

Report/minutes from the SPWG meeting in Korea and proposal to the XVII Conference

1. Location and venue

The eighth meeting of the SPWG was held at the “Hotel Marriott” Busan, Republic of Korea, from 2 to 4 May 2006, under the chairmanship of Mr. F. Klepsvik (Norway) and hosted by the National Oceanographic Research Institution (NORI) of the Republic of Korea. The following IHO Regional Hydrographic Commissions were represented: BSHC, EAHC, EAthC, MACHC, MBSHC, NHC, NIOHC, NSHC, SAIHC, SWPHC and USCHC together with the following individual countries: Brazil, China, Japan, Singapore and UK. A list of participants is provided in Appendix 1.

2. Welcome and Introduction.

Mr. You-Sub Jung, Director of NORI welcomed the participants on behalf of the Host Country and stressed the important task of re-structuring the Organization. Administrative information was provided by the host authorities.

The SPWG Chairman opened the meeting and thanked the authorities of the Republic of Korea for hosting the meeting. The President of the IHB Directing Committee informed the SPWG members about the recent signature of a Memorandum of Understanding between the IHO and the Government of Korea. Under this MOU, signed by the Ministry of Maritime Affairs of the Republic of Korea and the President himself representing the IHO, the Korean Government will make annual financial contributions to the IHO CB Fund.

He commented that this contribution was the first direct contribution to the IHO CB Fund and therefore was a milestone for the future of the IHO Capacity Building strategy.

3. Approval of the Agenda

The proposed Agenda was approved.

The Chairman noted that the subject of the establishment of a permanent Legal Advisory Group had already been discussed in Mexico with the majority of SPWG members not supporting it, but, at the request of the USA, the SPWG had agreed to re-introduce the topic on the agenda.

4. Review of the minutes of past meetings

4.1. The Chairman reviewed the report of the 7th SPWG Meeting, as well as the minutes of the Chair Group and Legal Experts meetings held after that meeting. The USA agreed

that their country's comments on the Report could be included as an Annex. The report of the 7th Meeting was approved.

4.2. The SPWG Secretary read the List of Actions of the 7th meeting and noted that all pending items had been completed.

4.3. The Chairman revisited the Work Programme schedule and reminded the participants that the 3rd Extraordinary Conference had decided to maintain the tonnage figure as the parameter to define the "Hydrographic Interest" for the time being, as a basis for the election of one third of the Council members.

5. Reports from SPWG members and from the IHB about ratification procedures

The delegates reported on the status of ratification in their respective Commissions and countries as follows:

USCHC – Ratification in progress. Still with the State Secretary. Similar case for Canada.

SAIHC – South African authorities have not yet received the ratification documents from the Monegasque Government and they are using a copy provided by the Hydrographer. Ratification may happen in 2007. No concrete news from Mozambique had been received.

EAtHC – Ratification by Portugal is on-going and may take place before the next IH Conference. It is also in progress in Spain, but no news has been received from Nigeria. Morocco has already ratified the Protocol.

MACHC – Mexico will have general elections this year, which may delay the ratification process that is with the Senate. Therefore it can be expected by the end of the year. No news from the other countries of the Commission.

MBSHC – No news from the members of the Commission since the last meeting. Ratification by Italy will be tentatively done through a Presidential decision in order to speed up the procedure.

NIOHC – India needs to consider the final Basic Documents before ratifying the Protocol. There was no information from other members of the Commission.

NSHC – The ratification by France will not take place before 2007. In The Netherlands, it may happen in late 2006 or early 2007 and in Belgium is in progress.

BSHC and NHC – Denmark, Germany and Norway have already ratified the Protocol. In Estonia, Finland, Sweden and Latvia the procedure is underway and may be completed during the second half of 2006. In Poland, it may be expected in 2007 and in the case of Russia, no news has been received.

SWPHC – Australia expects to officially notify their ratification in July/August of this year. Papua New Guinea is being assisted by Australia to complete the procedures. In New Zealand the process is underway. The matter of the seats on the Council allocated by tonnage remains a concern and some value it's seen in delaying formal ratification until after the 2007 XVII Conference when there is likely to be a further opportunity for countries to debate alternatives. No news has been received from Fiji.

EAHC – All members of the Commission have started the ratification procedures and the item will be tabled at the next Commission meeting, in September 2006. Korea has already ratified the Protocol and has sent the relevant information to the Monegasque Government.

Brazil – The procedure is underway.

Japan – The ratification may happen in 2006.

Singapore – The documents sent by the Monegasque Government had not been received by the Singapore Government and after information provided by the IHB, they were located in the Singapore Embassy in Paris. Now the government has been informed and it is expected to progress rapidly.

The IHB reported that to-date, six countries have ratified the Protocol of Amendments to the IHO Convention, namely: Cyprus, Denmark, Germany, Morocco, Norway and Pakistan.

The President of the IHB D.C. reminded the SPWG members that the documents for the ratification had been sent by the Monegasque Government through the Honorary Consuls in Monaco, the Consuls in Marseille or the respective Embassies in Paris.

6. Review of the IHO Basic Documents

The President of the IHB D.C. tabled the latest version of the Basic Documents, harmonized and completed by the Legal Experts. He explained that the Legal Experts have also proposed some editorial amendments to better reflect the desired wording.

The main new topics developed were Article 6 dealing with the establishment of subsidiary organs and subordinate bodies, the re-drafting of Article 14, dealing with the procedures of selection of Council members. No substantial changes had been proposed by the Legal Experts.

Germany had also made a new proposal to the SPWG, to draft a new Article of the General Regulations dealing with the definition and characteristics of the IHO Regional Hydrographic Commissions.

After careful consideration of the texts proposed by the Legal Experts, the SPWG decided some amendments mainly dealing with the following subjects:

- 6.1. New Article 6 of the General Regulations was accepted with one or two minor editorial amendments. Subparagraph b(ii), concerning “Boards” was deleted and a new Article 7 was drafted to cover the case of inter-organizational bodies as follows:

Article 7 - Inter-organizational bodies

**Proposals for IHO Representation in Inter-organizational bodies (inter-alia Boards, Projects, cooperative activities etc) shall be submitted to the Assembly for the formulation of the principles for such representation and the approval of the joint ToRs”.*

- 6.2. Article 14 was discussed and some editorial amendments made. There was some discussion on the text referring to eligible Member States that will be used for deciding the number of seats allocated to a RHC. It was clear from the discussion that Member States that are Members of more than one RHC will be counted only in the RHC they will apply for selection and they will not be counted in the number of eligible Members in the other RHCs. The Legal Experts will be asked to examine the text of Article 14, paragraph b) (iv) to avoid any ambiguity.
- 6.3. The SPWG agreed with the German proposal explained above. France suggested the inclusion of paragraphs 3 and 6(b) of the present IHO Technical Resolution T 1.3 in the text. The decision based on the discussion was that the Legal Experts should review TR 1.3 and propose what needs to be included in the German proposal to improve it. Based on this, the first part of the present Article 14 will be deleted.
- 6.4. There was a long discussion on the issue of the establishment or not of the "Legal Advisory Group". The decision was to insert a new Article in the GR. (see under item 9).
- 6.5. In Article 18 of the Rules of Procedure of the Council, the following sentence will be added:

"The final proceedings of each meeting of the Council, as well as any Annexes to be submitted to the Assembly, shall be in the official languages."

- 6.6. Other minor amendments were made to the texts of the other Basic Documents not mentioned above.

The Legal Experts will finalize the documents, based on the comments by the SPWG by the end of June, in order that they may be circulated to the SPWG Members for approval, before passing them to all Member States for consideration, as part of the procedures of the next Conference in 2007.

7. Implementation Strategy and SPWG Work Programme.

A recapitulation of the “Implementation strategy” was made, recalling the mechanisms for Assembly timing, the election of the Secretary-General and Directors, the revision of the salary scheme for the Secretary-General and Directors and the re-structuring of the IHO bodies proposed by the CBC and CHRIS Chairmen.

The SPWG Chairman reminded the participants that the intention was to present the Implementation Strategy to the 17th Conference for approval, also proposing that the re-structuring will take place before the ratification procedure is completed and a dead-line for this implementation. All these points have been included in the Draft Proposals to the Conference that the SPWG Chair Group has prepared.

8. Reports from the CBC and CHRIS Chairmen

8.1. The revised reports from the CBC and CHRIS Chairmen, harmonized to bring them in line with the decisions taken at the 7th SPWG in Mexico, were considered by the SPWG.

The CHRIS Chairman revisited his report, stressing that the broad principles remained the same as in the previous report and that some details had been added to comply with the new Articles 6 and 7 of the General Regulations endorsed at the meeting.

The President of the IHB D.C. presented the report of the CBC Chairman.

The following decisions were made:

- The general structure proposed for the HSSC and IRCCBC Committees was approved.
- The IRCCBC will recover its original name of IRCC.
- WEND (policy matters) will be under the responsibility of IRCC until the Council is established. Matters related to B-8, S-55 and S-23 will also be the responsibility of the IRCC.
- The inter-organizational bodies will be governed by the new Article 7 of the General Regulations. These bodies will report directly to the Committees (HSSC and IRCC). The following new Terms of Reference will be added to those for the HSSC and IRCC:

HSSC ToRs:

- 1.2bis Monitor the work of specified IHO Inter-Organizational Bodies engaged in hydrographic services, standards and related technical activities as directed by the Assembly and provide advice and guidance to the IHO representatives as required.

IRCC ToRs:

- 1.1bis Monitor the work of specified IHO Inter-Organizational Bodies engaged in activities that require inter-regional cooperation and coordination as directed by the Assembly and provide advice and guidance to the IHO representatives as required.
- 1.3 Establish, coordinate and enhance the cooperation of hydrographic activities amongst States on a regional basis, and between regions, especially on matters associated with Capacity Building; Promulgation of Radio Navigational Warnings; General Bathymetry and Ocean Mapping, Education and Training, and the implementation of the World-wide Electronic Navigational Chart Database (WEND) suitable for the needs of international shipping.
- The SSSP Sub-Committee (under the HSSC structure) was considered not necessary and its subordinate bodies should report directly to the HSSC).
 - The RHCs should be shown in the organizational diagram of the IRCC under the responsibility of the Committee, together with the other Sub-Committees and bodies.

The reports will be subsequently amended by the CBC and CHRIS Chairmen, with the support of the IHB, to take into account the new Articles of the General Regulations and the above decisions and they will be posted on the IHO web for final consideration from the SPWG members, before passing them to Member States for comments and consideration during the next IHC.

9. The Legal Advisory Group (LAG)

The SPWG Chairman reminded the participants that the decision not to establish the LAG as a permanent group but to seek legal advice ad hoc when it will be needed had already been made at the 7th meeting but that it was brought up again due to the request made by the USA.

The USA representatives confirmed their concern about the need of direct participation of all Member States in this matter.

The SPWG subsequently considered a text proposed by the USA for inclusion in the General Regulations dealing with Legal Advice. The text, as follows, was finally approved by the SPWG members and inserted as a new Article of the General Regulations:

Article xx - "Legal Advice"

When a need arises for legal advice on matters relating to the interpretation and application of the Convention, IHO basic documents and execution of the aims of the IHO as described in the IHO Work Programme, a Working Group of legal experts drawn from all Member States may be established by the Assembly or by Member States through correspondence."

10. Report from the IHB on proposals from the SPWG (Salary scheme and acceptance of conversion from D.C. to S-G and Directors)

The President of the IHB Directing Committee reported that the Working Group to review the salary scheme for the Secretary-General and Directors had been established and that it would start its work soon. Also, with respect to the conversion of the Directing Committee to the new scheme of Secretary-General and Directors a clause of acceptance had been included in the application for Directorship as indicated in the IHB Circular Letter calling for candidates for the D.C. election at the 2007 Conference. The results of the positions of Member States have been circulated with CL 37/2006.

11. Composition of the future Council. Countries not belonging to a Regional Hydrographic Commission.

The SPWG Chairman provided some background information on this topic, recalling that at the 5th SPWG in Tokyo (January 2004), the General Regulations article dealing with the composition of the Council considered the “*assignment of seats by the Secretary-General to countries not affiliated to RHCs*”. Subsequently, at the meeting held by the SPWG Chair Group in Paris, July 2004, with the Legal Experts, it was recommended not to give such power to the Secretary-General and the sentence had therefore been deleted. That version of the Article (then Article 16 of the General Regulations) without the above mentioned sentence had been considered for two days at the 3rd Extraordinary Conference and no delegate had proposed any amendment to the text displayed. This Article fixing the composition of the IHO Council had then been approved, indicating a distribution of two thirds of seats on the Council for representatives from Regional Hydrographic Commissions and the remaining one third based on the criteria of “Hydrographic Interest”.

The US representative stated that all IHO Member States should have the opportunity to take a seat on the Council.

UK informed the participants about a proposal of re-structuring the NIOHC and SAIHC. In accordance with this re-structuring, the two countries at present not represented in any RHC, Argentina and Uruguay may be integrated into a South Atlantic and Southern Africa Regional Hydrographic Commission.

Some SPWG members felt that this re-structuring would not solve the problem of countries not belonging to any RHC, but that they could always apply within the one third of “Hydrographic Interest”.

After some discussion, the SPWG agreed that the re-structuring of RHCs was not a task related to the SPWG and it was also unanimously agreed to maintain the system of composition of the Council approved by the 3rd Extraordinary Conference and to encourage IHO Member States to establish or join Regional Hydrographic Commissions. This does not prevent any IHO Member State from making specific proposals to the 17th IH Conference on this matter.

12. Hydrographic Interest

The SPWG was informed that, following the decision of the 7th Meeting to request proposals on alternative models to the maintenance of the Tonnage as the single parameter for the definition of “Hydrographic Interest”, some countries had presented new models, namely France, Portugal, Mexico, Brazil and Tunisia.

The Chairman stated that the present status of this subject could be summarized as follows:

- Tonnage had been accepted by the 3rd EIHC as the initial parameter for the definition of Hydrographic Interest.
- Any alternative model should be presented at the latest at the second Assembly.
- The SPWG, throughout its meetings, had already considered several multi-parameter models without reaching unanimous acceptance.

On-going discussions should consider the following possibilities:

- Establishment of a multi-parameter model.
- Reduce the model to two parameters, possibly tonnage and charts.
- Establish a “make your case” model which would lead to a vote by the Assembly to select the 10 countries occupying a seat in the Council under the one third of “Hydrographic Interest”.

The representatives from France, Mexico, Brazil and Portugal were invited to present their proposed models.

Lengthy discussion followed, with different opinions reflecting statements already discussed on several occasions by the SPWG.

The SPWG wondered whether all IHO Member States realized that representation on the Council did not imply any decision-taking procedure, as the Council does not take any decision, but passes matters of a strategic or financial nature to the Assembly and the other matters to Member States for decision.

Several members also emphasized that taking a seat on the Council involved many responsibilities with little reward, among them the annual attendance of meetings and that the present parameter of Tonnage was linked to the payment of contributions to the Organization and that this could be measured and was an indication of “Hydrographic Interest”.

The Korean representative stated that all the countries belonging to the East Asia Hydrographic Commission had reached consensus to maintain Tonnage as the only parameter.

Realizing that there was no consensus on a different model and with the support of the majority of SPWG members, it was decided to keep Tonnage as the parameter to decide “Hydrographic Interest” as a starting point. It was also emphasized that, considering the

continuous development of the global maritime fleet, the top ten maritime States list is not a fixed list, but changes over time.

The Chairman also noted that the concept of Hydrographic Interest is not specified in the Convention and therefore can be revisited by the IHO at any moment in the future, by amending the General Regulations.

The SPWG agreed :

- 1) To report to the 17th Conference that Tonnage seems to be the parameter to allocate Council seats for Hydrographic Interest for the time being and that no alternative model has been found.
- 2) That when the new structure is implemented, experience will be gained and the subject may be revisited if needed.

The SPWG also agreed that there was not any need for an additional SPWG meeting to consider this topic.

13. IHO Work Programme, Strategic Plan and Performance Indicators

13.1 The President of the IHB D.C. referred to the decision of the 7th Meeting to ask members to provide proposals of amendment to the Strategic Plan and Work Programme and also about the introduction of Performance Indicators for the work of the IHO. He indicated that comments had been received only from France and the BSHC/NHC and that the conclusion about the Working Programme was that no fundamental change was required to it.

He also referred to the suggestions made by the IHB (President of the D.C.) about possible changes to the IHO Strategic Plan. These comments were revisited by the Chairman (see Report of the 7th SPWG Meeting).

The representative from France explained his input and stressed, among other suggestions, that the definitions of Hydrography and the IHO Mission should be rewritten. He indicated that his input was supported by Belgium and the Netherlands, with some reservation expressed by Belgium on including security issues.

13.2. Considering the comments made by France, it was decided that the IHB, assisted by France will draft a documents highlighting the areas where the Strategic Plan can be amended. The document will be posted in the IHO Web page for comments from the SPWG members before presenting it as an SPWG proposal together with the others.

13.3. The representative from BSHC/NHC presented the comments made by these Hydrographic Commissions about the introduction of Performance Indicators to measure the efficiency of the Organization.

Some concern was voiced by the SPWG about the parameters to be measured and what to do with the results, as well as their preference to monitor the results of the IHO performance in another way.

The SPWG concluded that there was not a strong justification to propose to the Conference the introduction of such Performance Indicators.

14. SPWG Proposals to the 17th Conference.

The SPWG reviewed the set of Conference Proposals prepared by the Chair Group and endorsed them after some amendments. The IHB was also tasked to develop an additional proposal to amend the text of Technical Resolution T 1.1. to bring it in line with the agreed Articles 6 and 7 of the Draft New General Regulations as an interim measure until the Council is established.

15. Future of the SPWG

The Chairman noted that there were no new tasks identified that justify the continuation of the SPWG. He added that the scheduling of an Extraordinary Conference in 2009 made the maintenance of the SPWG superfluous and that this was to be confirmed by the 17th IH Conference.

16. SPWG Report

The SPWG First Vice-Chairman said that the SPWG Report was being finalized and will be distributed as soon as possible for comments from SPWG members.

17. Action List and Time schedule

The following action list and time schedule were approved:

- 1) SPWG comments to these Minutes, if any, should be received by the IHB before 10 June. The final Report of the 8th SPWG Meeting will then be distributed.
- 2) SPWG Chair Group and LEX will finalize the B.D. – Meeting in Monaco, 1-2 June 2006.
- 3) CBC and CHRIS Chairmen, with the support of the IHB will refine their Reports, taking into consideration the approved amendments to the General Regulations (Articles 6 and 7) and the decisions taken at the SPWG8. The SPWG Report will include the proposals and recommendations laid down in the reports.
- 4) France and the IHB will prepare a document on the IHO Strategic Plan, taking into consideration their comments considered at the 8th meeting. The document will be posted in the IHO Web site, for comments from SPWG members.

- 5) The SPWG Chair Group will finalize the SPWG Report and refine the Proposals to the 17th I.H. Conference, including a new proposal on TR T1.1. The SPWG Report will include that the SPWG found that Tonnage should be retained as the parameter to define “Hydrographic Interest” for the time being.
- 6) The documents mentioned in 2), 3), 4) and 5) should be made available by 15 July to the SPWG members and comments should be received by 15 August.
- 7) The IHB will finalize and translate the documents for distribution to all IHO M.S. by late September 2006 as Conference Documents. The Report of the Finance Committee on Salaries will also be circulated with the other Conference Documents.

18. Closing

The Chairman informed the members that the First Vice-Chairman, Dr. Williams will retire in July 2006 and thanked him for the excellent work carried out and cooperation.

The 8th SPWG meeting adjourned at 14:30 on 4 May 2006.

APPENDIX I. LIST OF PARTICIPANTS

SPWG CHAIR GROUP	
Chairman	Mr. Frode KLEPSVIK (Norway)
Vice-Chairman 1	Dr. Williams David WYNFORD (UK)
Vice-Chairman 2	Dr. Hideo NISHIDA (Japan)
IHB	VAdm. Alexandros MARATOS (IHB SPWG representative) Capt. Federico BERMEJO (SPWG Secretary)
REGIONAL HYDROGRAPHIC COMMISSIONS	
BSHC- NHC	Mr. Juha KORHONEN (Finland)
EAHC	Mr. You-Sub JUNG (Korea) Mr. Young-Bae KIM Mr. Shin-Ho CHOI Mr. Jung-hyun KIM
EAtHC	Vadm. Jose Augusto DE BRITO (Portugal) Capt. Carlos Lopez DA COSTA
MACHC	Lt. Cdr. Rafael PONCE (Mexico)
MBSHC	Cdr. Paolo LUSIANI (Italy)
NIOHC	Capt. SS KARNIK (India) Mr. Luther RANGREJI
NSHC	Ingénieur G.A. Gilles BESSERO (France)
SAIHC	Capt. Abri KAMPFER (South Africa)
<u>SWPHC</u>	Capt. Robert WARD (Australia)
USHC	RAdm. Chris ANDREASEN (USA) Mrs. Meg DANLEY
INDIVIDUAL COUNTRIES	
China	Mr. ZHENG Heping Mr. XU Binsheng
China Hong Kong	Mr. NG Kwok-Chu
UK	Ms. Katie JONES
Brazil	Capt. Wesley CAVALHIERO
Japan	Mr. Shigeru KATO