

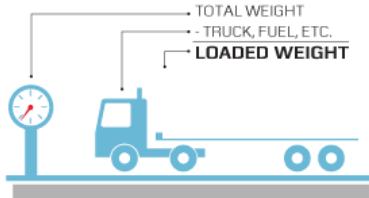
THE SOLAS AMENDMENT

A PRACTICAL GUIDE FOR FORWARDERS

On **July 1st, 2016** the **SOLAS amendment** will come into effect and it will be illegal for shipping lines to ship a container without a valid VGM (*Verified Gross Mass*).

The new regulations prescribe **two methods** by which the shipper can obtain the verified gross mass of a packed container:

Method 1: After packing and sealing a container, the shipper may weigh or arrange a third party to weigh the packed container.



Non-automatic weighing (Royal Decree April 12, 2016) - Automatic weighing (Royal Decree April 15, 2016) @ metrology.regulation@economie.fgov.be

Method 2: The shipper or a third party (as arranged by the shipper) may weigh all packages and cargo items, including the mass of pallets, dunnage, and other packing materials securing the cargo to be packed in the container, and add the tare mass of the container to the sum of the single masses of the container's contents.



The weighing equipment used for both method 1 and 2 must meet the **applicable accuracy standards and requirements** of the state in which the equipment is being used.



A practical guide for forwarders

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The SOLAS amendment

- Into effect as from July 1st, 2016
- Shipping lines require a valid VGM
- 2 methods by which the shipper can obtain the VGM
- The Belgium authorities will use 5% for legal enforcement



Forwarder acting as shipper / NVOCC

For the purpose of this document we use the term NVOCC for Freight Forwarders who issue their own (House) Bill of Lading.

By doing so, they are acting as contractual carrier towards the actual Shipper and at the same time as Shipper towards the Shipping Line.

Consequently, it is the NVOCC who is contracting as Shipper in

the Bill of Lading issued by the Shipping Line.

Contractual relation: Shipping Line - NVOCC

The SOLAS amendment applies as the NVOCC is acting as Shipper in a Bill of Lading issued by the Shipping Line. Consequently it is the NVOCC's responsibility to provide a VGM and also assume full responsibility for its content.

'We wish to remind our members to make sure that they refer to the CEB conditions when contracting with the shipper.'

Can the forwarder arrange the weighing of the loaded container on behalf of the shipper?

If requested, the forwarder will have the container weighed at a weigh bridge that has been calibrated/certified in accordance with national regulations on behalf of the shipper and submit the VGM to the ultimate carrier.

Contractual relation: NVOCC - actual Shipper

In its contractual relationship with the actual Shipper, the NVOCC should demand a VGM as required by the SOLAS amendment from their (actual) Shipper.

Verified Gross Mass (VGM): Back to Back

We have been lobbying with the various stakeholders for NVOCC's to be allowed to fully rely on the VGM information received from the actual shipper. We have clear commitments that this has been accepted and NVOCC's will be allowed to issue their own VGM document that follows the VGM document as provided by the actual shipper (back to back). The VGM issued by the Shipper should then remain in the file of the NVOCC as documentary evidence.

The VGM document from the Shipper to the NVOCC

NVOCC's must demand from their shippers for each container a VGM document containing the following information:

- Full details of the Shipper (on Shipper letterhead)
- Container number and seal number
- VGM weight in kgs
- Date of declaration
- Name of authorized person
- Signature of authorized person



It will be illegal for shipping lines to ship a container without a valid VGM.

Suggested additional information

- Reference Number of the NVOCC
- Identification and reference of ISO / AEO or Belgium database (see below)

Whilst the SOLAS amendment does not dictate the format, we strongly recommend demanding a separate document named "**Verified Gross Mass**", as this is much easier to control and keep track.

Impact on liability

The Shipping Line has no mandate or liability to check the weight as declared in the VGM. Shipping Lines need to ensure that all requested VGM data are available.

It is the Shipper in the shipping line Bill of Lading who is fully liable. The NVOCC acting as shipper is fully liable for the information provided by the actual Shipper – back to back.

The General Belgian Forwarding Conditions (CEB- conditions articles 7, 8 and 13) are covering this mentioned exposure.

We wish to remind our members to make sure that they refer to the CEB conditions when contracting with the shipper.

Legal disclaimer for the tare weight of the container

The VGM as per method 2 includes the tare weight as taken from the plate / door side of the container. Some Shipping Lines also announced that they will create a database with the tare weight of their containers.

Investigations concluded that the tare weights are often not accurate. But because the tare weight is part of the weight that the Shipper certifies in the VGM under method 2, the NVOCC becomes liable for the correctness of the tare weight as per SOLAS.

For this reason, we strongly recommend the following clause to be mentioned in the VGM (as per Method 2), and / or in the booking of the container:

"The empty weight of the container has been provided by the shipping line. We have no possibility to verify the accuracy of the weight of the empty container and refuse liability for its accuracy".

The VGM document to the Shipping Line

The standard for the authorized VGM flow should be "Shipper > Carrier > Terminal".

It is assumed that most shipping lines will try to push the trade to provide the VGM electronically via EDI, their webpage or other web portals.

The NVOCC will need to prepare his VGM towards the shipping line (in whatever agreed format) following details as provided for by the (actual) shipper- back to back.

Due Diligence

We strongly recommend for the NVOCC to implement procedures to limit the mentioned possible exposure. Among others, we suggest the following:

Knowing the actual Shipper

The NVOCC should know its customers and the VGM process should be discussed.

Weighing Notes (Method 1)

Should the NVOCC be instructed to weigh the container under Method 1, the NVOCC can issue his VGM towards the shipping line and has perfect documentary prove (the actual weighing notes) in his file.

Should the actual Shipper arrange to weigh the container under Method 1, the NVOCC may ask for copies of the weighing notes in addition to the VGM issued by the Shipper.

Copy AEO / ISO certificate and database (Method 2)

SOLAS requires the weighing process as per method 2 to be certified and approved by the competent authority of the state in which packing of the container was completed.

VGM@mobiliteit.fgov.be

The Belgium government will trust Shippers with a valid ISO or AEO certification to verify the weight using method 2, provided the weighing process is part of the certificate.

Shippers that have no ISO or AEO certification will be allowed to document their weighing process for filing with the FOD Mobiliteit.



The NVOCC should know its customers and the VGM process should be discussed.

Companies who have filed their weighing process will be listed in a database as approved method 2 companies. ISO and AEO certified shippers should also ask to be listed in this database.

The NVOCC should either ensure that the actual Shipper using method 2 is listed in the mentioned database or has a valid ISO or AEO accreditation, that includes the weighing process.

Will a container be allowed into the port of export without a valid VGM certification?

The general consensus is that containers will be accepted into the terminal without a VGM but will not be loaded onto the outgoing vessel until the VGM is received.

Margin of error 5% related to legal enforcements and checks

The SOLAS amendment has no provision related to a margin of error – accuracy is expected!

There has been some confusion when it comes to the margin of error introduced by the Belgium authorities. The Belgium authorities are very much in line with the neighbouring countries and will use **5% for legal enforcement.**



'The Belgium authorities will use 5% for legal enforcement'

Consolidators and LCL cargo

The SOLAS amendment refers to the packed container, in other words it does not apply for the LCL shipper in a consolidation environment. But as wrongly declared weights of LCL shippers may have serious consequences in terms of additional charges and delays, also for LCL shipper's accuracy is absolutely expected. We strongly suggest creating awareness in this regard towards LCL shippers.

In order to protect his interest and liability as shipper towards the shipping line, the consolidator is well advised to weigh the loaded container.

As far as the maritime community of the Port of Antwerp is concerned, VGM data will be used for the loading of the vessel. Shipping lines will

continue to issue their Bill of Ladings using gross weights of the goods. The weights as shown in the Bill of Ladings will also be part of the manifest usually being used for customs at destination. There is not going to be a link between VGM data for loading at the origin terminal and Ocean B/L - manifest data.

This isolation of the two data will allow the consolidator to follow the common practise of issuing their house Bill of Lading as per the weight declared by the LCL shipper.

The exposure of possible misdeclaration by the LCL shipper are covered by The General Belgian Forwarding Conditions (CEB- conditions articles 7, 8 and 13).



VGM cut offs

The VGM submission cut-off deadlines will vary from Shipping Line to Shipping Line or even from Terminal to Terminal.

We recommend keeping in close contact with the various Shipping Lines for their requirements related to the format of the VGM and its cut off.

The Belgian forwarders can offer all value added services related to the weighing of containers and provide consultancy services based on well researched know how and information.

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