

**PROTOCOL OF AMENDMENTS, ADOPTED IN MONACO
ON 14 APRIL 2005,
TO THE CONVENTION ON THE
INTERNATIONAL HYDROGRAPHIC ORGANIZATION,
DONE AT MONACO ON 3 MAY 1967**

[2005] ATNIF 23

Documents tabled on 7 February 2006

National Interest Analysis [2006] ATNIA 1

with attachment on consultation

Text of the proposed treaty action

Background Information: Current Status List

NATIONAL INTEREST ANALYSIS: CATEGORY 2 TREATY

SUMMARY PAGE

Protocol of Amendments, adopted in Monaco on 14 April 2005, to the Convention on the International Hydrographic Organization, done at Monaco on 3 May 1967 [2005] ATNIF 23

Nature and timing of proposed treaty action

1. On 14 April 2005, the Third Extraordinary International Hydrographic Conference of the *Convention on the International Hydrographic Organization [1970] ATS 19* (Convention) adopted the Protocol of Amendments to the Convention (Article XXI(2)). The new Protocol of Amendments will enter into force for all Member States three months after the Government of the Principality of Monaco receives notifications of approval by two-thirds of the Member States to the Convention (Article XXI(3)). Australia intends to notify its consent for the Protocol of Amendments as soon as practicable after consideration by the Joint Standing Committee on Treaties (JSCOT).

Overview and national interest summary

2. The International Hydrographic Organisation (IHO) is an intergovernmental organisation that seeks to contribute to making navigation easier and safer throughout the world by improving nautical charts and documents through international cooperation in hydrography, seeking uniformity and the application of agreed minimum international technical standards for surveying and charting.

3. The Protocol of Amendments to the Convention primarily affects the efficiency of the IHO and its internal business operations. It creates new structures and processes to improve corporate governance of the IHO including the establishment of the Assembly (which has all the powers of the IHO), the Council (which coordinates, prepares and reports on activities to the Assembly during the interim periods between Assembly meetings) and the Finance Committee. It also introduces voting procedures which will apply where decisions cannot be reached by consensus between Member States, and makes it easier for new States to join the IHO.

4. It is in Australia's interest that the IHO conducts itself in an efficient and effective manner and adopts modern business practices that are supported by the Convention.

Reasons for Australia to take the proposed treaty action

5. The Convention, done at Monaco on 3 May 1967, in essence seeks to set authoritative standards for the acquisition of hydrographic data and the provision of hydrographic services including capacity building of hydrographic services. The main obligation of Member States is to act as members of the IHO, which provides an intergovernmental basis for hydrographic cooperation.

6. Australia has been a member of the IHO since its inception in 1921. Initially known as the International Hydrographic Bureau until 1958, Australia shared membership with the United Kingdom and New Zealand. On 1 July 1958, Australia became an individual member of the then established IHO. The Hydrographer of Australia and the Australian Hydrographic Service (which are a part of the Royal Australian Navy) have represented Australia's interests continuously within the IHO since that time. On 3 May 1967 the then Hydrographer of Australia signed the Convention on behalf of the Government of Australia. The Convention entered into force for Australia and generally on 22 September 1970.

7. An extensive review was undertaken by the IHO's Strategic Planning Working Group (SPWG), the findings of which were released in *The Final Report of the Strategic Planning Group* on 23 April 2004. Australia, represented by the Australian Hydrographic Service, has played an active and influential role in the SPWG and was appointed Deputy Chair of the Third Extraordinary International Hydrographic Conference (Conference) held in Monaco, in April 2005. Having considered the report of the SPWG the Conference adopted the Protocol of Amendments on 14 April 2005.

8. The SPWG report was the result of a review conducted by the IHO of the Convention, its instruments and the organisation in general. The IHO consensus was that the Convention has significant shortcomings, particularly in relation to a State's ability to join the IHO easily. Currently new States wishing to accede to the Convention must apply to the Government of the Principality of Monaco specifying the tonnage of its fleets and have its application approved by two thirds of the Member States. The Protocol of Amendments simplifies this process because any State that is a member of the United Nations would be able join without requiring approval by two thirds of the Member States. Improving this process will become particularly significant in the near future when amendments to the *International Convention for the Safety of Life at Sea 1974*, Chapter V, Regulation 9, (Hydrographic Services), adopted in June 2003, enters into force on 1 July 2006. These amendments require Contracting Governments to arrange for the collection and compilation of hydrographic data and the publication, dissemination and keeping up to date of all nautical information necessary for safe navigation. It is anticipated that these amendments will result in a number of additional States applying to join the IHO.

9. Other issues which have been identified, include the extended period between meetings of the Conference (five years), governance arrangements for the interim periods between meetings and the voting arrangements for the endorsement of technical guidelines. The Protocol of Amendments to the Convention seeks to address these issues by improving the governance of the IHO and streamlining its decision-making processes.

10. Australia's Defence and commercial maritime interests are served by adhering to internationally agreed technical standards for the provision of its hydrographic service. International standards ensure there is a high level of quality in the surveys and that the subsequent publication of nautical charts and other essential nautical references in all forms of media, including electronic formats and bathymetric imagery (which is the science of measuring the depths of the oceans, seas, and other bodies of water, and mapping the corresponding topography of those depths). Noting the advances in contemporary electronic navigation systems and their need for conforming data, the adoption of the appropriate international standards for electronic navigational charts and their ancillary information is increasingly imperative for Australia's navigation interests as they impact on safety of life at sea, maritime trade and protection of the environment. Since Australia has been an active party to all preceding discussions and has been instrumental and proactive in formulating the final Protocol of Amendments to the Convention it is in Australia's interest to agree formally to the Amendments as soon as practicable.

Obligations

11. As Australia is already a party to the Convention, it is already bound to be a member of the IHO. The Protocol of Amendments to the Convention addresses the internal workings and governance of the IHO. It will not create any additional obligations.

12. The Protocol of Amendments to the Convention will enter into force three months after the Government of the Principality of Monaco receives notifications of approval by two-thirds of the Member States (Article XXI(3)). Australia intends to notify its consent for the Protocol of Amendments as soon as practicable after consideration by the Joint Standing Committee on Treaties (JSCOT).

Implementation

13. The Protocol of Amendments will not require changes to legislation, domestic policy or the existing roles of the Australian Government and State and Territory Governments.

Costs

14. The Protocol of Amendments will not impose additional costs to Australia. However, we will gain additional value for the current financial subscription paid to the IHO as a result of improved governance. There will not be any direct effect on Australia's interests save that any consequent improvements in internationally accepted nautical charting products benefit maritime trade and Defence activity in Australia's area of maritime interest. The treaty action will not require any new domestic agencies or management arrangements to be put into place.

Regulation Impact Statement

15. The Office of Regulation Review (Productivity Commission) has been consulted and confirms that a Regulation Impact Statement is not required.

Future treaty action

16. Article XXI of the Convention sets out the procedure for amendments to the Convention. Currently amendments may be proposed by any Contracting Party to the Convention. Once the Protocol of Amendments enters into force the amended Article XXI also provides that any Member State may propose amendments to the Convention. Proposed amendments must be notified to the Secretary-General of the IHO Secretariat (as voted by the Member States) at least six months before the next session of the Assembly. Amendments are considered and decided by the Assembly and will be adopted if approved by a two-third majority of Member States present and voting. Amendments will enter into force for all Member States three months after the Government of the Principality of Monaco receives notifications of approval by two-thirds of the Member States.

17. Future Amendments to the Convention including the adoption of Regulations to assist with the functioning of the IHO, as mentioned in Article XI, will constitute separate treaty actions and be subject to Australia's treaty making process including development of a National Interest Analysis and consideration by the Joint Standing Committee on Treaties.

Withdrawal or denunciation

18. In accordance with Article XXII of the Convention, Australia may denounce the Convention upon expiry of a period of five years after its entry into force (which has occurred) by giving at least one year's written notice, in a notification addressed to the Government of the Principality of Monaco. The denunciation would take effect upon the 1 January next following the expiration of the notice and would involve the abandonment by Australia of all rights and benefits in the IHO. Denunciation by Australia would be subject to Australia's treaty-making process.

Contact Details

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International Hydrographic Organization, done at Monaco on 3 May 1967
[2005] ATNIF 23**

CONSULTATION

1. The Australian Hydrographic Service, as the representative of Australia to the International Hydrographic Organization, has been party to all discussions and processes within the Organization that have led to the Resolution of the Third Extraordinary Conference. In addition, the Australian Hydrographic Service hosted a meeting of the International Hydrographic Organization's Strategic Planning Working Group. Australia's interest has been put into every stage of the process.

2. Since the effect of the Amendments is internal to the workings of the International Hydrographic Organization it has not been necessary for the Australian Hydrographic Service, as the competent representative of the Australian Government regarding the International Hydrographic Organization, to consult outside the Government's own process. The Australian Hydrographic Service has consulted throughout the process with the Office of International Law, Attorney-General's Department and the Sea Law Section of the Department of Foreign Affairs and Trade.

Background information

Status List of Parties: Information on ratification of the Amendments is shown on the next page.

Contracting Parties to the Convention on the International Hydrographic Organization

ALGERIA/ <i>ALGERIE</i>	MEXICO/ <i>MEXIQUE</i>
ARGENTINA/ <i>ARGENTINE</i>	MONACO
AUSTRALIA/ <i>AUSTRALIE</i>	MOROCCO/ <i>MAROC</i>
BAHRAIN/ <i>BAHREIN</i>	MOZAMBIQUE
BANGLADESH/ <i>BANGLADESH</i>	MYANMAR/ <i>MYANMAR</i>
BELGIUM/ <i>BELGIQUE</i>	NETHERLANDS/ <i>PAYS-BAS</i>
BRAZIL/ <i>BRESIL</i>	NEW ZEALAND/ <i>NOUVELLE-ZELANDE</i>
CANADA/ <i>CANADA</i>	NIGERIA/ <i>NIGERIA</i>
CHILE/ <i>CHILI</i>	NORWAY/ <i>NORVEGE</i>
CHINA/ <i>CHINE</i>	OMAN
COLOMBIA/ <i>COLOMBIE</i>	PAKISTAN
CONGO/ <i>CONGO</i>	PAPUA NEW GUINEA/ <i>PAPOUASIE NOUVELLE-GUINEE</i>
CROATIA/ <i>CROATIE</i>	PERU/ <i>PEROU</i>
CUBA/ <i>CUBA</i>	PHILIPPINES
CYPRUS/ <i>CHYPRE</i>	POLAND/ <i>POLOGNE</i>
DENMARK/ <i>DANEMARK</i>	PORTUGAL
DOMINICAN REP./ <i>REP. DOMINICAINE</i>	RUSSIA/ <i>RUSSIE</i>
ECUADOR/ <i>EQUATEUR</i>	SERBIA/MONTENEGRO/ <i>SERBIE MONTENEGRO</i>
EGYPT/ <i>EGYPTE</i>	SINGAPORE/ <i>SINGAPOUR</i>
ESTONIA/ <i>ESTONIE</i>	SLOVENIA/ <i>SLOVENIE</i>
FIJI/ <i>FIDJI</i>	SOUTH AFRICA/ <i>AFRIQUE DU SUD</i>
FINLAND/ <i>FINLANDE</i>	SPAIN/ <i>ESPAGNE</i>
FRANCE	SRI LANKA
GERMANY/ <i>ALLEMAGNE</i>	SURINAME
GREECE/ <i>GRECE</i>	SWEDEN/ <i>SUEDE</i>
GUATEMALA/ <i>GUATEMALA</i>	SYRIA/ <i>SYRIE</i>
ICELAND/ <i>ISLANDE</i>	THAILAND/ <i>THAILANDE</i>
INDIA/ <i>INDE</i>	TONGA
INDONESIA/ <i>INDONESIE</i>	TRINIDAD AND TOBAGO/ <i>TRINITE ET TOBAGO</i>
IRAN	TUNISIA/ <i>TUNISIE</i>
ITALY/ <i>ITALIE</i>	TURKEY/ <i>TURQUIE</i>
JAMAICA/ <i>JAMAIQUE</i>	UKRAINE
JAPAN/ <i>JAPON</i>	UNITED ARAB EMIRATES/ <i>EMIRATS ARABES UNIS</i>
KOREA-DPR/ <i>COREE-RPD</i>	UNITED KINGDOM/ <i>ROYAUME-UNI</i>
KOREA-Rep/ <i>COREE-Rép</i>	URUGUAY
KUWAIT/ <i>KOWEIT</i>	USA (NOAA, CNMOC, NGA)
MALAYSIA/ <i>MALAISIE</i>	VENEZUELA

**STATUS OF RATIFICATION OF AMENDMENTS TO
THE CONVENTION ON THE IHO
(as at 5 Dec 05)**

Ratified	Expected in 2006	Expected in 2007	Underway, but completion unspecified
Denmark	Australia	Colombia	China
Germany	Brazil	France	Rep. of Korea
Norway	Canada	Poland	The Netherlands
	Estonia		The Philippines
	Finland		Turkey
	Iceland		UK
	Italy		
	Japan		
	Latvia		
	Mexico		
	South Africa		
	Sweden		