

SOLAS – Declaration of Container Weights

Are you ready?

From 1st July 2016 the International Maritime Organization amendments to the Safety of Life at Sea Convention (SOLAS) require the shipper to provide to the ocean carrier and port terminal representative the verified gross mass (VGM) of a packed container in time to allow them to use the weight for the purpose of preparing a stowage plan. If the VGM is not provided prior to loading, the port terminal operator and vessel owner must **not allow the container to be loaded onto the ship.**



What is required?

If you import or export containers by sea, the new regulations affect you.

The Verified Gross Mass can be obtained either by:

Method 1

Weighing the packed container using calibrated and certified equipment, such as a weighbridge.

Method 2

Weighing all packages and cargo items, including the mass of pallets, dunnage and other securing material and adding to the tare mass of the container using a certified method approved by the competent authority of the State in which packing of the container was completed.

In the UK, The Maritime & Coastguard Agency (MCA) is responsible for policing the SOLAS amendments and they have issued a guide MGN 534. See our Useful Resources section for more information.



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Shipping document requirements

The shipper of a container shall ensure the verified gross mass is stated in the shipping document. The shipping document shall be:

- Signed by a person duly authorized by the shipper;
- 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 ship stowage plan. This 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.

If the shipping document does not provide the verified gross mass and the master or his representative and the terminal representative have not obtained the verified gross mass of the packed container, **it shall not be loaded.**

Who is the Shipper?

The responsibility for providing the VGM rests with the shipper regardless of who packs the container and is defined as “a legal entity or person named on the bill of lading or sea waybill or equivalent multimodal transport document (e.g. “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”.

There is considerable complexity in an international supply chain and the party identified as the ‘shipper’ on the bill of lading may not have direct or physical control over key elements of the process by which VGM is determined. A ‘shipper’ in such circumstances should be aware of their responsibilities and ensure that arrangements are in place to obtain and provide a VGM in compliance with international and national regulations.

The ‘shipper’ under the contract of carriage remains responsible for accurately establishing VGM of a packed container.

If the true shipper is detailed as the shipper on the bill of lading, they are responsible for providing the carrier with the VGM. Under the shipper’s INCOTERMS agreement governing the sale contract they should determine how VGM will be obtained, i.e. whether by Method 1 or Method 2, and how this information can be provided to the carrier by the shipper as identified in the bill of lading.

If a freight forwarder is the shipper on the maritime carrier’s bill of lading, it may weigh the cargo, using Method 1 or 2, and provide the carrier with the VGM of the container.

Where the VGM is obtained by a third party, such as a freight forwarder, the shipper will remain responsible that the VGM provided to the carrier is correct.

Groupage (LCL) cargo.

This will depend on the contractual arrangement between the co-loaders and whoever enters into the contract of carriage with the carrier thus becomes the shipper to the carrier. You will need to establish between the parties, particularly by the party to be named as shipper, the method permitted to establish VGM. Responsibility for providing the accurate, VGM of a co-loaded container remains with the shipper named on the bill of lading.

Full Load Containers (FCL) cargo.

If the forwarder is named as the shipper on the bill of lading, that forwarder is legally responsible under SOLAS for obtaining and providing the VGM. If they seek to rely on another party (such as a customer) to provide that VGM information, it is the forwarder’s responsibility to be satisfied that the other party accurately determines the VGM that is then provided to the carrier. Whether such a forwarder would be able to rely on the VGM obtained by another party may depend on the specific national rules pertaining to Method 2.



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If the forwarder is acting as an agent, they will not be named as shipper on the bill of lading. Consequently, they will not be responsible for obtaining and providing the VGM; the responsibility lies with the shipper named on the bill of lading.

What if it goes wrong?

Fines and other penalties may be imposed by Competent Authorities and/or Port State Control in accordance with national legislation. It is in the forwarder's best interest to have an agreed process/procedure in place, as non-compliance will, at the very least, result in additional costs and charges such as repacking costs, administration fees, container demurrage charges as well as possible delayed and cancelled shipment costs. Containers may miss booked sailing dates resulting in further additional costs.

When the shipper is providing confirmation of the VGM to the forwarder the forwarder needs to advise the shipper that any additional costs incurred as a result of incorrect information being provided will be for their account as the forwarders standard trading conditions enable recovery of such costs (refer to Clause 17 and 20 of BIFA conditions).

Breach of MCA regulations can be enforced by MCA by either a fine or imprisonment.

What should I be doing?

If, as a forwarder, you are named as the shipper on the bill of lading you need to be aware of the responsibilities involved.

It is vital that the forwarder has processes and procedures in place to check and verify that they are complying with the SOLAS requirements and be aware of the legal implications for all parties in the process.

You need to discuss the implications with both your customer and suppliers and be aware of the legal implications for all parties in the process.

Useful Resources

Maritime & Coastguard Agency

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/436986/MGN534_Complete.pdf

World Shipping Council

<http://www.worldshipping.org/industry-issues/safety/cargo-weight>

British International Freight Association

<http://www.bifa.org/information/container-weighing-solas>



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