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Verified Gross Mass of Containers: the implementing decree has just been published in France

On 1 July 2016, the amendment to the International Convention for the Safety of Life at Sea (SOLAS) requiring the verification of the gross mass of packed containers will come in force. Essentially it requires, as a condition for loading a packed container onto a ship for export, that the shipper provides the verified weight of the container.

On 28 May 2016, an implementing decree (*“Arrêté du 28 avril 2016 relatif à la communication du chargeur à l'armateur, sur le document d'expédition, de la masse brute vérifiée d'un conteneur empoté en France et destiné à être chargé sur un navire faisant escale dans un port maritime” – JO 28 May 2016 No. 123*), whose publication had been delayed due to the current social movements in France, was eventually published to provide for practical modalities for this new requirement.

To summarise briefly, the main modalities as set out in this text, are as follows:

Methods for weighting:

- Method 1 : weighting the container after it has been packed with « appropriate » weighting equipment (i.e. equipments certified and having all tests for legal metrology purposes up to date)
- Method 2 : Addition of :
 - Container's tare weight as displayed on it ;
 - The weight of each of the goods, packages, pallets, securing materials, etc. to be obtained with appropriate weighting equipment, or from the manufacturers or by collecting the relevant information from the data basis of the manufacturer or of the professional entrusted with the stuffing of the container.

The Verified Gross Mass document:

The document containing the Verified Gross Mass (VGM) of the container shall be issued and signed by or on behalf of the shipper.

The decree does not provide for any particular form for the VGM document. This means that documents such as shipping instructions or a packing list may include this VGM information.

The VGM document has to be remitted to the master or a representative of the shipping company at the latest at the time of the entry of the container in the port terminal, unless there is another prior express agreement with the shipping company.

It can be transmitted to the shipping company by electronic means or any other means allowing traceability.

Responsibility for verifying the gross mass of the container and for issuing the VGM document:

The shipper, defined as a legal entity or person named on the bill of lading or sea waybill or equivalent multimodal transport document as shipper and/or who (or in whose name or on whose behalf) a contract of carriage has been signed with the shipping company, has the responsibility for verifying the gross mass of the container and for issuing the VGM document.

This definition would therefore include freight forwarders appearing as shipper on the bills of lading.

Tolerance:

The tolerance between the declared mass and the real mass is of 5 %.

Costs:

In case the real mass compared to the declared VGM exceeds the level of tolerance, the shipping company can refuse to load the container and all costs are to be borne by the shipper.

In case the shipping company has refused to load the container while the level of tolerance has in fact not been exceeded, the shipping company shall bear all costs.

Sanctions:

The decree does not provide for any sanctions, fines or penalties in case of mis-declared gross mass for a packed container and or failure to declare gross mass.

IN PRACTICE

It seems that most of the operators in France have the intention to proceed through method 2 to determine the VGM. For certain type of goods (e.g. bulk), method 1 will however be more adequate.

There does not exist any longer in France a system of public weighting, the French ports are currently not equipped to allow wide scale weighting, and major shipping companies (e.g. CMA CGM) have already indicated they will not offer any weighting services.

Certain stevedoring companies have however indicated that they intend to equip their equipment (e.g. stackers) with weighting devices to offer weighting services on receipt of containers. This requires however the weighting devices be certified, which may take some time before they can be considered as “appropriate” weighting equipment.

It is therefore expected that modalities for facilitating the new VGM requirement will be put in place in the near future although these are unlikely to be operational by 1 July 2016. In the meantime, the shipper will have to find alternative solutions.

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