

## Draft Statutes of the Arctic Regional Hydrographic Commission

<b>Submitted by:</b>	US
<b>Executive Summary:</b>	The US proposes additional language to Section 2 of the Statutes to reinforce the fact that activities within the ARHC are collaborative and voluntary, as opposed to binding under international law.
<b>Related Documents:</b>	Attached Draft Statutes with proposed track changes in Section 2
<b>Related Projects:</b>	none

### Introduction / Background

At an informal meeting in Monaco in June 2009 between Canada, Denmark, Norway, the Russian Federation and the United States, these prospective Member States agreed to further discussion on formation of an Arctic Regional Hydrographic Commission. Subsequently, a draft version of proposed Statutes was circulated by Canada. The U.S. submitted editorial comments, but offered no substantive content changes at that time. The U.S. now offers additional U.S. Department of State-approved language for review by the other prospective members of the Arctic Regional Hydrographic Commission.

### Analysis/Discussion

The initial draft version of the Statutes provided by email from Canada dated August 14, 2009 remains as the active proposal for the ARHC Statutes. The proposed U.S. language in Section 2 of the Statutes merely reinforces the fact that the IHO and its regional hydrographic commissions are technical and consultative bodies, and that their activities are collaborative and voluntary as opposed to regulatory or legally binding.

### Conclusions

The proposed U.S. changes do not alter the intent of the Statutes and serve to mitigate any perception that the statutes are legally binding. This language confirms the flexibility of all Member States to commit resources to Commission activities as their respective budgets and policies allow.

### Justification and Impacts

Should the statutes remain as they are currently formulated, the U.S. approval of them may be impeded.

### Action Required of ARHC

The other prospective ARHC members are invited to review and endorse the proposed additions to

and provide comments by September 27, 2010 to the U.S. National Hydrographer Capt. John E. Lowell ([john.lowell@noaa.gov](mailto:john.lowell@noaa.gov)) with a copy to the Canadian Dominion Hydrographer Savi Narayanan. (Savithri.Narayanan@dfo-mpo.gc.ca)

# Statutes

of the

## Arctic Regional Hydrographic Commission

(ARHC)

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## Preamble

**Considering** that the International Hydrographic Organization (IHO) is a competent international organization recognized in the *United Nations Convention on the Law of the Sea* (UNCLOS);

**Considering** that the IHO has a consultative and technical nature;

**Considering** that the IHO aims at coordinating on a worldwide basis the setting of standards for the production of hydrographic data and the provision of hydrographic services as well as facilitating capacity building of national hydrographic services;

**Considering** that the International Hydrographic Bureau (IHB) encourages the IHO Member States having common regional interests in data collecting or nautical charting to form Regional Hydrographic Commissions (RHC) to cooperate in the undertaking of surveys and other projects, in complement to the work of the IHB;

**Considering** that Canada, Denmark, Norway, Russia and the United States of America are IHO Member States;

**Considering** that Canada, Denmark, Norway, Russia and the United States of America have common interests in data collecting and nautical charting in the Arctic Ocean Region;

**Considering** that Canada, Denmark, Norway, Russia and the United States of America desire to cooperate in the undertaking of surveys and other hydrographic projects in the Arctic Ocean Region;

**Considering** that Canada, Denmark, Norway, Russia and the United States of America are the only Arctic Coastal States;

**Considering** *Resolution T1.3 of the IHO regarding the Establishment of Regional Hydrographic Commissions* as adopted by the *XVIth International Hydrographic Conference* in 2002;

**Considering** Article 8 of the revised *General Regulations of the IHO* as approved by the 3<sup>rd</sup> *Extraordinary International Hydrographic Conference* in 2005 (not yet into force);

**Canada, Denmark, Norway, Russia and the United States of America, as per the signatures of their duly authorized representatives appended in Annex 1, have agreed to establish the Arctic Regional Hydrographic Commission (ARHC) and have approved its Statutes which read as follows:**

2 **DRAFT** August 14, 2009

# Statutes of the Arctic Regional Hydrographic Commission

## Article 1

### Title

These statutes shall be cited as the *Statutes of the Arctic Regional Hydrographic Commission*.

## Article 2

### Interpretation

a) In these Statutes,

“Arctic Ocean Region” means the Arctic Ocean in the area not included in the geographical area of any other Regional Hydrographic Commission on the date of entry into force of these Statutes.

“Associate Members” means the IHO Member States described in Article 3 (b) of these Statutes;

“Commission” means the Arctic Regional Hydrographic Commission;

“Members” means the full Members of the Commission listed in Article 3(a) of these Statutes; and

“Statutes” means the *Statutes of the Arctic Regional Hydrographic Commission*.

b) The Preamble and the annexes are full parts of these Statutes.

c) In these Statutes, and upon coming into force of the *Protocol of Amendments to the Convention on the International Hydrographic Organization*, as approved by the 3<sup>rd</sup> Extraordinary International Hydrographic Conference in 2005, the terms

“International Hydrographic Bureau” shall be read “Secretariat”.

“International Hydrographic Conference” shall be read “Assembly”.

“President of the IHB” shall be read “Secretary-General of the IHO”.

d) These Statutes are not binding under international law. Activities by Members, Associate Members, and Observers under the Statutes are undertaken voluntarily, on a consultative basis, and are subject to the availability of funds. The Commission has no authority over Members, Associate Members, or Observers.

**Article 3**  
Membership

- a) The full Members of the Commission are Canada, Denmark, Norway, Russia and the United States of America.
- b) The Associate Members are other IHO Member States who wish to contribute to the work of the Commission and commit to be bound by these Statutes as per the signatures of their duly authorized representatives appended in Annex 2.  
Associate Members may take part in the discussions and propose Conference Agenda items but do not have voting rights.
- c) Other States who are not members of the IHO and International Organizations involved in hydrographic surveying or nautical charting in the Arctic Ocean either by contributing to these activities or by providing support to these activities or as users of derived products, may be invited by the Commission to participate as observers.  
Observers may take part in the discussions but do not propose Conference Agenda items and do not have voting rights.

**Article 4**  
Objectives of the Commission

Being an integral part of the IHO and established to improve regional coordination, enhance exchange of information and foster training and technical assistance, in pursuance of the objectives, resolutions and recommendations of the IHO, the Commission shall have the following objectives:

- a) To promote technical cooperation in the domain of hydrographic surveying, marine cartography and nautical information;
- b) To examine the implications in the Arctic Ocean Region of matters of general interest with which the IHO is concerned, without interfering with the prerogatives of the IHB and of any other body set up by the IHO;
- c) To stimulate the widening of hydrographic activity in the Arctic Ocean Region and to encourage the seeking of technical advice and assistance from the IHB in establishing and strengthening hydrographic capabilities;
- d) To define the needs for new hydrographic products and services including surveys

- and charts and, where appropriate, develop cooperative approaches to meet those needs;
- e) To facilitate the exchange of information concerning surveys, research or scientific and technical developments; and to aid in the planning and organization of hydrographic activities, without interfering with the domestic responsibilities of the national authorities responsible for hydrographic services; and
  - f) To participate in IHO Working Groups, as required.

#### **Article 5**

##### Other claims regarding the Arctic

All activities, including exchange of information, technical cooperation, statements made or positions taken in the course of the works of the Commission are without prejudice to the respective national legal positions or sovereign rights of each member and shall not be construed as any statement, position or admission whatsoever in relation to any claim regarding the Arctic Ocean Region.

#### **Article 6**

##### Conferences

- a) The Commission meets in plenary Conferences at least once between successive ordinary International Hydrographic Conferences (IHC).
- b) The location of the Conferences shall be in the country of one of the Members, by rotation. The order of the rotation is: Canada, Denmark, Norway, Russia, the United States of America, and then Canada again and so on. The location of the first Conference is decided by the Members. The location of the following Conferences is determined following the order of rotation.
- c) Members and Associate Members are represented at Conferences by the heads of their national authorities responsible for hydrographic services or their nominees. They may be accompanied by advisors, but it is most desirable that their number be kept to a minimum.
- d) All the Members shall endeavor to attend all Conferences. However, the presence of four (4) Members constitutes a quorum.

## Article 7

### Chair, Vice-Chair and Secretariat

- a) The Chair of the Commission is the head of a Member's national authority responsible for hydrographic services. The Members decide who will be the first Chair. The Chair assumes responsibilities from the closing of a Conference to the closing of the next Conference.
- b) The Vice-Chair is the head of the Member's national authority responsible for hydrographic services in the country of which the Conference takes place. At the closing of that Conference, the Vice-Chair assumes the Chair and remains in office until the closing of the next Conference.
- c) The Chair provides the Secretariat for the Commission regarding all questions to be dealt with by correspondence until the closing of the Conference including the preparation of a Provisional Agenda and a Summary Report of the Conference, which contains the decisions taken; Chairs that Conference; prepares and presents a report on the activities of the Commission since the last Conference; and liaise as required with the IHB on behalf of the Commission.
- d) The Vice-Chair assists the Chair, organizes the Conference and assumes the duties if the Chair is unable to officiate.

## Article 8

### Organization of Conferences

- a) The Chair sends invitations to the Members, the Associate Members and the Observers at least 120 days before the Conference opening date.
- b) Proposals to be included in the Agenda of a Conference must be sent to the Chair at least ninety (90) days before the Conference opening date.
- c) The Chair sends the Provisional Agenda to the Members, the Associate Members and the Observers at least sixty (60) days before the Conference opening date.
- d) An invitation to attend the Conferences and a Provisional Agenda is also sent to the President of the IHB who could attend in person or nominate one of the two Directors of the IHB. The President of the IHB enjoys the same status as an Associate Member.



### **Article 9**

#### Conference Agenda

- a) Subject to any provision of these Statutes, only the Members may decide on the final content of a Conference Agenda.
- b) The Conference Agenda is adopted by the Members at the beginning of each Conference.
- c) In the course of a Conference, the Members may modify the order in which the agenda items are to be discussed.

### **Article 10**

#### Decisions and Resolutions

- a) All decisions provided by these Statutes or to be taken during a Conference or otherwise shall, as far as possible, be taken by consensus amongst the Members, failing which they are adopted by means of a simple majority of the Members, which is three (3) votes.
- b) Only the Members are entitled to vote, each having the right to one vote.
- c) Votes in favor are indicated by a show of hands unless a secret ballot is requested by any Member present. Decisions may be made by correspondence if the Members present decide so. In case only four Members are present and the vote is tied, the decision is made by correspondence.
- d) All decisions become operative immediately, unless the Members decide otherwise. In such a case, the date on which the decision becomes operative is mentioned as part of the text of the decision.
- e) Decisions which, in the opinion of the Members, may be of interest to all the IHO Member States are brought to the attention of the IHB. This fact is mentioned as part of the text of the decision.

### **Article 11**

#### Extraordinary Meetings

- a) The Chair may call an Extraordinary Meeting of the Commission when its Members are assembled for an International Hydrographic Conference.
- b) In the case of urgent matters which cannot be treated by correspondence and which cannot be postponed until the next Conference of the Commission, the Chair, with the agreement of the Members, convenes an Extraordinary Meeting to be held in the country of the next Conference or the place considered most appropriate.
- c) As far as possible, the provisions applicable to the Conferences apply to all Extraordinary Meetings.

### **Article 12**

#### Committees and Working Groups

- a) The Commission may set up small committees or working groups composed of Members and Associate Members interested in particular projects with the object of examining and executing such projects.
- b) The mandate of these committees or working groups shall be limited in time and their Terms of Reference are defined in writing by the Members.

### **Article 13**

#### Expenses

All expenses connected with the participation in the Conferences, Extraordinary Meetings and committees or working groups are defrayed by the participants' respective States or organizations.

### **Article 14**

#### Working Language

The working language of the Commission is English.

8 **DRAFT** August 14, 2009

## Article 15

### Entry into Force, Abrogation and Amendments

- a) The Commission is established, and these Statutes come into force on the date when the last of the five Members sign.
- b) The Commission may be dissolved, and these Statutes abrogated by decision of the Members.
- c) These Statutes may be amended by decision of the Members. When an amendment is approved, the Chair updates the Statutes and circulates amongst the Members a new annex, similar to Annex 1, for their signatures. The new annex is numbered accordingly and added to these Statutes.
- d) The IHB is the repository of these Statutes.

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**ANNEX 1**  
**Approvals of the Members**

<p>We, duly authorized representatives of Canada, Denmark, Norway, Russia and the United States of America, confirm by our signatures apposed below, our desire to establish the Arctic Regional Hydrographic Commission and the approval of the <i>Statutes of the Arctic Regional Hydrographic Commission</i>.</p> <p align="center">Member State</p>	<p>Duly authorized representative</p>	<p>Date</p>	<p>Signature</p>
Canada			
Denmark			
Norway			
Russia			
United States of America			