



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

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S-23 WG Letter No. 02/2011

**RESPONSES OF MEMBERS OF THE S-23 WG TO A PROPOSED WAY FORWARD
ADDRESSING THE ISSUE TO MEMBER STATES**

To: Members of the S-23 WG

Reference: S-23 WG Letter No. 06/2010 dated 20 December 2010

Dear members of the S-23 WG,

1. Introduction

1.1 With the above reference, members of the S-23 WG were informed of the status of the “areas of concern” and the decisions taken, as discussed at the 2nd meeting of the S-23 WG that took place in Singapore, July 2010. In paragraph 2.4 of the above reference, the Chair as tasked by the 2nd meeting, proposed “a way forward” for naming the sea area between the Korean Peninsula and the Japanese Archipelago, based on the comments provided by the members of the WG to the proposals made by Australia, Republic of Korea and Japan.

1.2 The following sixteen (16) members of the S-23 WG have provided comments: Argentina, Australia, Cyprus, Iran, Italy, Japan, Korea (Rep. of) Morocco, Nigeria, Oman, Pakistan, South Africa, Turkey, Ukraine, United Kingdom and USA.

2. Brief presentation of the responses

2.1 All responses received have been posted on the IHO web site under S-23 WG (www.iho.int → Committees & WGs → S-23 WG → Past meetings → Following-on S-23 WG 2 : Proposals to help resolving areas of concern issues). From the analysis of the responses the following can be observed:

- The following eight members of the S-23 WG have expressed their support to the proposed “way forward”: Australia, Cyprus, Italy, Japan, Morocco, Nigeria, United Kingdom and USA with the following comments:

Australia, “recognizes that the use of an annex (as proposed in the IHB ‘way forward’) rather than a second page, will result in a more efficient and readable document and therefore Australia agrees with the proposed ‘way forward’ proposed in the IHB letter”. It further indicates that “should the proposed way forward not be acceptable to all Member States then further consideration be given to the ‘insertion of a second page for the same sea or ocean area, immediately following the first’”;

Cyprus, “accepts the way forward” as described in letter S-23 No. 06/2010”;

Italy, “thinks that the proposed ‘way forward’ is the best compromise that should satisfy the different positions and a good solution that takes a picture of the existing situation” and for this reason supports the “way forward”;

Japan indicates that “While the basic position of Japan on this issue remains unchanged, it wishes to inform that Japan, as responsible member of the WG, can go along with the proposal in a spirit of compromise, if a consensus can be formed around it”;

Morocco, “has no objection to the terms of item 2.4 ‘a way forward’ in S-23 WG letter 06/2010. In addition, it shares the view that the technical character of publication S-23 should be emphasized and that, as appropriate, the preface of the publication should be revised in order to avoid its political or juridical use”;

Nigeria, “agrees with the pragmatic and noble ‘proposed way forward’ which is indeed purely technical and direct results of all the S-23 WG deliberations and issues/proposals”;

UK, “wholeheartedly endorses the ‘way forward’ proposal, the IHO’s pragmatic solution and its balance analysis of previous S-23 proposals and comments”, also stressing the technical character of the publication;

USA, “from a purely technical perspective supports the proposed ‘way forward’ in naming this sea area” and “also it feels that this proposed way forward takes a significant step towards accommodating the requirements of those who use a name other than one used in previous editions of S-23 for this feature”;

- Ukraine, “supports the listed actions in S-23 WG letter No. 06/2010. Not looking at rough debate Ukraine adheres to positions of Italy, Turkey and South Africa”, stressing the need for no political context;
- The Sultanate of Oman, “supports the 2nd, 3rd and 4th bullet points of the ‘way forward’ of paragraph 2.4 of the S-23 WG letter No. 06/2010”. It does not comment on the 1st bullet point because it feels that first a clear methodology should be decided in general, on naming areas and limits of the sea in question without pointing to any particular sea area.
- The following five members of the S-23 WG can not support the proposed “way forward”, for various reasons as indicated below:

Argentina, indicates that “any proposal to be pushed forward should be supported by all relevant parties”. Due to the divergent positions expressed by the relevant parties, “it regrets that it cannot support any proposal until that consensus can be obtained”;

Korea (Rep of), indicates that “The proposal of using the name appearing in the 3rd edition of S-23 for the sea area between the Korean Peninsula and the Japanese Archipelago does not properly reflect the overall view among Member States or the progress made so far in the IHO including the S-23 WG”. It further provides an analysis of various factors and concludes that “Showing both names ‘East Sea’ and ‘Sea of Japan’ on the same page on which the area in question appears fulfills the function of the S-23 effectively and complies with IHO TR A 4.2, paragraph 6. This easy and readily comprehensible method not only helps to avoid confusion among S-23 users but also serves to enhance navigational safety in the sea area where the name ‘East Sea’ is currently used at both domestic and international levels”.

Pakistan, considers that “the consensus on the issue may be pursued or the countries concerned may agree to the alternate solution proposed by Australia”;

South Africa, indicates that “the proposed ‘way forward’ is reasonable, but ‘buy-in’ from the two main role players may be lacking”. It further indicates that the proposal may be changed slightly as follows: “For this area, the name appearing in the current and still valid 3rd edition, to be used with a footnote indicating the Korean name usage for the same area. It

should not be reflected as a reservation in the Annex. I believe this will be in accordance with TR A4.2 paragraph 6". It also proposes the text on title page of the 4th edition S-23 to be amended to read "The limits and names described in this publication, etc";

Turkey, maintains its position that "it will not support and/or make comments on any proposal(s) on this issue unless the relevant parties have agreed" as it was expressed in the 8th bullet point of paragraph 2.2 of S-23 Letter 06/2010;

- Iran, decided to "cast an abstention vote for the sea area between the Korean Peninsula and the Japanese Archipelago for the time being as the administration has not come to a conclusion of choosing one of the suggestions made".

3. Observations on the responses

3.1 From the responses received the following observations can be drawn:

- There is no consensus on the proposed "way forward";
- Eight members of the S-23 WG agree with the "way forward" proposed by the Chair-Group, while one member supports the 2nd, 3rd and 4th bullet points of the proposal;
- Three members of the WG indicate that they can not support the proposed "way forward" or make comments, unless consensus, on the naming the sea area between the Korean Peninsula and the Japanese Archipelago, will be obtained by the relevant parties. It has to be noted that the relevant parties after more than five years of direct discussions had failed to reach an agreement and this led to the decision of Member States for the establishment of the S-23 WG, with the task to "produce a revised 4th edition of the IHO publication S-23";
- One member supports the listed actions in reference but adheres to positions of Italy, South Africa and Turkey.
- One member finds the proposed "way forward" as reasonable but lacking the agreement of the main role players. It proposes a slight change of the proposal;
- One member indicates that the two names "East Sea" and 'Japan Sea" must be shown on the same page; and
- One member abstains as it can not come to the conclusion of choosing one of the suggestions made.

4. Special note in the preface of the publication

4.1 Based on the discussions that took place during the 2nd meeting of the S- 23 WG, the various comments made by members of the WG and considering the 3rd and 4th bullet points of paragraph 2.4 of the reference, the Chair-Group has prepared the attached "Important Notice" to be included in the preface of the publication and in red letters. This note indicates the technical character of the publication, its restriction not to be used for political and juridical purposes, describing also the purpose and use of the Annex to S-23.

5. Report to Member States

5.1 The S-23 WG, in accordance with its Terms of the Reference, has been tasked to "Produce a revised 4th 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".

5.2 Considering the task given by Member States to the S-23 WG and noting that its work has been completed at this stage, the Chair-Group proposes the following actions:

- A detailed report to be drafted by the Chair-Group of the S-23 WG and sent to all Member States with a Circular Letter, explaining the work done in the identified “areas of concern”, the decisions made at the 2nd meeting of the WG and the follow up actions. The report will be passed to the members of the WG for their comments before being sent to Member States.
- The report will seek the position of Member States on the following issues, before a 4th edition of Publication S-23 is submitted for approval:
 - a) Malacca and Singapore Straits to be considered as an independent sea area, forming a separate administrative division in S-23, as indicated in the 1st bullet point of paragraph 1 of the reference and accepted by the members of the WG;
 - b) Amendments proposed by China in the South China Sea, East China Sea and Yellow Sea and accepted by the members of the WG to be included in S-23;
 - c) Whether the name “Japan Sea” could be used for naming the sea area between the Korean Peninsula and the Japanese Archipelago, considering paragraph 2 of the reference, and the views and observations expressed in paragraphs 2.1 and 3.1;
 - d) Whether Member States agree to insert in S-23, reservations which they may have on different positions on certain names, or limits or both, appearing on the same page, as indicated in the 2nd bullet point of paragraph 2.4 of the reference. The details and arguments of the reservations to be included in an Annex;
 - e) An “Important Notice” to be included in the Preface of S-23 in red, which will indicate the technical character of the publication, its restriction not to be used for political and juridical purposes, and the purpose and use of the Annex. A draft text of the “Important Notice” is attached; and
 - f) 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 draft 4th edition of S-23 to be circulated afterwards to Member States for final comments and approval.

6. Members of the S-23 WG are requested to provide comments that they may have on the summing up of the responses received on naming the sea area between the Korean Peninsula and the Japanese Archipelago (paras. 2 and 3 refer), on the text for the “Important Notice” in the annex and on the proposed way to report to Member States (para. 5 refers), **before 2nd of May 2011**.

Yours sincerely,



Vice Admiral Alexandros MARATOS,
IHB President and Chairman of the S-23 WG

Annex : Draft “Important Notice”

DRAFT IMPORTANT NOTICE

1. This publication must be used for the sole purpose to provide information only for technical hydrographic purposes. It must not be used by States and others as evidence to progress national political claims and disputes. It must not be construed as having any legal or political connotation whatsoever and must not be accepted as such by any legal or juridical body.

2. It is noted that some States have accepted and use names and limits of oceans and seas, different from the ones appearing in this publication. In these cases, on the pages where States use different names or limits, compared to the ones indicated in the specific pages, a reservation has been inserted concerning different or alternative names, limits or both. At the end of the publication in a special Annex, States provide the details and arguments of their reservations.

3. The Annex will be a very useful tool through which the various producers of hydrographic products and users will be informed of different or alternative names and limits that various States are using. In this way hydrographic products will be technically more complete and representative of names and limits used in the oceans and seas.