



# Economic and Social Council

Distr.: General  
2 December 2013

Original: English

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## Economic Commission for Europe

### Inland Transport Committee

#### Working Party on Inland Water Transport

##### Working Party on the Standardization of Technical and Safety Requirements in Inland Navigation

###### Forty-fourth session

Geneva, 12–14 February 2014

Item 9 (b) of the provisional agenda

###### Recreational navigation

## Draft Guidelines to Resolution No. 40

### Transmitted by Switzerland and the European Boating Association<sup>1</sup>

#### I. Mandate

1. At its thirty-ninth session, the Working Party on the Standardization of Technical and Safety Requirements in Inland Navigation (SC.3/WP.3) decided to prepare guidelines on the application of Resolution No. 40 in order to facilitate the understanding of the resolution by the operators of pleasure craft (ECE/TRANS/SC.3/WP.3/78, para. 40). At its forty-third session, SC.3/WP.3 considered the first draft of such guidelines (ECE/TRANS/SC.3/WP.3/2013/16), submitted by the European Boating Association (EBA) and invited the delegations to provide their comments on the proposed text (ECE/TRANS/SC.3/WP.3/84, paras. 48-49).

2. The comments from the delegations of Switzerland and EBA are presented below. The revised draft guidelines, prepared by the secretariat in consultation with EBA are in the annex.

3. The Working Party may wish to consider the draft and transmit it for the adoption at the fifty-eight session of the Working Party on Inland Water Transport.

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<sup>1</sup> This document is submitted in line with the output/activities of cluster 2:6: Inland water transport, paragraph 1B(d) of the work plan 2012–2016 (ECE/TRANS/2012/12) adopted by the Inland Transport Committee on 1 March 2012 (ECE/TRANS/224, para. 94). Paragraph 1B(d) provides a mandate for assisting Governments in facilitating the free movement of crew members across Europe.

## **II. Comments from Switzerland on the proposal of guidelines on the application of Resolution No. 40, revised**

4. At its forty-third session, SC.3/WP.3 took note of the guidelines on the application of Resolution No. 40, revised, (ECE/TRANS/SC.3/WP.3/2013/16), elaborated by the EBA. Switzerland considers that the guidelines on the application of Resolution No. 40 are important, as they can help harmonize and facilitate its application. Switzerland thanks EBA for this proposal.

5. Overall, Switzerland agrees with the content of the draft guidelines. However, Switzerland has no intention to issue the international certificate of competency (ICC) to the nationals of any North American country or any country that is not a member of the UNECE. It is, therefore, proposed to amend Question G in the guidelines as follows:

G. Is it permitted for the authorities in one UNECE country to issue the ICC to the national of another UNECE country?

In order to issue an ICC, Governments must first implement Resolution No. 40. They may then nominate competent authorities and approved bodies which can issue the certificate on their behalf. Applicants must be holders of the implementing Government's national certificate or have passed an examination by that Government in accordance with the requirements detailed in annex 1 of the Resolution No. 40. Implementing Governments may however only issue the certificate to their own nationals or residents ~~or to the nationals of any North American country or any country that is not a member of the UNECE~~. The ICC may only be issued to the national of another UNECE country if they can prove they are resident in the issuing country. The Resolution No. 40 was drafted in this way to encourage as many UNECE member States as possible to adopt the Resolution No. 40.

## **III. Comments from European Boating Association on the proposal of guidelines on the application of Resolution No. 40, revised**

6. EBA takes due note of the proposal of Switzerland.

7. In response to this proposal, EBA would like to recall that the text proposed for deletion had been copied directly from the text of Resolution No. 40, which expressly permits implementing Governments to issue ICCs to "the nationals of any North American country or any country that is not a member of the United Nations Economic Commission for Europe". This possibility was included in the resolution by the decision of the fifty-fourth session of the Working Party on Inland Water Transport in 2010 (ECE/TRANS/SC.3/187, para. 41). Without these words, nationals and residents of non-European countries were unable to obtain an ICC and this precluded them from operating pleasure craft on many European waterways, for example while visiting Europe on vacation.

5. At the same time, EBA recognizes that Governments may be faced with the requests from foreign nationals to have an ICC issued on the basis of their national qualification. It would be, thus, useful to explain that this is not permitted under Resolution No. 40, as Annex I of the Resolution explicitly states that the holder of an official national certificate of competence can obtain an international certificate of the country that has issued the national certificate. EBA, therefore, proposes to supplement paragraph 16 with a new paragraph clarifying this issue.

6. On this occasion and based on the proposal by the secretariat, EBA also proposes to add another provision indicating where the list of the countries which have accepted the Resolution and the competent national authorities can be found.
7. The revised draft guidelines are presented in the annex. The additions to the first draft, published in ECE/TRANS/SC.3/WP.3/2013/16, are indicated in bold, while text to be deleted has been struck out.

## Annex

### **Revised proposal of guidelines on the application of Resolution No. 40**

#### **A. What is the ICC?**

1. An ICC provides the holder with evidence of competence in an internationally recognisable format which can be presented to officials in foreign countries if required.
2. The United Nations Economic Commission for Europe (UNECE) Working Party on Inland Water Transport originally developed an international certificate for operators of pleasure craft to facilitate pleasure navigation along the lengths of the rivers Rhine and Danube.
3. Each country the rivers pass through had different requirements for evidence of competence and this caused difficulties for boaters wishing to navigate the different sections of the river.
4. The initial agreement, Resolution No. 14 of the UNECE, has been superseded by an enhanced version, Resolution No. 40, which now regulates the International Certificate for Operators of Pleasure Craft (commonly referred to as the International Certificate of Competence – ICC), stipulating who the ICC can be issued to, the syllabus requirements and the layout of the certificate.
5. Use of the ICC has also developed over the years and the certificate now covers coastal waters and the wider inland waterways as well as the rivers it was originally developed for.

#### **B. Does an ICC replace the need to have a national certificate?**

6. A vessel must comply with its flag state's (country of registration) regulations wherever it is in the world. The ICC complements rather than replaces any requirement the flag states may impose.

#### **C. What does the ICC do for me that my national certificate doesn't?**

7. Foreign officials cannot be expected to understand what the certificates issued by each individual country allow the skipper to do or what level of competence the skipper has.
8. The ICC indicates to the authorities in a foreign country that your competence to skipper a pleasure craft has been assessed in accordance with Resolution No. 40 and you have demonstrated the necessary level of competence for the type of boat and area of operation indicated on the certificate.
9. If evidence of competence is required, boat owners visiting another European country will frequently find that the ICC will suffice. Countries which have adopted Resolution No. 40 should automatically accept the ICC but it will also be accepted in many other countries which have not formally stated their intentions through the acceptance of Resolution No. 40.

**D. Does my ICC entitle me to charter a boat?**

10. No, the ICC can be useful for people wishing to charter, but charter companies are under no obligation to accept the ICC as evidence of competence from people wishing to hire their boats.

**E. Do I have to have an ICC?**

11. Some countries will insist you have an ICC whilst in other countries an ICC may not be needed at all. The requirement may also differ between coastal waters and inland waters within a country.

**F. Can I use the ICC outside Europe?**

12. The ICC is not a global qualification. Even within Europe the ICC's validity is determined by the issuing country and by the country you are visiting. At the discretion of countries elsewhere in the world it may be acceptable evidence of competence.

**G. Is it permitted for the authorities in one UNECE country to issue the ICC to the national of another UNECE country?**

13. In order to issue an ICC, Governments must first implement Resolution No. 40. They may then nominate competent authorities and approved bodies which can issue the certificate on their behalf. ~~Applicants must be holders of the implementing Government's national certificate or have passed an examination by that Government in accordance with the requirements detailed in annex 1 of the Resolution No. 40.~~ Implementing Governments may however only issue the certificate to their own nationals or residents or to the nationals of any North American country or any country that is not a member of the UNECE. The ICC may only be issued to the national of another UNECE country if they can prove they are resident in the issuing country.

**14. Applicants must be holders of the implementing Government's national certificate or have passed an examination by that Government in accordance with the requirements detailed in annex 1 of the Resolution No. 40. Governments are not required to accept a national certificate issued by the Government of a different country as the basis of an ICC.**

**H. Why is the ICC important?**

15. It is widely recognised that the standards set out in Resolution No. 40 provide a reasonable and appropriate level of competence for day sailing in recreational craft with due regard to the safety of navigation and crew and the protection of the environment. Even countries that have not yet adopted Resolution No. 40 will readily accept and sometimes demand an ICC from visiting yachtsmen as evidence of competence.

16. All States, members of UNECE are, therefore, encouraged to adopt Resolution No. 40.

**I. Can any country apply Resolution No. 40?**

17. Yes. Resolution No. 40 is of global scope and is therefore open for application by all United Nations Member States. For example, South Africa has accepted and started applying Resolution No. 40.

18. To become a State applying Resolution No. 40, it needs to notify the UNECE Executive Secretary that it accepts Resolution No. 40, provide information on the designated authorities responsible for the ICC, indicate where legislation governing recreational navigation may be downloaded, and indicate which model of the ICC is issued.

**J. Where can I find the information on which countries are implementing Resolution No. 40 and other practical information on its application?**

19. Since 2010, the information on the countries which have accepted Resolution No. 40 as well as the list of the competent authority for authorization of ICCs and approved bodies for issuing of ICCs are included in Annex IV to Resolution No. 40. This information is updated regularly by the UNECE Working Party on Inland Water Transport. The latest edition of the resolution is available at: [www.unece.org/trans/main/sc3/sc3res.html](http://www.unece.org/trans/main/sc3/sc3res.html).

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