

SOLAS – VGM 01/07/2016

Antwerp May 4th 2016

This document has been established to inform you in general on the implementation of the SOLAS regulation. It is based on information retrieved from shipping lines, authorities and interest groups. There is still a lot under discussion by the parties involved, so the below information is not complete and subject to change.

## 1. Principle of Solas + responsibility

SOLAS: Safety Of Life At Sea.

### 1.1 What is the SOLAS Container Weight Verification?

The International Maritime Organization (IMO) has put in place the Solas regulations in order to increase the safety of container vessels, improve vessel stability and reduce the incidence of collapsing container stacks. As from January 2011 shippers are obliged to provide accurate weights without the obligation to weigh the containers.

With an estimated 10% of containers noting an incorrect weight, the regulation was adapted in 2014 and goes into effect on **July 1, 2016**. It is of particular importance for vessel operators as well as to avoid potential environmental damage. Therefore as from this date, the container weights must be verified prior to loading. This weight is defined as the Verified Gross Mass (VGM) and indicates the gross weight of the container with its content.

**It will be prohibited to the terminal and vessel operator to load any container of which the VGM is not communicated.**

### 1.2 Who is responsible to provide a verified weight to the carrier?

The regulation clearly stipulates that the **shipper is responsible**, being further defined as the shipper noted on the Bill of Lading (BOL). There are 3 scenarios:

1. The **shipper** is mentioned as shipper in the ocean b/l: the shipper provides the VGM by his own means or if obtained by a third party, such as a freight forwarder, the shipper will remain responsible that the verified gross mass provided to the carrier is correct.
2. The **freight forwarder** is mentioned as shipper in the ocean b/l: Where a freight forwarder enters into contracts of carriage with maritime carriers (i.e. when using a house b/l), it is the freight forwarder who is named as the shipper on the maritime carrier's bill of lading and as such is legally responsible under SOLAS for obtaining and providing the verified gross mass. If such a freight forwarder seeks to rely on another party (such as a customer) to provide that

verified gross mass information, it is the forwarder's responsibility to be satisfied that the other party accurately determines the verified gross mass that is then provided to the carrier.

3. The **consolidator** is mentioned as shipper in the ocean b/l: In the case of a consolidation container, only the consolidator, which is not the original shipper, is in the position to provide the final weight.

### 1.3 How it will be applied

The rule is applicable in the 171 countries that are member of the IMO but subject to local legal rules and regulations. For Belgium it falls under the authority of the Federale Overheidsdienst Mobiliteit en Vervoer afd. Maritiem Vervoer en het Directoraat Generaal Scheepvaart (DGS). The legislation of the country is in force there were the container is loaded and sealed. Proof is the transport document. The Belgian Government allows a discrepancy of 5%. This is similar to the % applied in France, the Netherlands and the United Kingdom. Germany has not decided yet but will probably take the same. No news of the Southern European Countries. Scandinavia will be more strict. Denmark for example refers to a 0,5 % tolerance. The obligation of VGM is **at the original port of departure and for sea transport only**. Import or transshipment containers do not fall under this regulation.

For all clarity, the VGM is for Solas purposes only and relates to the safety and stability of the vessel and environment. Customs authorities are not involved in this matter nor can they exercise any control on this declared weight. The VGM also does not have to appear on the Bill of Lading. It will be a separate message to be send under an EDI format called VERMAS, to the shipping line. In their turn the shipping lines will provide it to the Terminal Operators in order to issue the stowage plan.

The authorities will verify if a correct method is used to obtain the VGM. Even if the weight is correct, but an improper method is used, you are still in breach of the regulations. The Carrier nor the Terminal Operator are required to verify the weight if the VGM has been provided. Nevertheless, Terminal Operators such as DP World are calibrating their equipment and will automatically control all the container weights. If substantial differences are found, discussions will start to determine the weight to be used. And might even result in an extra cost from the Terminal Operator.

The entity that would need to comply with any national rules and regulations regarding the method used is the one in the country in which the packing and sealing of the container is completed

## 2. Accepted methods of weighing to obtain the VGM

There are 2 methods for obtaining the VGM.

**Method 1:** Weigh the stuffed container using calibrated and certified equipment at any location decided by the shipper. This means using a certified calibrated weighbridge either at the premises of loading or via a third party at a different location.

National governments may require that shippers using method 1 can show, upon request, weight tickets or other documentation as deemed acceptable pursuant to national rules and regulations.

**Method 2:** Weigh all packages and cargo items; including pallets, dunnage and other securing material to be packed in the container; and add the "tare" weight of the container to the sum of the individual weights using a certified method.

The tare mass of every container is marked on the exterior of the container at the time of manufacture. Shippers should solely rely on the tare mass value marked on the container. Where it is missing, or believed or established to be inaccurate, the container operator should be contacted to take appropriate remedial action. Some shipping lines will be able to provide this info also via their website, but for most of them you will have to rely on what is painted on the doors.

This method may be **inappropriate** and impractical for certain types of cargo items, e.g., scrap metal, unbagged grain and other cargo in bulk, that do not easily lend themselves to individual weighing of the items to be packed in the container. Method 2 is also **inappropriate** for liquid and gaseous cargoes, whether carried in ISO tank containers or 'flexitanks'. Volumetric flow systems may be acceptable for other purposes but gross mass may not be accurately determined due to other variables. No separate certificate will be issued for using Method 2. Only the following 3 certified calculation methods will be accepted:

- 1) Your calculation method has been taken up in your **ISO certification**
- 2) Your calculation method has been taken up in your **AEO certification**
- 3) Your method was approved by the DGS (Directoraat Generaal Scheepvaart – FOD Mobiliteit en Vervoer). This is at a one-time (yearly indexed) cost of 700 €.

Requests to be sent to [VGM@mobiliteit.fgov.be](mailto:VGM@mobiliteit.fgov.be)

In case the VGM is calculated by a certified 3<sup>rd</sup> party (ex. external warehouse), the shipper still stays responsible for the accuracy and timely announcement of the data.

## 3. Information needed by the Shipping lines and timing

### 3.1 Information

There is no fixed lay-out / official document to pass on the VGM information. It is also not clear yet as to what information will be required by the Ocean Carriers – Terminal Operators. From the government it should contain at least the following info:

1) In case of a **physical document**:

- Verified Gross Mass
- Name of the shipper (equal to the shipper in the Bill of Lading)
- Signature of the shipper or his representative 'acting in name of the shipper', duly authorized.

2) In case of **EDI-Vermas message**:

- Verified Gross Mass
- Name of the shipper (equal to the shipper in the Bill of Lading)
- Electronic signature or name of the shipper or name of his representative

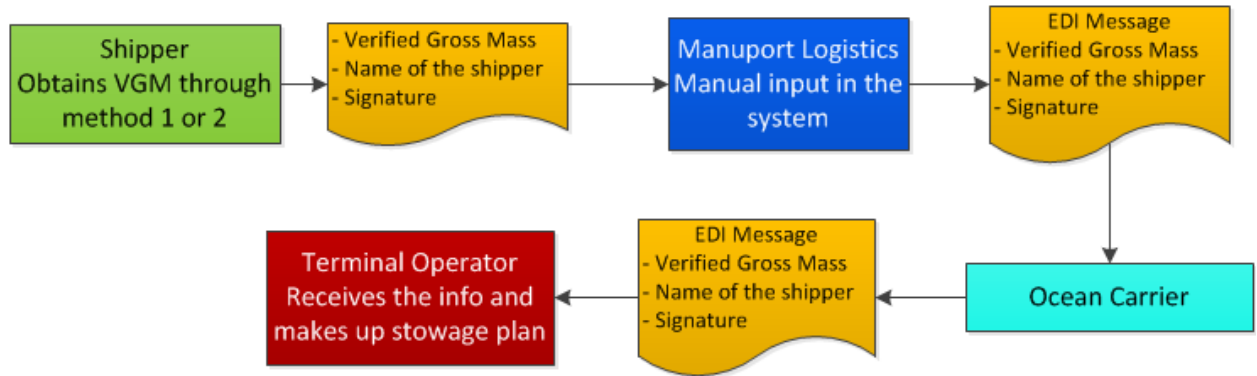
Extra data elements that may be required (still unknown) by the Ocean Carriers – Terminal Operators:

- Date/time the container weight was verified
- The method used. 1 or 2
- Weighing party, in case this is different from the responsible party. name & address

### 3.2 MPL procedure

Shippers can send a document with the above elements directly to the shipping lines, but will be required to pay a cost to the shipping line for input of this information into their system. Or for some shipping lines, input will be made available via their websites.

Manuport Logistics will use the EDI-Vermas message and we are currently adapting our system with additional fields. This to be able to contain and send the required information as a separate VGM message to the Carriers. Our customers can provide us their documents directly or via a 3<sup>rd</sup> party (being a warehouse, trucking company, etc...) duly signed. It can be sent via e-mail or directly via the EDI link we have with some of our customers. There are still some practical issues towards the shipping lines for which they could not provide an answer yet. So the correct procedure and format for the customers to deliver us this information will be disclosed at a later stage. For the moment all 3 elements of the VGM message will have to be declared for each container separately. This means also in case of one booking for ex. 20 containers. Consequently this will result in extra work which will be evaluated and may result in a fee to be calculated according to the marketlevels.



### 3.3 Timing

This is still inconclusive. Due to the various slot agreements, several companies offer services in which each partner brings in vessels. This results in having a different vessel operator sometimes every week and the different carriers have to pass on the information to each other. Also several terminal operators are used depending the service. Thus it will be almost impossible to put one general rule.

According to our contacts with several lines, most likely the closing date for the VGM will be mentioned on the booking confirmation and will vary from departure to departure. But one needs to take into account that the stowage plan needs to be finalized before arrival of the vessel so probably 48 hrs. may be required.

## 4. Non Compliance

### 4.1 Criminal sanctions

Law June 5th 1972 – safety of vessels (chapter VI – Penalty clauses)

- Fines up to 5.000 €
- Criminal pursuit by the Public Prosecution
- Everyone in breach of the regulations
- 2017: severe increase of the fines

### 4.2 Administrative sanctions

A bill is in the making to apply administrative fines in case of violation of the shipping laws (January 2017)

- Administrative pursuit by the DGS.
- Same fines as with criminal pursuit
- Everyone in breach of the regulations

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