



The SOLAS Amendments

Declaration of Verified Container Weights

Prior to Carriage by Sea

In July 2016 the International Maritime Organisation (IMO) issued amendments to the International Convention for the Safety of Life at Sea (SOLAS), to regulate the declaration of weight in relation to packed containers.

The Need for Change

Overweight containers can lead to damage to handling equipment and other containers; to stacks collapsing, ships capsizing or sinking; and ultimately to loss of life. Even the under-declaration of weights that are still within permitted limits can cause problems in relation to the stowage plan of a container ship.

To combat these risks, shippers are required to provide a verified container weight; otherwise the container must not be loaded to the vessel for carriage unless the port terminal operator first verifies the weight.

Weights do already have to be declared under the Hague-Visby Rules and the Merchant Shipping (Carriage of Cargoes) Regulations; but the main differences in the SOLAS amendments are:

- the need for those weights to be verified,
- the prohibition of loading if they are not, and
- the penalties for failure to comply with the SOLAS requirements (a fine and/or up to two years' imprisonment).

Practical Implications

Because containers will not be loaded unless their weights have been verified:-

Exporters who enter into contracts of carriage need to be able to supply carriers with properly verified container weights. So, they must either be accredited to verify the weight, or find a partner who can do this for them.

Importers who contract for the carriage therefore need to identify a suitably accredited partner in the country of origin. And even if their supplier contracts for the carriage, importers should still be alert to the risk of goods not being shipped if the supplier fails to supply a verified container weight

Forwarders and others involved in the packing and shipping of containers will need to have facilities or contracts in place to verify the weight of containers that they themselves put forward for shipment.

Forwarders and port terminal operators also need to consider their contractual positions both up and down the contract chain, to ensure that they don't end up out of pocket because of the failings of others.

Port terminal operators also need to ensure that they have facilities to deal with their new duties to police and monitor compliance with the regulations.

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Considerations for Shippers

Shippers will need to get systems in place so that they can supply carriers with verified container weights.

For the purposes of the regulations, the shipper is the party named as such on the carriage documents or the person who (or in whose name and on whose behalf) contracts for the carriage. This may be the importer, exporter or freight forwarder.

A specific person representing the shipper must be named and identified as having verified the accuracy of the weight calculation.

Even if a container is not actually overweight, under-declaring the weight (for example in an attempt to pay less freight) may still lead to the container being refused for carriage, because of the implications for the ship's stowage plan.

How the Weight is to be Verified

There are guidelines that set out two methods by which the weight of a container can be verified:

- 1) It can be weighed at a weighbridge. This requires the weight of the conveying tractor (including fuel) and trailer to be known.
- 2) Individual packages can be weighed, and then the empty weight (tare) of the container added. The weight of packing, pallets, shrink-wrap and any dunnage must also be taken into account.

For method (1), the weighbridge must be calibrated and certified by the relevant Authority. For method (2), the party that verifies the weight must be suitably accredited, for example:

- operating a Quality Management System meeting ISO 9001 or 28000;
- being an Authorised Economic Operator (AEO) type "S" or "F"; or
- operating a system approved by the MCA.

Considerations for Others

Freight forwarders will need to have procedures in place to ensure that customers are aware of their obligations.

Forwarders and others involved in the packing and shipping of containers will need to have facilities or contracts in place to verify the weight of containers that they themselves put forward for shipment.

Forwarders and port terminal operators sit as intermediate parties in the contract chain, and thus need to consider their contractual positions in both directions.

Port terminal operators will also need to ensure that they have facilities to deal with their new duties to police and monitor compliance with the regulations.

Other Practicalities

Other issues not set out in the guidelines will need to be dealt with contractually, such as:

- 1) the allocation of costs arising from the shipper failing to verify the weight:
 - a) the costs of the port or vessel carrying out the verification, to allow loading; or
 - b) the costs of the container not being loaded to the ship – quay rent or off-site storage, pending instructions from the shipper; container detention costs; etc.
- 2) the cost of verification if the port or vessel believe that the declared weight is incorrect.

If a container is found to be overweight, then there will be other potential costs:

- storage, etc., if it is not to be carried, or
- de-stuffing and consolidation, etc., if it is.

Disclaimer This summary is intended to provide general information only, and should not be used as a substitute for legal advice.

Acknowledgement Some of the above is based on information published by law firm [Waltons and Morse LLP](#), and is reproduced with their kind permission.

Further Information IMO Guidelines [MSC.1/Circ.1475](#) and MCA Guidance Note [MGN 534](#)