



June 2018

Loss Prevention

Implementation of the SOLAS Chapter VI amendments – Verified Gross Mass (VGM)

Overview

SOLAS Chapter VI Regulation 2 has been amended due to concerns raised by the shipping industry regarding the misdeclaration as to the gross mass of packed containers. The amendment will come into force on 1 July 2016. In essence, it ensures the mandatory weighing of all containers before they are loaded on board. Estimating the weight, in whatever way, will not be permissible.

Applicability

The requirement is applicable to all ships to which the SOLAS regulations apply, that are loading packed containers for export. The one exception is roll-on/roll-off (ro-ro) ships engaged on short international voyages (as defined under SOLAS regulation III/2) where the containers are carried on a chassis or trailer and are loaded and unloaded by being driven on and off the ship.

Methods of obtaining VGM

The weight of a container can be determined using one of two methods. A container can be weighed after it has been packed and sealed, or all the contents of the container can be weighed and added to the container's tare weight.

The weighing equipment that is used must meet national certification and calibration requirements. The SOLAS amendments also demand that the weight verification must be 'signed' by a person duly authorised by the shipper. The signature can be electronic or be replaced by the name of the authorised person in capitals.

Responsibility

The SOLAS text is clear in assigning the responsibilities and the role of the shipper, shipping line and the terminal. The shipper named on the bill of lading is the party responsible for obtaining and providing each packed container's verified gross mass to the ship's master (or his representative) and/or to the terminal

representative, preferably by electronic means, sufficiently in advance of the loading in order to prepare and implement the ship stowage plan.

Under the contract of carriage, the shipper may just provide this information to the shipping company. It is then the responsibility of the shipping company to pass this onto the terminal representative in advance of the ship's loading. **Either way, the container should not be loaded aboard a ship for export without a verified gross mass.**

The ship and its crew should ensure that the stability/stress and lashing calculations are within permissible limits after taking into account the verified gross mass of the loaded containers.

As ships do not have the capability to weigh the containers that are loaded onto them, the ship's master may rely on a shipper's signed verification to be accurate. However, if the ship or terminal operator has reason to believe that the verified mass of a container provided by the shipper is significantly in error, they may take such steps as may be appropriate in the interest of safety to determine what the accurate mass is.

SOLAS further stipulates that any cost associated with non-compliance should be subject to contractual arrangements between the commercial parties, with the recognition that the SOLAS amendments place the obligation on the shipper to provide the verified mass in the first instance.

The master has the ultimate authority and should accept the cargo on board his ship only if he is satisfied that it can be safely transported. He has to ensure that every container on the ship's stowage plan has a properly declared VGM.



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Enforcement

Like other SOLAS provisions, the enforcement of this requirement falls within the competence of the SOLAS Contracting Governments. The enforcement agency of the SOLAS states has the discretion to exercise and implement the tolerance limits, to decide when to initiate further investigations and in applying penalties against any non-compliance.

During any third-party inspections, the master should be able to effectively demonstrate that there are procedures established on board to ensure that only containers with a VGM certificate are allowed to be loaded on board.

The latest guidance on the practical application of the measures in each relevant country can be viewed on the World Shipping Council's [website](#).

Non-compliance and penalties

As previously stated, the carrier will not be responsible for checking the weight verification provided by the shipper. Accordingly, the carrier may rely on the shipper's signed container weight verification to be accurate.

Nevertheless, the carrier would be in violation of SOLAS if it were to load a packed container aboard its ship, having knowledge that the container weight is not accurate. Similarly, it is a violation of SOLAS to load a packed container for which no verified gross mass has been provided or obtained.

Fines and other penalties for non-compliance will be imposed under individual contracting states' national legislation. Several measures, including documentation checks and random weighing, will also very likely be implemented by the appropriate local authorities in different ports.

The penalties may involve repacking costs, administration fees for amending documents, demurrage charges and consequential losses due to delayed or cancelled shipments.

For instance, penalties for non-compliance in the UK will involve repacking costs, shunting costs, demurrage and detention charges as well as a statutory offence rendering the offender liable on summary conviction to a fine not exceeding the statutory maximum, or on conviction on indictment, to a prison term not exceeding two years, or a fine, or both.

Members requiring further information on this topic should direct their enquiries to either the club's loss prevention department or the authors.

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Club's guidance

Members are advised to review their contracts of carriage and agree on the exact method and form in which VGMs are to be communicated to the carrier by the shipper. The contracts of carriage should also deal with any liabilities flowing from non-compliance. Accordingly, the shipping company needs to establish internal procedures for compliance with the mandatory regulation and relay this information to the booking agents, freight forwarders and shippers. There could be a possibility that some of the shippers, booking agents and freight forwarders are not aware of these mandatory requirements and may have to be guided on the practical application of the same.

Another anticipated area of concern for the shipping company is where the containers are trucked into the terminal before the VGM certificate is provided. It is likely that if the shipper delays providing the certificate, operational costs such as demurrage/storage may eventually start to run, for which the shipping company will be responsible in the first instance. Hence, it is recommended to agree on cut-off times to ensure that VGM information is received in sufficient time to allow for the preparation of the ship stowage plan.

In cases of non-compliance, the terminal may ask the ship or the shipping company (instead of the individual shippers) to absorb the costs related to repackaging, reweighing and storing the containers. Therefore, it is also recommended that members carefully review and incorporate adequate protective clauses in any contracts of carriage (C/P or B/L) to exclude liability, or to negotiate acceptable rates with the terminals and shippers.

However, it is possible to envisage a situation whereby a bill of lading may not have been issued by the time the containers are trucked into the terminal (and possibly prior to the VGM certificate being provided to the members) so that the terms of carriage may arguably not apply. Given this, we suggest that any booking notes/confirmations that the shipping company issues, when each shipment is accepted, expressly states that the same terms and conditions are deemed incorporated.

Further, as due diligence, members are recommended to familiarise their local offices, agents and ships' staff of these new procedures and ensure that a valid VGM certificate is always provided before containers are loaded on board their ships.

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