

# Wadden Sea Board

**WSB 18  
3 November 2016  
Wilhelmshaven**



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**Agenda Item:** 5.1  
**Subject:** Legal aspects of granting the use of the WSWH Logo  
**Document No.** WSB 18/5.1/1  
**Date:** 17 October 2016  
**Submitted by:** CWSS

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**Proposal:** The meeting is invited to consider the document.

## **Legal aspects of granting the use of the Wadden Sea World Heritage Logo**

1. The 17<sup>th</sup> meeting of the Wadden Sea Board (WSB 17), held in Tönning, Germany, on 22 June 2016, requested CWSS to deliver a paper examining legal aspects of granting the use of the Wadden Sea world Heritage Logo. The present document was drafted in response to this request by WSB 17.
2. The Wadden Sea World Heritage logo is a trademark that was designed for the Danish-Dutch-German Danish Wadden Sea as a means of communicating the property consistently and as one trans-boundary entity in all regions and through a broad range of stakeholders. The logo is protected under EU trademark law, which is contained in Council Regulation No. 207/2009 of 26 February 2009 8 (EU Trademark Regulation), as amended by Regulation (EU) 2015/2424 of the European Parliament and of the Council of 16 December 2015.

The registration of the trademark in accordance with Articles 6 and 25 et seq. Trademark Regulation took place in 2011. As per this registration the proprietor of the logo under Article 5 Trademark Regulation is CWSS. This means that the rights emanating from Article 9 et seq. of the Regulation are conferred upon CWSS. In principle, use of the logo therefore requires the permission of CWSS.

However, in accordance with a legally non-binding agreement between CWSS and the Wadden Sea states, CWSS owns the logo “on behalf of the States Parties” to the Trilateral Wadden Sea Cooperation (TWSC). In line with this agreement and in order to ensure that CWSS exercises the right to grant permission in such a way as to correspond to the wishes of the States Parties to the TWSC, the Parties have adopted rules governing the use of the logo. These are laid down in the “Guidelines for the use of the Wadden Sea World Heritage Logo” (Logo Guidelines), as approved by the 15th meeting of the Wadden Sea Board (4 November 2015, Wilhelmshaven, Germany).

In drafting the Logo Guidelines, CWSS and the Parties needed to bear in mind the regulations governing the use of the UNESCO World Heritage emblem, since the WSWH logo can be used in conjunction with this emblem or independently of it. The regulations on the UNESCO World Heritage emblem are contained in paragraphs 258. et seq. of the Operational Guidelines for the Implementation of the World Heritage Convention (OG). Consequently the Logo Guidelines differentiate between “products which contain the official UNESCO World Heritage Logo” (Article 2.1 Logo Guidelines) and those “which cannot use the UNESCO World Heritage Logo but are produced in line with the main principles described below” (Article 2.1 Logo Guidelines). The OG are directly applicable to the former case, whereas the latter,

i.e. use of the WSWH logo without the UNESCO World Heritage emblem, is not directly governed by the OG. Clearly, however, given the implicit connection between the WSWH logo and UNESCO, the rules concerning its use needed to be consistent with UNESCO rules and practice. The guidelines for the use of the WSWH logo (Article 2 Logo Guidelines) and the procedure for requesting its use (Article 2 Logo Guidelines) were therefore drafted to closely reflect the respective provisions, in particular Paragraph 275 and Paragraph 278, of the OG. Regarding the authorization to use the WSWH logo, Article 3 clearly and repeatedly refers to the central role of CWSS. Thus, the request for use of the logo is to be addressed to CWSS (Article 3.1) and only CWSS in consultation with the States Parties can grant its use (Article 3.2). While under Article 3.1. of the Logo Guidelines the request to use the logo can in fact be addressed to focal points, their function in this context is explicitly “to assist CWSS” in the application procedure. In the cases covered by Article 3.2, 2nd sentence, the final decision is referred to the TG-WH. Even in this case, however, the right of referral rests with CWSS.

In summary, the Logo Guidelines are consistent both with the relevant regulations in the OG and the position of CWSS as the proprietor of the logo under Article 5 of the Trademark Regulation. There is no provision in the Logo Guidelines which enables the focal points or any other entity to grant the use of the logo without, at the very least, the prior involvement of CWSS. Any deviation from this procedure would not be covered by the Logo Guidelines in their current form.