

Update

Small change, big impact: Get ready for the SOLAS container weight verification

Part 1 of 3 – Shippers

The International Maritime Organization (IMO) has amended the Safety of Life at Sea (SOLAS) Convention to require that a packed container's gross weight be verified before the container can be loaded on board a ship

The new rule will come into force on **1 July 2016** and will apply globally.

In a series of three articles, Elizabeth Turnbull and Marcia Perucca look at the obligations placed on shippers, carriers and port terminals and how the industry is preparing for the change.

In this first article, they highlight the implications for shippers.

Background

With its 50-plus years of history, it is perhaps surprising that it is only this year that the container shipping industry will have a mandatory rule requiring the gross mass of a container to be verified before the container can be put on board a ship.

Inaccurately declared container weight can cause container stacks to collapse, presenting a risk of injury to personnel, damage to equipment and to the cargo. It has also been considered an aggravating factor in significant casualties.

The amendment to SOLAS Chapter VI requiring such verification, which will come into force on 1 July, was adopted in November 2014 after careful industry consultation by the maritime safety committee of the International Maritime Organisation

(IMO) and years of campaigning by a number of groups. With the new amendment, it is hoped that accurate gross weight of packed containers will help vessel operators make safe stowage decisions.

The new rule will affect all the parties involved in the supply chain, but it places the primary responsibility for obtaining the verified gross mass (VGM) of a packed container on the shipper.

In the guidelines published by the IMO, the shipper is defined as *"a legal entity or person named on the bill of lading or sea waybill or equivalent multimodal transport document (eg 'through' bill of lading) as shipper and/or who (or in whose name or on whose behalf) a contract of carriage has been concluded with a shipping company"*.

In practice, the shipper may be any of the following:

- The beneficial cargo owner (i.e. the owner of the goods or the exporter);
- The non-vessel-operating common carrier; or
- Where cargo from various shippers is consolidated into a single container, the entity that consolidates the cargo (i.e. the "master loader").

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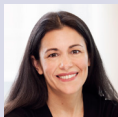
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The requirements

i. With less than 3 months to go, the first thing that a shipper will have to decide is which method will be used to obtain the VGM. The SOLAS amendment provides that either of the following can be used:

1. weighing the packed container using calibrated and certified equipment (after packing and sealing the container); or
2. weighing all packages and cargo items (including the mass of pallets, dunnage and other packing and securing material to be packed in the container) and adding the tare mass, as well as using a certified method approved by a competent state authority for packing the container.

Whether method 1 or 2 will be used will very much depend on the type of cargo being transported and the type of facilities available to the shipper. For example, method 2 cannot be used for certain commodities which due to their nature cannot be weighed individually, such as scrap metal, unbagged grain and other bulk cargo.

To obtain the VGM and the necessary certification, the shipper will need to check the requirements adopted by the SOLAS contracting state where the packing and weighing take place. For example, the UK authority (the Maritime and Coastguard Agency) has published a Marine Guidance Note (MGN 534), clarifying that the UK is utilising existing auditable accreditation systems (such as Authorised Economic Operator, ISO 9000 and Enterprise Resource Planning systems) to manage certification of method 2, whereas calibration and certification for method 1 is accommodated by existing weights and measures regulations.

ii. The shipper will then need to ensure that the certification of VGM for his container is:

- signed by a person duly authorised by the shipper; and

- submitted to the master or his representative and to the terminal representative sufficiently in advance, as required by the master or his representative, to be used in the preparation of the stowage plan.

The shipper may communicate the verified gross mass in a shipping document. This can be part of the shipping instructions to the carrier or a separate communication. What is important is that it should indicate that the gross mass is a “verified gross mass”. The document may be presented by means of EDP or EDI transmission techniques. The signature may be an electronic signature or may be replaced by the name, in capitals, of the person authorized to sign.

It is important to note that, although the SOLAS amendment provides that the VGM has to be submitted to the master and to the terminal, the IMO guidelines clarify that the shipper will meet its obligations under SOLAS if it submits the verified gross mass to the master only, who will then need to notify the terminal operator. However, the shipper may also submit a weight verification to the terminal operator upon delivery of the container to the terminal facility.

The new rule does not state when the information must be supplied, only that it will have to be in advance of the preparation of the stowage plan. Shippers must therefore liaise with carriers and terminal operators to establish the timing of submission of the VGM.

In case of noncompliance, the severity of penalties and fines shippers could face will vary depending on the SOLAS contracting state and shippers should ascertain what these are in the relevant state. Contractual terms need to be evaluated to take into account the new obligations and the allocation of costs and liabilities.

In the next article, we will address the SOLAS amendment’s implications for the carrier.