



How to facilitate the work of SCUFN and the decision-making process depending on the position of undersea features?

Towards a decision tree

Agenda Item 03.2B

SCUFN34 VTC03, 16 - 17 November 2021



IHO

BACKGROUND INFORMATION

- SCUFN34 VTC01, January 2021: **SCUFN Secretary** offered to initiate development of a decision tree for better consistency in decision making.

- Action SCUFN34/VTC01/50 (see also SCUFN33/07):

*« Noting the legitimacy of SCUFN to deal with any proposal as long as the feature is located beyond the external limit of the territorial sea, **SCUFN Members** agreed to tentatively clarify by consensus the SCUFN internal decision-making process for features located in so called “mutual areas of interest” prior to SCUFN34 VTC02 and to address this issue at the beginning of SCUFN34 VTC02 for decision. **SCUFN Secretary**, in liaison with **SCUFN Chair/Vice-Chair** to initiate the work.”*



IHO

BACKGROUND INFORMATION

International
Hydrographic
Organization

- February 2021: 1st version shared with **Chair/Vice-Chair**.
- 30 March 2021: version incl. some initial inputs by **Chair/Vice-Chair** sent to **SCUFN Members only** (and **GGC Chair** for info) for their consideration...
- ...with the aim to compile and adjudicate comments by end of August, to meet the deadline for submitting a proposal to the SCUFN Plenary Session, planned in November 2021.



IHO

BACKGROUND INFORMATION

International
Hydrographic
Organization

- Objective stated in SCUFN Secretary's email dated 30 March:

« ...agenda item (about 1h30) for final approval as decision tree to be tested for 2 years as an internal SCUFN additional and experimental ROP. Agreement from GGC for experimentation of this decision tree to be given by GGC either by correspondence or at their next meeting.

- after 2 years, inclusion in appropriate official Guidelines (B-6) and ROPs, after normal cycle for Member States' formal approval via IHO CL...”



IHO

BACKGROUND INFORMATION

International
Hydrographic
Organization

- 31 March: Vice-Chair's email to SCUFN Members raising strong concerns.
- 21 April: JHOD's email to SCUFN Secretary, Cc Members *and* regular SCUFN participants, raising strong warning and concerns on the current development and potential consequences. Clarification response made by the SCUFN Secretary.
- April to May: comments on SCUFN Secretary's proposal received from GGC Chair and SCUFN Members (6 out of 12 SCUFN Members)



- Noting the involvement of SCUFN Members on this complex and sensitive issue,
- Noting the concerns raised,
- Considering the comments made so far,

SCUFN Secretary is of the view that:

- the proposed Decision Tree hasn't reached the necessary maturity to face the final stage of a decision-making process yet,
- SCUFN Members will continue with the application of the current Guidelines in force for a while,
- it seems that SCUFN Members, in general, implicitly prefer the status quo and as a consequence, assume the responsibility of possible inconsistent case-by-case decisions rather than engaging in the challenging construction a more robust decision-making process.



IHO

WAY FORWARD

International
Hydrographic
Organization

SCUFN Secretary recommends 2 options:

1. either to keep this development on hold « as is » until next full plenary in-person meeting ; in that case, consensus needed at the next meeting on every single assumptions presented in the paper and on the way to handle this task, before moving forward;
2. or simply to consider this Action « cancelled ».

How to facilitate the work of SCUFN and the decision-making process depending on the position¹ of undersea features – Towards a decision tree

Version 0.4 dated 30 March 2021

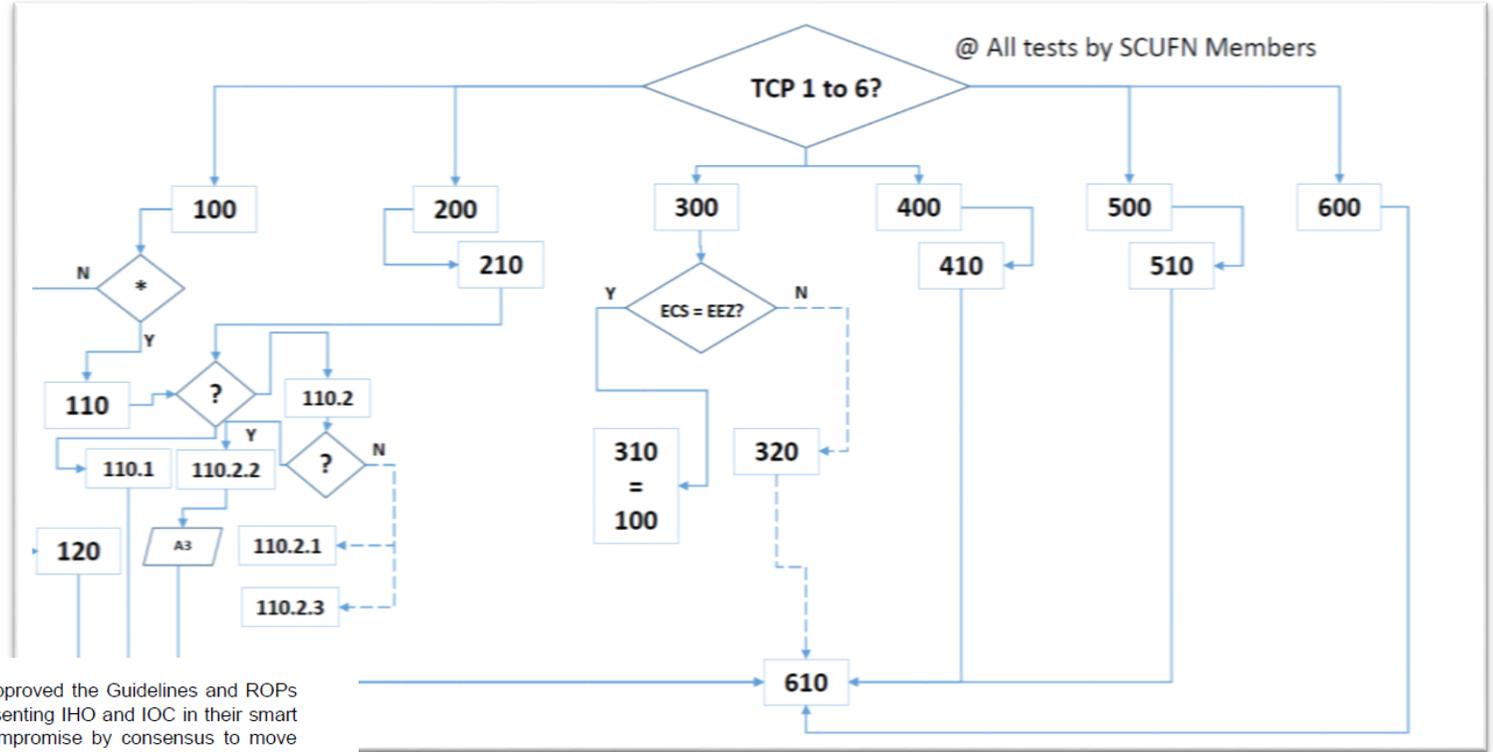
by Yves GUILLAM, Assistant Director and SCUFN Secretary, IHO Secretariat

A. Guidelines, Rules of Procedures (not exhaustive)

1. "International concern for naming undersea features is limited to those features entirely or mainly (more than 50 %) **outside the external limits of the territorial sea, not exceeding 12 nautical miles from the baselines**, in agreement with the United Nations Convention on the Law of the Sea." (B-6, Ed. 4.2.0, Section I.A).
2. "Names approved by national authorities in waters beyond the territorial sea should be accepted by other States if the names have been applied in conformance with internationally accepted principles." (B-6, Ed. 4.2.0, Section I.D).
3. "In the event of a conflict, the persons and/or authorities involved should resolve the matter. Where two names have been applied to the same feature, **the older name generally should be accepted**. Where a single name has been applied to two different features, **the feature named first generally should retain the name**." (B-6, Ed. 4.2.0, Section I.E).
4. "...it should be the policy to use forms of names applied by national authorities **having responsibility for the pertinent area**." (B-6, Ed. 4.2.0, Section I.G).
5. "There is significant benefit to be gained from **mutual consultation by all interested parties** in preparing and submitting proposals to SCUFN. National naming authorities are encouraged **to consult** on undersea features names **in their mutual areas of interest** prior to submitting proposals to SCUFN." (B-6, Ed. 4.2.0, Section III.D).
6. "Appointed Members of the Sub-Committee represent their parent organization [IHO or IOC] as experts..." (SCUFN ROP 2.1.2).
7. "The Sub-Committee will not consider undersea feature name proposals that are **politically sensitive**." (SCUFN ROP 2.1.1)
8. Since Ed. 4.2.0 of B-6, the List of Nami stand-alone document, on the SCUFN we to be informed/consulted **when an und their areas of jurisdiction** (SCUFN actions/decisions).

B. Initial and Basic considerations

1. The existing Guidelines and Rules of designating maritime areas (areas of int consultation rather than enforcing, no cases, without explicitly defining them.
2. It is intentional because Member States who have approved the Guidelines and ROPs hope and trust the scientific experts of SCUFN representing IHO and IOC in their smart ability to find the most acceptable solutions and compromise by consensus to move forward in the spirit of international recognition of undersea feature names for mankind.
3. It should be duly acknowledged that it is also a major asset for SCUFN to be legitimate to accept any undersea feature name proposal as long as it is located beyond the external limit of the territorial sea of any coastal State. It's a strength!
4. By law, under UNCLOS, there is no disposition for undersea feature naming as such. In other words, the EEZ deals with regulations related to the water column - if I may say that in simple words -, but UNCLOS does not address the rights of a coastal State with regards to undersea feature naming.
5. This can be applied to the Extended Continental Shelf (ECS). However, the ECS, by construction, implies that we deal not with the water column anymore, but with sea bottom and sub-bottom. For this reason, one could argue that undersea (solid) feature naming might be a matter of concern or interest for the coastal State claiming an ECS.
6. This helps in stating that when the Guidelines mention "... areas of interest...", it does not mean strictly speaking that it is equivalent to a one-to-one relationship with EEZ and ECS limits.
7. Therefore, it should be acknowledged that in general, "areas of interest" may apply to EEZ, ECS, but also Deep Seabed Mining areas, Submarine Cables restricted areas... areas managed by the International Seabed Authority. And then, even if the limits of an area are UN-approved (but this approval is not ratified by a coastal State for instance), or claimed only, or recognized by some but not by all, etc. it means that any specific area of such type can fall under A.6 criteria above (ROP 2.10). As a consequence, should we limit SCUFN international recognition to undersea features located in undisputed, unclaimed, un... of the High Sea only? It would certainly be contradictory with the spirit of GEBCO and B-6. It would be pointless and ridiculous.



Which one?



**NEXT SCUFN
PLENARY SESSION**