



4, Quai Antoine 1er
B.P.445 - MC 98011 MONACO Cedex
PRINCIPAUTE DE MONACO

IHB File No. S3/7020

22 July 2011

S-23 WG Letter No. 04/2011

S-23 WORKING GROUP REPORTING TO MEMBER STATES

Reference: S-23 WG Letter No 03/2011 dated 24 May 2011

Dear Members of the S-23 WG,

1. Introduction

1.1 In Annex C of the reference, the Chair-Group presented to the S-23WG members a draft Report to Member States, in accordance with its Terms of Reference (ToR) and asked for their views and comments. The following twenty one (21) members of the S-23 have provided comments: Argentina, Australia, Belgium, China, Denmark, Ecuador, Greece, Guatemala, Iran, Japan, Korea (DPR of), Korea (Rep of), Nigeria, Oman, Pakistan, Peru, Singapore, South Africa, Turkey, United Kingdom (UK) and United States of America (USA). All comments mainly concern the naming of the sea area between the Korean Peninsula and the Japanese Archipelago.

1.2 All responses have been posted on the IHO web site under S-23 WG (http://88.208.211.37/mtg_docs/com_wg/S-23WG/S-23WG2/Proposals/S-23_Proposals.htm).

2. Brief presentation of the Member States' comments

2.1 Argentina indicates that any proposal to be put forward should be supported by all relevant parties. Due to the divergent positions expressed by the relevant parties, Argentina regrets that it can not support any proposal until consensus is obtained;

2.2 Australia indicates that consensus has not been reached amongst S-23 WG members. It does not agree with the statement in paragraph 4.1 that "the work of S-23 WG has been completed", and does not see any value to be gained by requesting all Member States to comment on the bullet points in paragraph 4.1. It further indicates that the root cause of not reaching consensus on S-23 is due to political pressures in relation to strong national positions rather than differences over technical depiction of names and limits;

2.3 Belgium indicates that the Federal Public Service of Foreign Affairs has noted that in accordance with the procedural rule within the S-23 WG, decisions should generally be made by consensus and therefore invites the concerned parties to restart a dialogue on this issue, with the help of the chair of the group;

2.4 China indicates that the S-23 WG should strictly abide by the RoP of "decision-making by consensus" and further consultations should be conducted on dissented "areas of concern" until an acceptable resolution is agreed upon by all relevant parties. It further provides its position on the issues of Taiwan/Taiwan Dao and Beibu Gulf;

2.5 Denmark finds that a revision of the 1953 edition is highly needed and supports any initiative taken by IHO to advance a new revision. It attaches importance to a solution being found which all parties involved can support;

2.6 Ecuador recognizes the importance of achieving consensus in the controversial issues and indicates that it is inappropriate to seek positions from the entire membership of the IHO on the Chair Group's Way Forward as there was no consensus. It further indicates that bullet points 3 and 4 of paragraph 4.1 of the report to Member States should be removed;

2.7 Greece agrees in general with the "way forward" and the inclusion of the Important Notice and proposes a few amendments/additions. Concerning the proposal by Turkey to amend the southern limit of the Aegean Sea, it indicates that "there are not technical, cartographic or hydrographic reasons for the proposed amendments, which in addition refer exclusively to areas falling within Greece's sovereignty or sovereign rights";

2.8 Guatemala indicates that "it is wise to maintain the present denomination as it appears on the nautical charts and the IHO publication S-23, for the benefit of the mariners, considering that such issue has not been sufficiently discussed and that there is no consensus";

2.9 Iran firmly believes that this matter due to its nature could be solved in a diplomatic manner and therefore agreement shall be reached by both parties involved. As consensus has not been reached it suggests this issue should be removed from S-23 WG reporting to Member States;

2.10 Japan indicates that as a responsible member of the WG it can go along with the proposal in the S-23 WG Letter No 06/2010 in a spirit of compromise, if a consensus can be formed around it. It cannot accept the name 'East Sea' to appear anywhere in the main body of S-23 for whatever reason. It suggests a change to the Important Notice;

2.11 Korea (DPR of) reiterates its support for the depiction of two names on the same page;

2.12 Korea (Rep of) believes that "East Sea" should be used concurrently with "Japan Sea". It is in line with IHO Technical Resolution A4.2.6. It further indicates that the Chair Group's attempt to seek the position of the entire Membership of IHO on a proposal that had failed to win consensus in the WG is not in accordance with the established procedures, and that the report should simply be a fact-based, accurate record of its deliberations since its establishment in 2009. Korea (Rep. of) provides specific comments and proposed changes on the draft S-23 WG Report;

2.13 Nigeria indicates that the S-23 WG has not reached consensus on naming the specific sea area and is of the view that bullet points 3 and 4 of paragraph 4.1 of the report should accommodate the aspiration of the other parties concerned. It further provides its view for accommodating both names in bullet point 3 of paragraph 4.1 and suggests deleting the bracket example in bullet point 4 of paragraph 4.1;

2.14 Oman recommends to remove the suggested geographical limits of the Strait of Hormuz as detailed in the 2002 edition as no limits are depicted in the S-23 3rd valid edition. It further questions the way that consensus should be achieved;

2.15 Pakistan considers that more time should be given to develop consensus between Korea and Japan prior to finalizing any proposal on naming the sea area between Korea and Japan. It supports the insertion of the "Important Notice" in red in the preface, which will indicate the technical character of the publication;

2.16 Peru attaches importance to a solution being found between the parties involved following the rules and resolutions recommended by the IHO;

2.17 Singapore supports the aim of S-23 WG to produce a revised publication, noting that S-23 is a technical WG that deals with technical hydrographic matters, urging Member States to refrain from politicizing discussions at the S-23 WG. It indicates that all concerned parties work to achieve a resolution in line with the S-23 WG's rules of procedures for decisions to be generally made by consensus;

2.18 South Africa agrees with the way forward and supports the Important Notice. Noting the lack of consensus, it suggests that the proposed "way forward" requires some refinement to make it more acceptable;

2.19 Turkey indicates that it will not support and/or make any comment on any proposal(s) for the sea areas around China and Taiwan and between the Korean peninsula and Japanese archipelago, unless the relevant parties are in agreement. It also indicates that the details and arguments of reservations be placed on the page immediately following the relevant one and not in an Annex and agrees with the Important Notice, if it is amended to reflect the above position. It also agrees with the use of the 2002 draft edition of S-23 if it reflects its position on its proposed change to the southern limit of the Aegean Sea as it proposes it;

2.20 UK acknowledges that it is for littoral states to resolve any disagreement over names of areas. It indicates that the "way forward" offers a pragmatic solution which could facilitate the publication of S-23 and, although not resolving disagreements, it would enable reservations to be represented in an official IHO publication. This is on the assumption that Member States can agree the method for recording these reservations.

2.21 USA supports the proposed way forward and agrees with each of the proposals in section 4.1 of the draft report. It indicates that while a solution from those directly concerned has not been found despite attempts over the past several years, the parties directly involved may continue to seek a mutually accepted solution for future revision. Until such time US believes that the WG has achieved a workable approach for publication of a new edition of S-23 which will include reservations when consensus cannot be reached.

3. Brief summary of the responses

3.1 The majority of the responses refer to the issue of naming the sea area between the Korean Peninsula and Japanese Archipelago. Three groups of positions can be recognized from the responses. Those which support one name with reservations to be inserted in an Annex, those which support the different names to appear on the relevant page and not in the Annex and those, which is the majority, indicating that the countries concerned must come to an agreement before moving to an update with some additional comments and views.

3.2 It has to be recognized that this issue has a strong political character that is difficult for the members of the WG to handle on a technical level. We see responses on various issues under consideration from the S-23 WG members coming from Embassies and Ministries of Foreign Affairs where interested Countries have lobbied diplomatically to seek support of their positions. The withdrawal of France from the WG "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" is a characteristic example. Australia in paragraph 4 of its response, under the heading "A political matter rather than a technical hydrographic matter" indicates that "It is apparent that the root cause of not reaching consensus on S-23 is due to political pressures relation to strong national positions rather than differences over technical depiction of names and limits". Iran in its response "firmly believes that this matter due to its nature could be solved in a diplomatic manner".

The Chair Group would like once more to bring to the attention of the members of the WG that "The activities of the Organization are of a scientific or technical nature and shall not include matters involving questions of international policy" as it is stated in Article 2 of the IHO General Regulations.

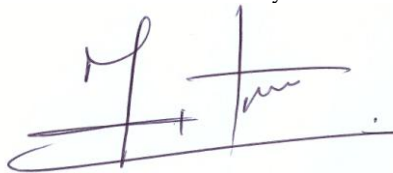
4. Progress of the work of the S-23 WG

4.1 The Chair Group having considered the WG's comments and especially those referring to the need for the WG to continue its work on issues of paragraph 4.1 of the Draft Report to Member States and that more time be given for agreement to be reached between the interested countries, proposes the following:

- Extend the work of the WG till early next year in order to give more time for progressing the issues where agreement has not been reached;
- To ask the Directing Committee to inform Member States that the report of the S-23 WG will be provided in January/February 2012 as more work is needed;
- Korea and Japan considering the comments expressed, to make use of the time available to try and find a way forward in naming the sea area between the Korean peninsula and Japanese archipelago. The Chair Group will be available to consider any assistance that will support progressing the issue. Members of the WG may also consider ways to assist on this issue;
- The Chair Group to continue progressing those Chinese proposals for which agreement has not yet been reached;
- The Chair Group to improve/amend the Important Notice, considering the comments that have been provided;
- No other issues will be considered apart from those related to the "areas of concern" which have been approved and decided by all members of the WG; and
- The Chair Group to consider, based on the progress of the above issues, whether a further face-to-face meeting is needed, in order to finalize the report to Member States.

4.2 Members of the WG are requested to provide their comments on paragraph 4.1 above, **not later than 15th August**.

Yours sincerely,

A handwritten signature in blue ink, appearing to read 'A. Maratos', written over a horizontal line.

Vice Admiral Alexandros MARATOS
Chairman