

**11<sup>TH</sup> WEND COMMITTEE MEETING  
Tokyo, 2-5 September 2008****Registering the Term “ENC” as a Trademark**

<b>Submitted by:</b>	IHB
<b>Executive Summary:</b>	This report summarizes options available to the IHO to register an international trademark related to ENCs.
<b>Related Documents:</b>	Minutes of WEND 10 paragraph 5.1.2
<b>Related Projects:</b>	---

**Introduction / Background**

A discussion took place at WEND 10 on the use of the terms *official* and *un-official* in relation to ENCs. As a result, a clarifying paragraph was agreed for inclusion in the WEND Principles which was intended to limit inappropriate usage of the term *official* in relation to ENCs. In addition, the IHB was asked to investigate if there should be an IHO trademark associated with ENCs.

**Analysis/Discussion**

Trademark registration is a useful mechanism for protecting the identity of a commercial product or brand name because it can form the basis of a legal action if there is an infringement of the mark by another product. However, the experience of a number of HOs has shown that trademark registration has a limited or no effect on so called “creative advertising”, where comparisons are often drawn or associated between a product protected by a trademark and a rival product. In fact, some countries have consumer legislation in place that actively encourages, or at least accepts such comparisons as a means of encouraging competition.

The value of attempting to protect a specific term must be considered carefully. For example, Volkswagen have successfully registered the mark "GTi" and thereby prevented its use by other manufacturers, other than under licence. Suzuki who previously had a model GTi car now have to respect VW's ownership of the term GTi" and use a new name. Whether this change has had any practical effect on consumers' views or buying habits in relation to the quality, the identity or the capability of a VW car in comparison to any other car remains unanswered. Undoubtedly, it was a very expensive exercise. In such circumstances, and in the case of the IHO and ENCs, education and enhancement of the reputation of the products and the producing organisations themselves may be a better and more effective solution.

International registration of a trademark associated with ENCs may be possible through the UN World Intellectual Property Organization (WIPO) that administers the "Madrid System" which is an International Register. This gives a degree of protection in those States that are signatories to the WIPO Convention and its various Arrangements. see: <http://www.wipo.int/madrid/en/general/>

Whilst not every nation is a signatory to the various Arrangements under the WIPO Convention, the membership signatories include most of the major industrialised nations.

A typical cost for registration of a trademark in a country is €125 (200USD). It would cost about €9000 (14,000USD) to include all WIPO signatory States. The period of WIPO Trademark registration is 10 years.

If the IHO successfully registered a trademark such as ENCTM or IHOTM then it would probably require the IHB on behalf of IHO to grant consequent usage rights to Member States.

### **Conclusions**

It may be possible to register one or more of the terms that are associated with ENCs.

The establishment of a Trademark will not necessarily prevent so-called “misleading advertising” nor any misunderstanding or confusion from consumers.

### **Action Required of WEND**

The WEND Committee is invited to:

1. **Consider** this report and take any necessary action.