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

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Recreational Navigation: Activities of the Informal Working Group on Recreational Navigation

Revision of the Guidelines to Resolution No. 40 “International Certificate for Operators of Pleasure Craft” (Frequently Asked Questions)

Note by the secretariat

Mandate

1. This document is submitted in line with the Proposed Programme Budget for 2022, part V, Regional cooperation for development, section 20, Economic Development in Europe, Programme 17, Economic Development in Europe (A/76/6 (Sect. 20), paragraph 20.6).
2. At its sixty-second session, the Working Party on the Standardization of Technical and Safety Requirements in Inland Navigation (SC.3/WP.3) took note of the comments by Belgium to the draft second revision of the Guidelines to resolution No. 40 (ECE/TRANS/SC.3/2022/11). SC.3/WP.3 invited Belgium and the European Boating Association in cooperation with the secretariat to finalize the draft for its sixty-third session (ECE/TRANS/SC.3/WP.3/124, paragraphs 92 and 93).
3. The annex to this document contains the amended text of the draft. SC.3/WP.3 may wish to take note of the draft and give further guidance to the secretariat.



Annex

Amended Proposal for the Second Revision of the Guidelines to Resolution No. 40 “International Certificate for Operators of Pleasure Craft”*

Definitions

In the present guidelines, the following definitions shall apply:

Coastal state: the country with jurisdiction over the waters the pleasure craft (vessel) is (or will be) operating in.

The sovereignty of a coastal State extends, beyond its land territory and internal waters and, in the case of an archipelagic State, its archipelagic waters, to an adjacent belt of sea, described as the territorial sea.

Flag state: country whose flag the pleasure craft (vessel) has the right to fly.

Every State, whether coastal or land-locked, has the right to sail ships flying its flag on the high seas. Ships have the nationality of the State whose flag they are entitled to fly. States fix the conditions for a ship to be granted their nationality, registration, and the right to fly a country’s flag. A ship which has the right to fly a country’s flag is issued with a document to that effect. The flag state will therefore usually be the country of registration, but registration does not always entitle a vessel to fly a country’s flag.

Implementing Government: Government of the country that has accepted resolution No. 40.

Pleasure craft: any vessel used for purposes of recreation and not financial gain.

A. What is ICC?

1. An International Certificate for Operators of Pleasure Craft (**ICC**), issued in accordance with resolution No. 40, provides the holder with evidence of competence for the operation of pleasure craft, in an internationally recognizable format, which can be presented to officials in foreign countries upon request.
2. The Working Party on Inland Water Transport (SC.3) originally developed an international certificate concerning the competence of pleasure craft operators to facilitate pleasure navigation on the Rhine and Danube rivers.
3. Each country that the rivers pass through required different evidence of competence, and this caused difficulties for operators of pleasure craft crossing borders when navigating on the rivers.
4. The initial agreement, resolution No. 14, was superseded by an enhanced version, resolution No. 40, which now regulates ICC and stipulates who ICC can be issued to, the syllabus requirements and the layout of the certificate.
5. The use of ICC has developed over the years to include coastal waters and inland waterways generally, in addition to the rivers it was originally developed for.

* The newly amended text is marked in bold or strikethrough. The amendments proposed to the first revision of the Guidelines to resolution No. 40 can be consulted in ECE/TRANS/SC.3/2022/11.

B. Why is ICC important?

6. The standards set out in resolution No. 40 are widely recognized as providing a reasonable and appropriate level of competence for day sailing in pleasure craft, with due regard for navigational and crew safety and protection of the environment. Some countries that have not yet accepted resolution No. 40 will nonetheless readily recognize and sometimes demand an ICC from visiting operators of pleasure craft as evidence of competence.

7. All member States of the Economic Commission for Europe (ECE) are, for this reason, encouraged to accept resolution No. 40.

C. Does ICC replace the need to have a national certificate?

8. A vessel must comply with the regulations of its flag state, wherever it is in the world. ICC complements rather than replaces any requirement the flag state may impose.

D. What does ICC do for me that my national certificate doesn't?

9. Foreign officials cannot be expected to understand what the certificates issued by each individual country allow the operator of pleasure craft to do, or not do, and the level of competence the operator of pleasure craft has.

10. ICC indicates to the authorities of a coastal state that the competence of the holder was assessed in accordance with resolution No. 40 and that the holder has demonstrated the necessary level of competence for the type of pleasure craft and the area of operation indicated on the ICC.

11. If evidence of competence is required by the coastal state, operators of pleasure craft visiting another European country will frequently find that an ICC will suffice. Countries which have accepted resolution No. 40 should automatically recognize ICC (although there may be exceptions or limitations); furthermore, ICC are also likely to be recognized in many other countries which have not formally accepted resolution No. 40.

12. ICC facilitates the operation of a pleasure craft. It does not guarantee the holder will be able to operate a pleasure craft in a foreign country but it may enable the holder to meet the requirements of the applicable legislation of the flag and coastal state(s).

E. Does my ICC entitle me to charter a boat?

13. No, ICC can be useful when chartering a boat, but charter companies are not obliged to recognize ICC as evidence of competence from people wishing to hire their boats.

F. Must I have an ICC?

14. Some countries insist that you have an ICC, while in other countries your ICC may not be needed at all. The requirement may also differ between coastal waters and inland waters within a country.

G. Can I use my ICC outside Europe?

15. ICC is not a global qualification. Even in Europe, the validity of your ICC is determined not just by the issuing country but also by the flag and coastal state(s). At the discretion of countries elsewhere in the world, it may be recognized as evidence of competence.

H. What is the definition of coastal waters in resolution No. 40?

16. Resolution No. 40 does not define coastal waters. It refers to coastal waters and inland waters which are intended to be mutually exclusive.

17. ICC was never intended to replace national certificates and was not intended for use within the territorial and internal waters of the flag state. The ICC is intended to facilitate the movement of pleasure craft through the internal and territorial waters of countries other than the flag state. Outside internal and territorial waters (as claimed, frequently 12 nautical miles from the baseline of the coastal state), the flag state has jurisdiction in accordance with the United Nations Convention on the Law of the Sea, 1982.

I. The ICC differentiates between motorized craft and sailing craft. What is the purpose of these terms?

18. Annex 1 of resolution No. 40 indicates the steps that should be taken to verify competence for ICC to be issued. The intention is that the ICC indicates the type of pleasure craft competence was assessed for.

19. ICC may be valid for both motorized craft and sailing craft. Limitations of validity indicated on ICC may be different for each type of craft. Motorised craft or sailing craft indicated on ICC refers to the design of the vessel rather than how it is being used at the time.

J. Can any country apply resolution No. 40?

20. Notwithstanding paragraph 15 above, the answer is “Yes”. Resolution No. 40 is global and is, therefore, open for application by all United Nations Member States. For example, South Africa accepted and applies resolution No. 40.

21. To apply resolution No. 40, a State must notify the Executive Secretary of ECE that it accepts resolution No. 40, provide information on the designated authorities responsible for ICC, indicate where the legislation on recreational navigation may be downloaded, indicate which model of ICC is issued and provide a sample certificate.

K. Where can I find the information on which countries implement resolution No. 40 and other practical information about its application?

22. Since 2010, the information on the countries which have accepted resolution No. 40, the list of competent authorities for authorization of ICC and approved issuing bodies for issuing ICC are included in annex IV of resolution No. 40. This information is regularly updated by SC.3. The latest edition of the resolution is available at: <https://unece.org/resolutions-1>.

23. Whether or not ICC is recognized as evidence of the holder’s competence is determined by the legislation of the flag state and the legislation of the coastal state. Even if a country has accepted resolution No. 40, the ICC is only recognized as evidence of the holder’s competence for the operation of a pleasure craft, in accordance with the applicable legislation.

24. The coastal state legislation may set limitations which mean that the ICC is not recognized when the certificate itself might suggest it could be. Limitations might apply to the pleasure craft size or engine power, the maximum speed the pleasure craft can operate at, or may mean the ICC is not recognized if a higher minimum age has been set for ICC holders by the coastal state. These are examples, the coastal state is free to impose other restrictions. Additionally some countries do not allow their nationals and residents to evidence their competence with a certificate issued in another country.

25. Before using a pleasure craft, ICC holders should check any limitations that may be imposed to the validity of ICC with the competent authorities in the coastal states they intend to visit.

L. Can a citizen of a country that has not accepted resolution No. 40, obtain an ICC?

26. Resolution No. 40 recommends that implementing governments issue the ICC to:
- Their own nationals or residents; or
 - The nationals of any North American country; or
 - The nationals of any country that is not an ECE member State.
27. ~~Resolution No. 40 enables rather than restricts, so~~ **Some** implementing governments ~~may, if they choose,~~ issue ICC more widely than was envisaged in resolution No. 40, **to enable citizens of ECE member States that have not accepted resolution No. 40 to obtain an ICC. However, this could lead to issues related to the recognition of the ICC as some countries do not allow their nationals and residents to evidence their competence with a certificate issued in another country.**
28. ~~Similarly~~ **Some** implementing governments ~~may~~ choose not to issue ICC as widely as resolution No. 40 recommends.
29. The applicant must follow the procedures and meet the issuance criteria of the Implementing Government, its competent authority and the approved body (as applicable). **This means applicants need to hold the Implementing Government's national certificate or should have passed an examination by that Government in accordance with the requirements detailed in annex I to resolution No. 40. Governments are not expected to accept a national certificate issued by the Government of another country as the basis for an ICC.**

~~**M. Can the authorities in one ECE member country issue ICC to a national of another ECE member country?**~~

~~30. — Resolution No. 40 enables rather than restricts, so implementing governments may, if they choose, issue ICC to a national or resident of a country which has not implemented resolution No. 40 more widely than was envisaged in resolution No. 40. However, this could lead to issues related to the recognition of the ICC as some countries do not allow their nationals and residents to evidence their competence with a certificate issued in another country.~~

M. Can a citizen of a country that has not accepted resolution No. 40, transfer their national certificate to an ICC?

- ~~30~~ **30.** According to the resolution No. 40 recommendations, a national certificate of a country, which has not accepted resolution No. 40, cannot be transferred to an ICC.
- ~~32~~ **31.** Applicants must hold the issuing Implementing Government's national certificate or must have passed an examination by that Government in accordance with the requirements detailed in annex I to resolution No. 40.
- ~~33~~ **32.** Governments are not required to accept a national certificate issued by the Government of another country as the basis for an ICC.

Ø N. Can a country issue ICC for inland waterways, if it does not apply the European Code for Inland Waterways (CEVNI) and has no CEVNI test?

~~34~~**33.** In accordance with paragraph 3.1 of resolution No. 40, to obtain ICC for inland waterways, an applicant has to demonstrate sufficient knowledge of the European Code for Inland Waterways (CEVNI). The resolution does not stipulate how a government assesses sufficient knowledge. A country that has no national certificate which demonstrates that the holder has knowledge of CEVNI, can still issue ICC for inland waterways as long as it establishes that the applicant has sufficient knowledge of CEVNI. This could be achieved using one of the following options:

- Develop a CEVNI test specifically for issuing ICC;
- Recognize the outcome of the CEVNI test adopted in another country.

Ø-O. Some countries apply resolution No. 14 but do not yet apply resolution No. 40. What is the status of certificates issued under resolution No. 14?

~~35~~**34.** Holders of an International Card⁷ issued in accordance with resolution No. 14 should not assume that this certificate will be recognized in the same way as ICC issued in accordance with resolution No. 40.

~~36~~**35.** Certificate holders should make enquiries with the competent authorities in the coastal states to establish whether a certificate issued in accordance with resolution No. 14 will meet any requirement that country may have for operators of pleasure craft to be able to evidence their competence.

Ø-P. Can a certificate be issued in accordance with resolution No. 40 if the Government of the country it is issued on behalf does not apply resolution No. 40?

~~37~~**36.** The procedure to apply resolution No. 40 is described in paragraph 21 above. If this procedure has not been followed the country in question will not be listed in annex IV to resolution No. 40. In this case the coastal state cannot be certain that the certificate has been issued in line with the resolution and may consider the certificate invalid.

~~38~~**37.** Certificate holders should make enquiries with the competent authorities in the coastal states to establish whether a certificate issued by a country that has not followed the procedure for applying resolution No. 40 will meet any requirement that country may have for operators of pleasure craft to be able to evidence their competence.
