23WG/S-23WG2/Minutes/S-23WG2_Minutes.htm).

### **3. A WAY FORWARD TO PROGRESS S-23**

3.1 Members of the S-23 WG were informed on 5<sup>th</sup> September 2010 of France’s decision 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.

3.2 Proposals presented by Australia, Korea and Japan have been posted on the IHO web site under [http://www.iho-ohi.net/mtg\\_docs/com\\_wg/S-23WG/S-23WG2/Proposals/S-23\\_Proposals.htm](http://www.iho-ohi.net/mtg_docs/com_wg/S-23WG/S-23WG2/Proposals/S-23_Proposals.htm). Briefly the following can be highlighted:

- Australia proposed that when consensus cannot be reached on a name or limit of a sea or ocean, then the alternative position(s) are to be indicated in S-23, with a reservation shown on the first page referring to the sea or ocean and the details of the reservation are to be clearly detailed in an Annex or in a second page for the same sea or ocean area, immediately following the first;

- Korea, based on the Australia proposal, proposed that the reservation on the names and/or limits, together with the legitimate names and/or limits in use, be shown on the same page; and
- Japan proposed the “Chartlet Method” for the revision of S-23 which would be based on the current 3<sup>rd</sup> edition of S-23 which is officially still valid. It would also be possible to revise the S-23 using the 2002 draft edition other than for those oceans and seas where divergent views among Member States existed in 2002 and also for those oceans and seas whose names and/or limits were not considered in 2002, but have subsequently been submitted.

3.3 Responses to the proposals have been provided by Japan, Korea (DPR of), Korea (Rep. of), Italy, Oman, South Africa, Turkey and UK. The responses have been posted in the IHO web site under [http://www.iho-ohi.net/mtg\\_docs/com\\_wg/S-23WG/S-23WG2/Proposals/S-23\\_Proposals.htm](http://www.iho-ohi.net/mtg_docs/com_wg/S-23WG/S-23WG2/Proposals/S-23_Proposals.htm) (see “Comments received on the proposals”) and are indicated in paragraphs 2.2 and 2.3 of reference e). From the study of the responses provided the following two main points can be highlighted:

- There is no a clear support for either of the proposals made by Japan and the Korea (Rep. of); and
- The proposal made by Australia is recognized by most of the responders as one that could form the basis for a possible acceptance in naming the sea area between the Korean Peninsula and the Japanese Archipelago.

3.4 Based on the presentation, study and analysis of the proposals and comments made and acknowledging the aim of this technical publication, the Chair Group proposed to the members of the WG the following as “a way forward” to name this sea area, and sought their views as it is indicated in paragraph 2.4 of reference e):

- The name appearing in the current valid 3<sup>rd</sup> edition to be used,
- On the same page, the name(s) of the State(s) expressing reservation(s) to appear, with the indication whether the reservation refers to name and/or limit, details of which will be included in an Annex. It has to be noted that the 2002 draft edition of S-23 has followed a similar procedure for a number of sea areas, and reservations in the Annex have been recorded by Australia, Norway, Russia Federation and USA;
- In the introduction of the publication, a text to be included explaining what reservations are about and how they are presented in the publication; and
- The text that exists in the preface to the S-23 referring to the technical purpose of the publication and stressing that S-23 must not be construed as having any legal or political connotation, to be re-examined in order to make it stronger and clearer, if considered appropriate.

3.5 Sixteen members of the S-23 WG have provided comments, which have been posted in the IHO web site under [http://www.iho-ohi.net/mtg\\_docs/com\\_wg/S-23WG/S-23WG2/Proposals/S-23\\_Proposals.htm](http://www.iho-ohi.net/mtg_docs/com_wg/S-23WG/S-23WG2/Proposals/S-23_Proposals.htm) (see “Comments received on the proposed way forward”). Brief presentation of the responses is provided in paragraphs 2 and 3 of reference g). From the responses received the following observations can be drawn:

- There is no consensus on the proposed “way forward”;

- Nine members of the WG (Australia, Cyprus, Italy, Japan, Morocco, Nigeria, South Africa, United Kingdom and USA) agree with the “way forward” proposed by the Chair-Group and one (Oman) supports most of the proposal;
- Four members of the WG (Argentina, Italy, Turkey and Ukraine) indicated that they can not support the proposed “way forward” or make comments, unless consensus, on the naming the sea area will be obtained by the relevant parties. On this point paragraphs 1.1 and 1.2 have to be taken into consideration;
- One member of the WG (Rep. of Korea) indicates that the two names “East Sea” and “Japan Sea” must be shown on the same page; and
- One member of the WG abstained (Iran).

#### 4. PROPOSALS TO MEMBER STATES. WAY FORWARD

4.1 The Chair-Group consider that the work of the S-23 WG has now been completed and, based on the views and positions that have been expressed by the members of the WG, propose the following to be considered by Member States:

- Malacca and Singapore Straits to be considered as an independent sea area, forming a separate administrative division in S-23, noting that it has received the agreement of the members of the WG;
- Amendments proposed by China in the South China Sea, East Sea and Yellow Sea as indicated in Annex A and accepted by the members of the WG to be included in S-23;
- Whether the name “Japan Sea” appearing in the 3rd edition could be used in naming the sea area between the Korean Peninsula and the Japanese Archipelago, noting that consensus has not been achieved between the members of the WG and considering the positions and views expressed;
- Whether Member States agree to the insertion in S-23 of reservations, which they may have on different positions for certain names and/or limits. The different name(s) and/or limit(s) with the details et cetera, and the details and technical arguments of the reservations to be included in an Annex (this can apply in the case of naming the sea area between the Korean Peninsula and the Japanese Archipelago);
- An “Important Notice” to be included in the Preface of S-23 in red, which will indicate the technical character of the S-23 publication, its restriction not to be used for political and juridical purposes and not to be accepted as such by any legal or juridical body indicating also the purpose and use of the Annex. A draft text of the “Important Notice” proposed by USA and improved by comments expressed by members of the WG is provided in Annex B for your consideration; and
- The 2002 draft edition of S-23 to be used as a basis to reflect the positions that will be approved by Member States on the above issues. A final draft 4<sup>th</sup> edition of S-23 to be circulated afterwards to Member States for final approval.

4.2 Sixteen members of the S-23 WG have provided comments on the above proposals to Member States. The responses have been posted on the IHO web site under [http://www.iho-ohi.net/mtg\\_docs/com\\_wg/S-23WG/S-23WG2/Proposals/S-23\\_Proposals.htm](http://www.iho-ohi.net/mtg_docs/com_wg/S-23WG/S-23WG2/Proposals/S-23_Proposals.htm) (see “Comments received to S-23WG Letter 02/2011”). The following brief comments can be made:

- Six members of the WG (Cyprus, Japan, Italy, South Africa, UK and USA) have agreed with the above way forward. Concerning the naming of the sea area between the Korean

Peninsula and the Japanese Archipelago, USA indicates that although the WG's RoP states that "Decisions should generally be made by consensus" without adequately defining the term consensus, US believes that general agreement has been reached in this case;

- Two members of the WG do not agree with the way forward (DPR of Korea and Rep. of Korea). Their position is that naming this sea area both names "East Sea" and Japan Sea" should be used simultaneously on the same page;
- Australia indicates that an attempt to seek a compromise that may be acceptable to both Japan and Korea through an alternative proposal was unsuccessful and should not be pursued;
- Four members of the WG (Argentina, Ecuador, Iran and Pakistan) indicated that the naming of the sea area should be a consensus between the relevant parties, one of which accepts part of the proposals to Member States;
- One member of the WG (Nigeria) indicated that there should be agreement between the interested States, highlighting that the proposed way to report to Member States is elaborate and would enable them to validate the facts and make necessary inputs;
- One member of the WG (China) indicated that decisions should generally be made by consensus as it is clearly stated in the RoP of the WG established and this should be strictly complied faithfully; and
- One member of the WG (Ukraine) supported the use of the second name "East Sea" concurrently with the name "Japan Sea", but the way of inclusion of the second name should be decided by agreement and consent of the relevant parties.

5. Member States are requested to study carefully this report, the references and the views and positions expressed by members of the S-23 WG, as posted on the IHO web site, and provide their positions and comments on paragraph 4.1. Based on the responses of Member States the S-23 WG will prepare the final draft of the 4<sup>th</sup> edition for the approval of Member States before the end of 2011.