



Weighing in on SOLAS in South Africa

As the July 1 deadline looms for the implementation of the International Maritime Organisation (IMO) amendments to the Safety of Lives at Sea Agreement (SOLAS), questions have been raised whether a number of countries including South Africa are ready, writes Dr. Darren Fraser and Mark Fearick.

Gross container weight is a critical variable for all players within the container logistics supply chain. The mis-declaration of container weights globally have resulted in vessel casualties, ship's crew/stevedores being placed at risk and damage to port handling equipment such as shore cranes and lifting gear. The International Maritime Organisation (IMO) adopted amendments to the Safety of Life at Sea (SOLAS) convention (chapter VI, part A, regulation 2), in November 2014 in order to address the problem of container weight mis-declaration.

Recognizing the shore based influence on maritime safety, the IMO SOLAS amendment requires that the verification of container weights be determined by the shipper and communicated to the master and port terminal before any export containers are loaded on board a vessel. This requirement effectively makes container weight verification a condition for vessel loading and will become legally binding on July 1, 2016.

The reason why accurate weighing of cargo is so important can be demonstrated with this common scenario. A depot packing cargo into containers needs to be certain that the mass of the cargo does not exceed the permissible loading capacity of the container walls and the container roof as laid down in ISO 1496 and the Container Safety Convention (CSC). The transporter taking custody of the said container also needs assurance of the container weight in order to avoid overloading a truck beyond the carrying capacity of the truck and trailer. The final receiving party of an export container (the port terminal) similarly needs the accurate weight provided in order to correctly stack the container in the terminal facility in preparation for vessel loading. Finally, container weight is critical to the carrier. Container vessel stowage is central to ensuring that the stability of a vessel is not compromised, and accurate container weights are imperative for this.

Reaction to SOLAS across the globe

Internationally various authorities are taking different views regarding the implementation of SOLAS. The US Coastguard (SAMSA's equivalent) has said it will not police the new amendments saying it is a commercial agreement between shipper and line. In Hong Kong the Marine Department will allow a 5% tolerance and will be responsible for the verification of the weighbridges. In the UK, the port of Southampton is weighing the boxes for a small fee.

The South African Maritime Safety Authority (SAMSA) has been designated the competent body of state mandated to enforce the SOLAS amendments in South Africa. There has been



global concern, in the last six months, regarding industry readiness for SOLAS compliance. Reactions ranging from denial, criticism and acceptance have been expressed by industry groups. Concerns have also been raised over the timing of providing the verified gross mass (VGM) to port terminals and carriers, the availability and accuracy of weighing/measuring equipment and the practical implications of accrediting third parties to approve shippers providing the VGM under the IMO guideline's method two.

Transnet supports the spirit and intention of the SOLAS amendments and has adopted an inclusive approach having hosted and participated in a number of stakeholder engagements held across the country since October 2015. Transnet Port Terminals has even gone so far as committing to go live with SOLAS on the 27th June 2016 with an updated Navis 2.6 version to accommodate the SOLAS requirements. The pre-advice date is being implemented to allow for a cutover period whereby export containers running into the terminal in preparation for vessel loading at or after July 1, 2016 (when VGM enforcement comes into effect) will be compliant.

The bottom line for SOLAS in SA

A number of articles focus on the SOLAS amendments itself without considering the other legislation regulating the verification and communication of container weights and to understand how the international SOLAS amendment contradicts or compliments local legislation? South Africa has legislative provisions for weight declaration under the Merchant Shipping (Carriage of Cargoes) Regulations, 2004. Section 5 (c) stipulates that, '5(3) In preparing cargo units for carriage by ships, the shipper or the forwarder, as the case maybe, **must ensure that the gross mass of the units is in accordance with the gross mass declared** in the shipping documents. The "Shipper" as defined in terms of this regulation means any person who, whether as principal or as agent for another, consigns goods for carriage by sea. This regulation, in effect since 2004 already addresses the issue of cargo weight and the necessity of having accurate weight in accordance with shipping documents.

Other published concerns from container industry players regarding the SOLAS amendment have focused on measuring instruments (weighing equipment) as well as the accreditation process and the requirements for SAMSA accreditation associated with VGM determination under method 2. Irrespective of the method determination of the VGM, measuring equipment in South Africa is subject to regulations in terms of the Legal Metrology Act, 2014.

The new Legal Metrology Act was assented to on 19 May 2014 and operation under the Act commenced on 1 August 2014. Legal metrology in short involves administrative and technical procedures to ensure control of the credibility of measurements related to trade, health, safety and environment. Weight measurement of containers carrying cargo, specifically containers in this case is subject to the requirements of the Act. The Act is



enforced by the National Regulator for Compulsory Specifications (NRCS) who among other functions, type approve weighing equipment thereby ensuring acceptable standards of accuracy and repeatability are capable of being maintained.

The IMO guideline circular 1475 and SAMSA Marine Notice 25 of 2016 both aimed at 'providing a common approach to the implementation and enforcement of SOLAS' in effect reinforce already existing South African legal requirements pertaining to weight declaration and weighing equipment. Merchant Shipping (Carriage of Cargoes) Regulations have, since 2004, had a requirement for accurate gross mass and the Legal metrology Act has stringent requirements with respect to weighing equipment. The difficulty however has hinged on enforcement of these regulations, coupled with almost institutionalized weight determination methods from different industries. Representatives from the fruit industry, for example, have indicated that a fruit carton weight is based on average generic weights which would be used to mathematically determine the total container weight. This is determined by using the number of cartons and pallets packed together with the tare of the container. This method, whilst practical is absolutely inaccurate and exposes the shipper to the risks associated with mis-declared cargo weight.

The amendment to SOLAS chapter VI, part A, regulation 2 whilst vehemently resisted by some and embraced by others in industry has certainly done much to reinforce existing cargo weight declaration and measurement equipment legislation in South Africa. It has also aided industry by effectively integrating two completely different but complementary South African laws under one regulatory framework effectively aiding maritime safety. The challenge for South Africa, however, is the ability of regulators and players in the container logistics chain to monitor and enforce it.

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About the Authors

Transnet Port Terminals is a division of Transnet SOC Limited, South Africa's state-owned freight transport and handling company.

It provides efficient and reliable cargo-handling services at terminals situated across seven South African ports – Durban, Richards Bay, Cape Town, Saldanha, Port Elizabeth, Ngqura and East London. TPT customers include shipping lines, freight forwarders and cargo owners.

Operations cover import and export operations across the following cargo sectors: Containers, Mineral Bulk and the Agricultural Bulk and RoRo Sector.

Dr. Darren Fraser is Senior Manager Strategy and Mark Fearick an admitted attorney and Divisional Manager: Compliance at TPT

For information, visit www.transnetportterminals.net