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SOLAS VI REGULATION 2

Essential guidance for ship operators on the implementation of amendment requiring the verified gross mass of packed containers

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Introduction

The International Maritime Organization (IMO) has amended the Safety of Life at Sea Convention (SOLAS) to require, as a condition for loading a packed container onto a ship for export, that the container has a verified gross mass. The shipper is responsible for obtaining the verified gross mass of a packed container and communicating it to the ocean carrier. This requirement will become mandatory on 1 July 2016 and will apply globally. After that date, it would be a violation of SOLAS to load a packed container onto a ship if the ship operator and marine terminal operator do not have a verified container gross mass.

The SOLAS amendments provide for two methods to verify the gross mass of a packed container.

- Method 1 requires weighing the container after it has been packed.
- Method 2 requires weighing all the cargo and contents of the container and adding those to the container's tare weight as indicated on the door end of the container.

Estimating weight is not permitted. The shipper or, by arrangement of the shipper, a third party has a responsibility to weigh the packed container or to weigh its contents. Under either Method, the weighing equipment used must meet national certification and calibration requirements.

Key requirements for container ship operators

- a. Ship stowage plans should use verified weights for all packed containers loaded on board.
- b. A carrier may rely on a shipper's signed weight verification to be accurate. The carrier is not obliged to check the shipper's verified gross mass. However, it is important to note that the shipper's verification must be "signed" to be compliant with the SOLAS requirement. This means a specific person representing the shipper is named and identified as having verified the accuracy of the weight declaration on behalf of the shipper.
- c. If a packed export container does not have a verified gross mass when presented at a marine terminal:
 - Processes need to be agreed between the ship operator and the terminal in order to handle such a container;
 - It may not be loaded on board a ship unless and until the gross mass has been obtained and used in the stow plan.

Key issues to be considered

The following are just some of the questions and issues arising from the implementation of this SOLAS amendment requiring the verification of the gross mass of packed containers:

1. Who is the shipper?

MSC 1/ Circ. 1475 defines 'the shipper' as "a legal entity or person named on the bill of lading or sea waybill or equivalent multimodal transport document as shipper, and/or who (or in whose name or on whose behalf) a contract of carriage has been concluded with a shipping company."

Typically, a shipper will be:

- an entity communicating directly with the ship operator/ carrier in order to make the necessary arrangements for transport by sea, including information for ship stow planning and customs requirements;
- named as 'Merchant' or similar on the ocean carrier's bill of lading or similar contract of carriage.

Thus, the shipper may be a cargo buyer or seller, a freight forwarder or other third party who contracts as a principal with the ocean carrier.

There is considerable complexity in international trade and the logistics supply chain, with the result that those involved in contracting with ocean carriers are varied. The different parties involved in any given supply chain will need to determine how verified gross mass will be obtained, whether by Method 1 or Method 2, as permitted by the Competent Authority in the jurisdiction in which the packing of the container is completed, and how this information can be provided in a timely fashion to the ocean carrier by the shipper as identified in the contract of carriage.

2. What information is required and by when should it be communicated?

Neither SOLAS nor MSC 1/Circ. 1475 specify these details.

Ship operators clearly will need to ensure that the verified gross mass is recorded and used in ship stow planning. It is also necessary to consider the impact of this on existing data capture and control processes to ensure that a container cannot be loaded on board a ship without this verified gross mass. This will affect procedures from the point of initial booking of the cargo through to loading, including communications between partner lines and the terminal operator.



Some Competent Authorities (such as the UK) have moved forward to set up 'accreditation' processes for shippers adopting Method 2. However a State approaches implementation of this SOLAS amendment, ship operators need to consider whether it is necessary to capture the details of the type of shipper (Method 1 or Method 2) or other control processes to demonstrate compliance.

SOLAS requires that the shipper communicates this information sufficiently in advance of stow planning, which requires ship operators to identify their specific requirements in any given port/trade and ensure that shippers are aware.

3. What is the acceptable level of accuracy?

SOLAS requires that the verified gross mass shall be obtained, under both Method 1 and 2, by using weighing equipment that meets the applicable accuracy standards and requirements in the State in which the equipment is being used. Those national standards and requirements will determine the acceptable level of accuracy of the weighing equipment used.

It is recognised that some cargo products may incur normal, minor changes in mass from the time of packing and weighing until delivery (e.g. due to evaporation, humidity changes, ice melt from fresh food products packed in ice, etc.) and some containers' tare weight may change over time and vary somewhat from the tare weight marked on the container. However, it is not likely that these variations should normally present safety concerns.

4. How may this revision impact trade facilitation?

A number of Competent Authorities are seeking to coordinate their approach to implementation and enforcement, recognising that this safety requirement is intended to have no adverse impact on trade flows. These efforts are being encouraged by the International Maritime Organization, as well as by insurers such as UKP&I Club and TT Club.

5. What are the penalties should a container be delivered by a shipper to a carrier with a mis-declared gross mass?

Essentially, fines and other penalties may be imposed by Competent Authorities and/or Port State Control in accordance with the relevant national legislation.

However, it would be prudent to advise shippers that situations of non-compliance will inevitably incur additional costs and charges, already recoverable under usual contract of carriage terms, that may be expected to include repacking costs, administration fees for amending documents and container demurrage charges. Such containers may also miss the designated ship, resulting in additional commercial or contractual exposures for cargo interests.

KEY ACTIONS

1. Lobby Competent Authorities and/or Port State Control in the States of key Ports of Loading to ensure that all implementation requirements are clearly articulated.
2. Prepare appropriate systems and procedures to ensure compliance, not only within your own organisation but also with partner lines and terminal operators.
3. Implement a communication plan towards shippers for your requirements in relation to information to be submitted and timeliness in any given State and/or at a port of loading.

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