

第 42/2014 號行政長官公告

Aviso do Chefe do Executivo n.º 42/2014

中華人民共和國是國際海事組織的成員國及一九七四年十一月一日訂於倫敦的《國際海上人命安全公約》的締約國；

國際海事組織大會於一九九三年十一月四日透過第A.739 (18) 號決議通過了《向代表主管機關的組織授權的指南》，且有關指南自一九九九年十二月二十日起對澳門特別行政區生效；

基於此，行政長官根據澳門特別行政區第3/1999號法律第六條第一款的規定，命令公佈包含上指指南的第A.739 (18) 號決議的中文及英文正式文本。

二零一四年八月二十日發佈。

代理行政長官 陳麗敏

第A.739 (18) 號決議

1993年11月4日通過

向代表主管機關的組織授權的指南

大會，

憶及《國際海事組織公約》有關大會在海上安全和防止和控制船舶造成海洋污染方面的職責的第15 (j) 條，

認識到船舶符合諸如《74年安全公約》、《66年載重線公約》、《73/78年防污公約》、《78年培訓公約》等有關國際公約以確保防止海上事故和船舶造成海洋污染的重要性，

注意到主管機關有責任採取必要措施，確保懸掛其國旗的船舶符合此種公約的規定，包括檢驗和發證，

還注意到：根據《1974年安全公約》第I/6條和《73/78年防污公約》附件I第4條和附件II第10條，主管機關可委托被指定的檢驗員或被認可的組織進行檢查和檢驗，主管機關應將被指定的檢驗員或被認可的組織的具體責任和向其授權的條件通知本組織，

希望制定向代表主管機關的被認可組織進行授權的一致程序和方法以及此種組織的最低標準，以幫助船旗國一致和有效地實施海事組織有關公約，

Considerando que a República Popular da China é um Estado Membro da Organização Marítima Internacional, e um Estado Contratante da Convenção Internacional para a Salvaguarda da Vida Humana no Mar, concluída em Londres em 1 de Novembro de 1974;

Considerando igualmente que, em 4 de Novembro de 1993, a Assembleia da Organização Marítima Internacional, através da resolução A.739(18), adoptou as Directrizes para a Autorização de Organizações que Actuam em Nome da Administração, e que tais Directrizes entraram em vigor, em relação à Região Administrativa Especial de Macau, em 20 de Dezembro de 1999;

O Chefe do Executivo manda publicar, nos termos do n.º 1 do artigo 6.º da Lei n.º 3/1999 da Região Administrativa Especial de Macau, a resolução A.739(18), que contém as referidas Directrizes, nos seus textos autênticos em línguas chinesa e inglesa.

Promulgado em 20 de Agosto de 2014.

A Chefe do Executivo, interina, *Florinda da Rosa Silva Chan*.

**Resolution A.739(18)
Adopted on 4 November 1993**

GUIDELINES FOR THE AUTHORIZATION OF ORGANIZATIONS ACTING ON BEHALF OF THE ADMINISTRATION

THE ASSEMBLY,

RECALLING Article 15(j) of the Convention on the International Maritime Organization concerning the functions of the Assembly in relation to regulations and guidelines concerning maritime safety and the prevention and control of marine pollution from ships,

RECOGNIZING the importance of ships being in compliance with the provisions of relevant international conventions, such as SOLAS 74, Load Lines 66, MARPOL 73/78 and STCW 78, to ensure prevention of maritime casualties and marine pollution from ships,

NOTING that the Administrations are responsible for taking necessary measures to ensure that ships flying their States' flags comply with the provisions of such conventions, including surveys and certification,

NOTING FURTHER that, under regulation 1/6 of the 1974 SOLAS Convention and regulation 4 of Annex I and regulation 10 of Annex II of MARPOL 73/78, the Administration may entrust the inspections and surveys to nominated surveyors or recognized organizations and further that the Administration shall notify the Organization of the specific responsibilities and conditions of the authority delegated to nominated surveyors or recognized organizations,

DESIRING to develop uniform procedures and a mechanism for the delegation of authority to, and the minimum standards for, recognized organizations acting on behalf of the Administration, which would assist flag States in the uniform and effective implementation of the relevant IMO conventions,

審議了海上安全委員會在其第六十二次會議上和海上環境保護委員會在其第三十四次會議上作出的建議，

1. 通過本決議附件中所載的《向代表主管機關的組織進行授權的指南》；

2. 敦促各國政府儘早：

(a) 應用所述指南；和

(b) 根據本決議附件附錄1中所載的代表主管機關的被認可的組織最低標準，檢查已被認可的組織的標準；

3. 要求海上安全委員會和海上環境保護委員會：

(a) 對指南和最低標準作出檢查，以便對其作出必要改進；和

(b) 作為緊急事項，對被認可組織的檢查和發證的具體職責制定詳細規範；

4. 要求秘書長向會員政府收集有關本決議的實施情況的資料。

附件

向代表主管機關的組織進行授權的指南

綜述

1 根據《74年安全公約》第I/6條、《66年載重線公約》第13條、《73/78年防污公約》附件I第4條和附件II第10條和《69年噸位公約》第6條的規定，許多船旗國授權各組織作為其代表，進行這些公約要求的檢驗、發證和噸位的確定。

2 對此種授權需加以控制，以促進檢查的一致性和保持制定的標準。因此，在向被認可的組織作出任何此種授權時均應：

.1 按照附錄1中所載的《代表主管機關的被認可組織的最低標準》判定該組織在技術、管理和研究能力方面有適當資源來完成所給予的任務；

.2 主管機關與被授權的組織有正式書面協議，其中至少應包括附錄2中所載的內容或有等效的法律安排；

.3 對指示作出說明，詳述在發現船舶不適合出海否則會對船舶或船上人員造成危險或對海洋環境造成不合理的威脅時所應採取的行動；

HAVING CONSIDERED the recommendations made by the Maritime Safety Committee at its sixty-second session and by the Marine Environment Protection Committee at its thirty-fourth session,

1. ADOPTS the Guidelines for the Authorization of Organizations Acting on Behalf of the Administration, set out in the annex to the present resolution;

2. URGES Governments as soon as possible to:

(a) apply the said Guidelines; and

(b) review the standards of already recognized organizations in the light of the Minimum Standards for Recognized Organizations Acting on Behalf of the Administration set out in appendix 1 to the annex to the present resolution;

3. REQUESTS the Maritime Safety Committee and the Marine Environment Protection Committee:

(a) to review the Guidelines and Minimum Standards with a view to improving them as necessary; and

(b) to develop, as a matter of urgency, detailed specifications on the precise survey and certification functions of recognized organizations;

4. REQUESTS the Secretary-General to collect from Member Governments information on the implementation of the present resolution.

Annex

GUIDELINES FOR THE AUTHORIZATION OF ORGANIZATIONS ACTING ON BEHALF OF THE ADMINISTRATION

GENERAL

1 Under the provisions of regulation I/6 of SOLAS 74, article 13 of Load Lines 66, regulation 4 of Annex I and regulation 10 of Annex II of MARPOL 73/78 and article 6 of Tonnage 69, many flag States authorize organizations to act on their behalf in the surveys and certification and determination of tonnages as required by these conventions.

2 Control in the assignment of such authority is needed in order to promote uniformity of inspections and maintain established standards. Therefore, any assignment of authority to recognized organizations should:

.1 determine that the organization has adequate resources in terms of technical, managerial and research capabilities to accomplish the tasks being assigned, in accordance with the Minimum Standards for Recognized Organizations Acting on Behalf of the Administration set out in appendix 1;

.2 have a formal written agreement between the Administration and the organization being authorized which should as a minimum include the elements as set out in appendix 2 or equivalent legal arrangements;

.3 specify instructions detailing actions to be followed in the event that a ship is found not fit to proceed to sea without danger to the ship or persons on board, or presenting unreasonable threat of harm to the marine environment;

.4 向該組織提供一切有關實施這些公約規定的國家法律的文件，或說明主管機關的標準在任何方面是否超出公約的要求；和

.5 說明該組織應作出能向主管機關提供資料的記錄，以有助於對公約條款作出解釋。

核證和監督

3 主管機關應建立能確保被授權為其代表的組織的工作的適當性的其種制度。此種制度，除其他事項外，應包括下列項目：

.1 與該組織進行通信的程序

.2 由該組織作出報告和由主管機關對報告作出處理的程序

.3 由主管機關作出的額外船舶檢查

.4 主管機關通過由其認可的獨立審計機構對該組織的質量制度的發證工作作出評估或接受。

.5 視情監督和核證與船級有關的事宜。

附錄1

代表主管機關的被認可組織的最低標準

經主管機關認可的組織可代表其進行法定的工作，但應符合下列條件。

對此，該組織應提交完整的資料和證據。

綜述

1 應證明該組織具有與被授權的類型和程序相稱的規模、結構、經驗和能力。

2 該組織應能以文件證明它在評定商船的設計、構造和設備以及，在適用時，安全管理制度方面具有廣泛經驗。

具體規定

3 就授權按規定性文件進行法定性質的發證工作而言，如果此種工作要求具有按照主管機關指出的規定性技術標準來檢查適用的工程設計、圖紙、計算和類似技術資料的能力和進行現場檢驗和檢查以查明結構和機械系統及部件符合此種技術標準的程度的能力，則下述者應適用：

.4 provide the organization with all appropriate instruments of national law giving effect to the provisions of the conventions or specify whether the Administration's standards go beyond convention requirements in any respect; and

.5 specify that the organization maintains records which can provide the Administration with data to assist in interpretation of convention regulations.

VERIFICATION AND MONITORING

3 The Administration should establish a system to ensure the adequacy of work performed by the organizations authorized to act on its behalf. Such a system should, *inter alia*, include the following items:

.1 Procedures for communication with the organization

.2 Procedures for reporting from the organization and processing of reports by the Administration

.3 Additional ship's inspections by the Administration

.4 The Administration's evaluation/acceptance of the certification of the organization's quality system by an independent body of auditors recognized by the Administration

.5 Monitoring and verification of class-related matters, as applicable.

Appendix 1

Minimum standards for recognized organizations acting on behalf of the Administration

An organization may be recognized by the Administration to perform statutory work on its behalf subject to compliance with the following minimum conditions for which the organization should submit complete information and substantiation.

General

1 The relative size, structure, experience and capability of the organization commensurate with the type and degree of authority intended to be delegated thereto should be demonstrated.

2 The organization should be able to document extensive experience in assessing the design, construction and equipment of merchant ships and, as applicable, their safety-management system.

Specific provisions

3 For the purpose of delegating authority to perform certification services of a statutory nature in accordance with regulatory instruments which require the ability to review applicable engineering designs, drawings, calculations and similar technical information to technical regulatory criteria as dictated by the Administration and to conduct field survey and inspection to ascertain the degree of compliance of structural and mechanical systems and components with such technical criteria, the following should apply:

.1 該組織應為發表和系統維護用英文寫成的船舶設計、構造和發證及其有關的必要工程系統的條例和/或規則和提供適當的研究能力以確保對已發表的標準作出適當更新一事作出規定。

.2 該組織應允許主管機關和其他有關方面的代表參與制定其條例和/或規則的工作。

.3 該組織應具備：

.3.1 相當數量的、也能滿足制定和維護條例和/或規則的能力的技術、管理和支持人員；和

.3.2 能提供所需服務的勝任專業人員，此種服務應有所需的適當地理範圍和當地代表。

.4 該組織應遵守道德行為準則，這些準則應載入道德法規中，並且，作為道德準則，它們應認識到與授權相關的固有責任，其中包括確保服務工作的適當開展和視情對有關資料作出保密。

.5 該組織應證明它在技術、行政和管理方面是勝任的和有能力的，能確保及時提供高質量的服務。

.6 該組織應樂於向主管機關提供有關資料。

.7 該組織的管理部門應對其質量政策、質量目標和質量保證作出規定並制訂成文件；應確保該政策在該組織內的所有層次上得到理解、貫徹和維護。

.8 該組織應制定、貫徹和維護一種有效的內部質量制度；該制度應以其有效性不低於ISO 9000系列文件的國際公認的質量標準的有關部分為基礎並且，除其他事項外，確保：

.8.1 該組織的條例和/或規則得到系統地制定和維護；

.8.2 該組織的條例和/或規則得到遵守；

.8.3 對該組織被授權從事的法定工作的要求得到滿足；

.8.4 對其工作會對該組織的服務質量產生影響的人員的責任、權限和相互關係作出規定並制訂成文件；

.8.5 所有工作均在有控制的情況下進行；

.8.6 實行監督制度，對該組織進行的工作作出監督；

.8.7 實施檢驗員資格審核和不斷更新其知識的制度；

.1 The organization should provide for the publication and systematic maintenance of rules and/or regulations in the English language for the design, construction and certification of ships and their associated essential engineering systems as well as the provision of an adequate research capability to ensure appropriate updating of the published criteria.

.2 The organization should allow participation in the development of its rules and/or regulations by representatives of the Administration and other parties concerned.

.3 The organization should be established with:

.3.1 a significant technical, managerial and support staff, catering also for capability of developing and maintaining rules and/or regulations; and

.3.2 a qualified professional staff to provide the required service representing an adequate geographical coverage and local representation as required.

.4 The organization should be governed by the principles of ethical behaviour, which should be contained in a Code of Ethics and as such recognize the inherent responsibility associated with a delegation of authority to include assurance as to the adequate performance of services as well as the confidentiality of related information as appropriate.

.5 The organization should demonstrate the technical, administrative and managerial competence and capacity to ensure the provision of quality services in a timely fashion.

.6 The organization should be prepared to provide relevant information to the Administration.

.7 The organization's management should define and document its policy and objectives for, and commitment to, quality and ensure that this policy is understood, implemented and maintained at all levels in the organization.

.8 The organization should develop, implement and maintain an effective internal quality system based on appropriate parts of internationally recognized quality standards no less effective than ISO 9000 series, and which, *inter alia*, ensures that:

.8.1 the organization's rules and/or regulations are established and maintained in a systematic manner;

.8.2 the organization's rules and/or regulations are complied with;

.8.3 the requirements of the statutory work for which the organization is authorized, are satisfied;

.8.4 the responsibilities, authorities and interrelation of personnel whose work affects the quality of the organization's services are defined and documented;

.8.5 all work is carried out under controlled conditions;

.8.6 a supervisory system is in place which monitors the actions and work carried out by the organization;

.8.7 a system for qualification of surveyors and continuous updating of their knowledge is implemented;

.8.8 作出記錄，以證明在所履行的工作範圍內的事項中達到了所需標準以及證明質量制度的有效運作；和

.8.9 實施對所有地方的工作質量作出有計劃和有文件記錄的內部審核的綜合系統。

.9 應由被主管機關認可的獨立審核機構對該組織的質量制度作出核證。

4 就授權按照規定性文件進行法定性的發證服務而言，如果此種文件要求具有通過對有關的安全管理系統進行審核或進行類似檢查的方式對岸上的船舶管理實體和船上人員及各種制度的性質作出評定的能力，則下述者也應適用：

.1 制定和使用適當程序來評定適用的岸上和船上安全管理系統符合要求的程度；

.2 對從事安全管理系統發證工作的專業人員制定一種系統的培訓和資格體系，以確保他們精通適用的質量和安全管理標準並在海上安全管理的技術和運作方面具有適當知識；和

.3 通過使用合格專業人員對發證範圍內的岸上和船上安全管理制度的應用和維護作出評定的方法。

附錄2

協議應包括的內容

主管機關與被認可組織的正式書面協議或等效安排，至少應包括以下事項：

1 適用範圍

2 目的

3 一般條件

4 執行被授權的職責

.1 按一般授權賦予的職責

.2 按特別（額外）授權賦予的職責

.3 該組織的法定活動與其他有關活動的關係

.4 與港口國合作以促進對被報告的港口國控制缺陷或該組織範圍內的差異作出核查的職責

.8.8 records are maintained, demonstrating achievement of the required standards in the items covered by the services performed as well as the effective operation of the quality system; and

.8.9 a comprehensive system of planned and documented internal audits of the quality-related activities in all locations is implemented.

.9 The organization should be subject to certification of its quality system by an independent body of auditors recognized by the Administration.

4 For the purpose of delegating authority to perform certification services of a statutory nature in accordance with regulatory instruments which require the ability to assess by audit and similar inspection of the relevant safety-management system attributes of shore-based ship management entities and shipboard personnel and systems, the following should, in addition, apply:

.1 the provision and application of proper procedures to assess the degree of compliance of the applicable shore-side and shipboard safety-management systems;

.2 the provision of a systematic training and qualification regime for its professional personnel engaged in the safety-management system certification process to ensure proficiency in the applicable quality and safety-management criteria as well as adequate knowledge of the technical and operational aspects of maritime safety management; and

.3 the means of assessing through the use of qualified professional staff the application and maintenance of the safety-management system, both shore-based as well as on board ships, intended to be covered in the certification.

Appendix 2

Elements to be included in an agreement

A formal written agreement or equivalent between the Administration and the recognized organization should, as a minimum, cover the following items:

1 Application

2 Purpose

3 General conditions

4 The execution of functions under authorization

.1 Functions in accordance with the general authorization

.2 Functions in accordance with special (additional) authorization

.3 Relationship between the organization's statutory and other related activities

.4 Functions to co-operate with port States to facilitate the rectification of reported port State control deficiencies or the discrepancies within the organization's purview.

5 所授權的職責的法律基礎	5 Legal basis of the functions under authorization
.1 條例、規則和補充規定	.1 Acts, regulations and supplementary provisions
.2 解釋	.2 Interpretations
.3 差異和等效解決辦法	.3 Deviations and equivalent solutions
6 向主管機關作出報告	6 Reporting to the Administration
.1 一般授權情況下的報告程序	.1 Procedures for reporting in the case of general authorization
.2 特別授權情況下的報告程序	.2 Procedures for reporting in the case of special authorization
.3 視情對船舶分級（確定船級、改裝和撤銷）作出報告	.3 Reporting on classification of ships (assignment of class, alterations and cancellations), as applicable
.4 對船舶未在所有方面均適於出海航行而不會危及船舶或船上人員或不會對環境造成不合理的威脅的情況作出報告	.4 Reporting of cases where a ship did not in all respects remain fit to proceed to sea without danger to the ship or persons on board or presenting unreasonable threat of harm to the environment
.5 其他報告	.5 Other reporting
7 制定條例和/或規則——資料	7 Development of rules and/or regulations — Information
.1 在制定條例和/或規則方面的合作——聯絡會議	.1 Co-operation in connection with development of rules and/or regulations — liaison meetings
.2 交換條例和/或規則和資料	.2 Exchange of rules and/or regulations and information
.3 語文和格式	.3 Language and form
8 其他條件	8 Other conditions
.1 報酬	.1 Remuneration
.2 行政工作條例	.2 Rules for administrative proceedings
.3 保密	.3 Confidentiality
.4 責任	.4 Liability
.5 經濟責任	.5 Financial responsibility
.6 生效	.6 Entry into force
.7 終止	.7 Termination
.8 違犯協議	.8 Breach of agreement
.9 解決爭端	.9 Settlement of disputes
.10 分包商的使用	.10 Use of sub-contractors
.11 協議的發佈	.11 Issue of the agreement
.12 修正案	.12 Amendments
9 對主管機關向該組織的授權作出的說明	9 Specification of the authorization from the Administration to the organization
.1 船舶類型和大小	.1 Ship types and sizes

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| <ul style="list-style-type: none"> .2 公約和其他法律性文件，包括有關的國家立法 .3 圖紙的認可 .4 材料和設備的認可 .5 檢驗 .6 證書頒發 .7 糾正行動 .8 撤銷證書 .9 報告 <p>10 主管機關對給予該組織的任務作出的監督</p> <ul style="list-style-type: none"> .1 質量保障系統的文件證據 .2 使用國際法律性文件、通函和指南 .3 主管機關使用該組織與主管機關的船隊有關的文件 .4 與主管機關的檢查和審核工作的配合 .5 提供與主管機關的船隊有關的資料和統計數據，如損壞和事故 | <ul style="list-style-type: none"> .2 Conventions and other instruments, including relevant national legislation .3 Approval of drawings .4 Approval of material and equipment .5 Surveys .6 Issuance of certificates .7 Corrective actions .8 Withdrawal of certificates .9 Reporting <p>10 The Administration's supervision of duties delegated to the organization</p> <ul style="list-style-type: none"> .1 Documentation of quality-assurance system .2 Access to internal instructions, circulars and guidelines .3 Access by the Administration to the organization's documentation relevant to the Administration's fleet .4 Co-operation with the Administration's inspection and verification work .5 Provision of information and statistics on, e.g., damage and casualties relevant to the Administration's fleet |
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第 43/2014 號行政長官公告

中華人民共和國於二零零五年六月十七日以照會通知國際海事組織秘書長，一九八八年十一月十一日訂於倫敦的《1974年國際海上人命安全公約》1988年議定書（下稱“議定書”）適用於澳門特別行政區；

國際海事組織秘書長於二零零五年六月三十日覆照確認，議定書自二零零五年六月二十四日起適用於澳門特別行政區；

基於此，行政長官根據澳門特別行政區第3/1999號法律第六條第一款的規定，命令公佈上指議定書的中文及英文正式文本。

《1974年國際海上人命安全公約》英文正式文本及葡文譯本已刊登於一九九九年十二月六日《澳門特別行政區公報》第四十九期第一組。

二零一四年八月二十日發佈。

代理行政長官 陳麗敏

Aviso do Chefe do Executivo n.º 43/2014

Considerando que a República Popular da China, por nota datada de 17 de Junho de 2005, notificou o Secretário-Geral da Organização Marítima Internacional sobre a aplicação na Região Administrativa Especial de Macau do Protocolo de 1988 relativo à Convenção Internacional para a Salvaguarda da Vida Humana no Mar de 1974, concluído em Londres, em 11 de Novembro de 1988, adiante designado por Protocolo;

Considerando igualmente que o Secretário-Geral da Organização Marítima Internacional, por nota de resposta datada de 30 de Junho de 2005, confirmou a aplicação do Protocolo na Região Administrativa Especial de Macau com efeitos a partir de 24 de Junho de 2005;

O Chefe do Executivo manda publicar, nos termos do n.º 1 do artigo 6.º da Lei n.º 3/1999 da Região Administrativa Especial de Macau, o referido Protocolo, nos seus textos autênticos em línguas chinesa e inglesa.

O texto autêntico em língua inglesa da Convenção Internacional para a Salvaguarda da Vida Humana no Mar de 1974, acompanhado da tradução para a língua portuguesa, encontra-se publicado no *Boletim Oficial* da Região Administrativa Especial de Macau n.º 49, I Série, de 6 de Dezembro de 1999.

Promulgado em 20 de Agosto de 2014.

A Chefe do Executivo, interina, *Florinda da Rosa Silva Chan*.