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S-23 WG Letter No. 06/2010

WAY FORWARD TO PROGRESS S-23

To: Members of the S-23 WG

Reference: S-23 WG letter No 05/2010 dated 23 November 2010 *Final Minutes of the 2nd Meeting of the S-23 WG*

Dear members of the S-23 WG,

1. General Comments

The letter in the Reference provided the final minutes and action list (with status) of the 2nd meeting of the S-23 WG that took place in Singapore in July 2010. The following should be noted regarding the areas of concern, as they have been recognized by the WG members:

- The WG members have agreed that the Malacca and Singapore Straits will be considered as an independent sea area, forming a separate administrative division in S-23. The WG members also agreed to amend the western limit of the Malacca Strait, as proposed by India;
- As regards the amendments proposed by China in the South China Sea, East China Sea and Yellow Sea, the members of the WG have agreed on the following:
 - a. The Gulf of Tonkin/Beibu Gulf to be considered a sub-body of the South China Sea;
 - b. To alter the northern limit of the South China Sea, as proposed by China;
 - c. The Taiwan Strait to remain a separate body;
 - d. To retain the existing limit of the East China Sea's southern limit;
 - e. To remove Liaodong Wan as a sub-body of Bo Hai;
 - f. Spelling corrections for various geographical names and the addition of new names in the South China Sea and East China Sea, as proposed by China; and
 - g. To consider further the other issues proposed by China and indicated in the action list, based on the information that will be provided.

Concerning the naming of the sea area between the Korean Peninsula and the Japanese Archipelago, proposals have been submitted by Australia, France (withdrawn), Japan and the Republic of Korea. Comments on the proposals have been submitted by Japan, Italy, the Republic of Korea (RoK), the Democratic People's Republic of Korea (DPRK), South Africa, Turkey, Sultanate of Oman and UK. The proposals and comments as they have been provided by the WG members have been posted on the IHO web site under the S-23 WG section. The discussions that took place on this issue during the 2nd meeting of the S-23 WG are reflected in paragraph 11.3 of the minutes of that meeting.

2. Naming the Sea Area between the Korean Peninsula and the Japanese Archipelago

The 2nd meeting of the S-23 WG tasked the Chair to consider the comments that would be provided on the proposals and to propose a way forward on this issue.

2.1 Brief presentation of the proposals

- 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;
- The RoK, based on Australia's proposal, proposed that the reservation on the names and/or limits, together with other legitimate names and/or limits in use, be shown on the same page;
- Japan proposed the so-called "Chartlet Method" for the revision of S-23 which would be based on the current third edition of S-23 which is officially still valid. It would also be possible to revise the S-23 by using the 2002 draft version except for those oceans and seas where divergent views among Member States existed in 2002 and those oceans and seas whose names and/or limits were not considered in 2002, but since then proposals for their changes have been submitted. Further Japan proposed to establish a new standing naming group on the revision of S-23 and a three-step approach for the procedures to be followed for the revision and approval of the proposed changes, indicating the merits of its proposal.

2.2 Brief presentation of the responses

- The RoK does not support the proposal by Japan on the "Chartlet Method", indicating that "if the 4th edition of S-23 is based on the 3rd edition, as Japan proposes, the S-23 will not provide relevant and up-to-date information". The RoK also indicates that Japan's arguments for the merits of the "Chartlet Method" are not convincing;
- Japan in its general comments indicates that S-23 is the publication which is expected to function as the guideline for the uniformity of nautical charts in accordance with Article 2 of the Convention to the IHO. In this context, even if there are cases where countries use different names or limits for the same sea area, the names or limits which are in "common or predominant" use internationally need to be identified and included in S-23. In its specific comments, Japan does not accept the RoK's proposal, arguing that alternative names can not be used on the same page showing those in common/predominant use, as this would cause great confusion and diminish the effective functioning of S-23 as a guideline for the uniformity of nautical charts. In this context the names and limits shown in S-23 should be limited to those in common/predominant use internationally;
- DPRK agrees in principle with the Australian proposal. DPRK proposes that the sea area in question should be shown on the same page, i.e. as proposed by RoK;
- UK welcomes the pragmatic approach by Australia to find a way forward and has no objection to the inclusion of reservations, where annexes would be the preferred approach to keep S-23 uncluttered and manageable. UK welcomes the initiative by Japan, observing that it is unclear how its proposal would address the existence of reservations and what happens if parts of the extant version are disputed. UK also very much respects the RoK's view and proposal which is an application of the principle of the Australian proposal, but is concerned that the depiction of alternatives or reservations on the same page might be confusing;

- The Sultanate of Oman indicates that States “have the right to express its/their reservation(s) regardless of whether consensus was reached or not”. This reservation and its details, such as alternative names/limits, should be clearly detailed in the Annex. Oman supports both proposals made by the RoK and Japan. It also proposes that a text be added to the front cover of the draft 4th edition of S-23, indicating the generally agreed names and limits in common use and the reservations for alternative names and/or limits;
- Italy indicates that since the problem is considered from a political point of view, it can not provide any kind of contribution;
- South Africa regards this issue as a very sensitive matter and is not prepared to support or provide any comments unless the relevant parties come to some kind of agreement; and
- Turkey indicates that it will not support and/or make any comments on any proposal(s) on this issue unless the relevant parties have agreed.

2.3 Observations on the responses to proposals

From the study and evaluation of the responses provided by the members of the WG on the proposals made, the following two main points can be highlighted:

- There is not clear support for either of the proposals made by Japan and the RoK;
- 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.

2.4 A way forward

In considering this issue and trying to identify a way forward, it should be accepted and recognized that S-23 is a technical publication that has been drawn up solely for hydrographic purposes and which must not be construed as having any legal or political connotation whatsoever. Article 2 of the IHO General Regulations indicates explicitly that “The activities of the Organization are of a scientific or technical nature and shall not include matters involving questions of international policy”. These fundamental issues have been brought up by the Chair and members of the WG on various occasions during the deliberations of the WG.

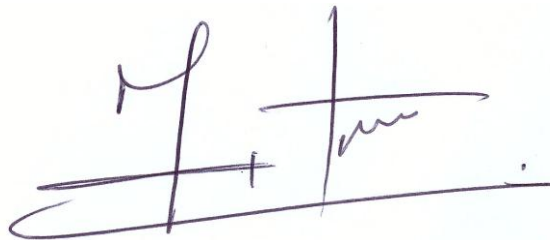
Based on the presentation, study and analysis of the proposals and comments made and acknowledging the aim of this technical publication, the following is proposed as “a way forward” to name the sea area between the Korean Peninsula and Japanese Archipelago:

- For this area, the name appearing in the current and still valid 3rd 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 or limits, or both, details of which will be included in an Annex. It has to be noted that the 2002 draft 4th 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, USA, Russian Federation and Norway;
- 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.

2.5 Responses

Members of the WG are kindly requested to study this letter and provide their comments on the proposed “way forward” in naming the sea area between the Korean Peninsula and the Japanese Archipelago, **before 24 January 2011**.

Yours sincerely,

A handwritten signature in purple ink, consisting of stylized initials and a surname, written over a light blue rectangular background.

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