



# South African Maritime Safety Authority

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## Marine Notice No. 25 of 2016

### Guidelines on the implementation of SOLAS VI Regulation 2 Amendment: Verification of the Gross Mass of Packed Containers

TO MASTERS OF ALL SHIPS IN SOUTH AFRICAN PORTS, SHIP OPERATORS, OWNERS, MANAGERS AND SHIP'S AGENTS, FREIGHT FORWARDERS, SHIPPERS, HAULIERS, CARGO PACKERS, PORT AUTHORITIES, TERMINAL OPERATORS, STEVEDORE COMPANIES AND PRINCIPAL OFFICERS

*Marine Notice No. 18 of 2016 is withdrawn*

#### *Summary*

This marine notice provides guidance for the implementation of SOLAS Chapter VI Regulation 2 regarding the verification of the gross mass of packed containers.

This following document outlines the Republic of South Africa's guidelines for the implementation of the mandatory amendments to the International Convention for the Safety of Life at Sea (SOLAS) Chapter VI, Part A, Regulation 2.

The SOLAS requirements regarding the verification of the gross mass of packed containers carrying cargo (SOLAS regulation VI/2) will enter into force in July 2016.

Amendments to this Marine Notice include:

1. The implementation of an enforcement tolerance.
2. Containers that are loaded on a ship before 1 July 2016 and are transshipped on or after 1 July 2016.

**27 May 2016**

**SM6/5/2/1**

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## 1. Purpose

This document outlines the Republic of South Africa's guidelines for the implementation of the mandatory amendments to the International Convention for the Safety of Life at Sea (SOLAS) Chapter VI, Part A, Regulation 2.

*“Prior to loading cargo units on board ships, the shipper shall ensure that the gross mass of such units is in accordance with the gross mass declared on the shipping documents”.*

The SOLAS amendment places the responsibility of providing the verified gross mass of a packed container on the shipper, prior to it being loaded on board a ship.

## 2. Introduction

The mis-declaration of container weights has resulted in:

- Numerous casualties to vessels;
- The lives of ship's crew and stevedores being placed at risk; and
- Damage to ships lifting appliances and shore cranes.

As a result of the above, the International Maritime Organisation (IMO) introduced '*Guidelines Regarding the Verified Gross Mass of a Container Carrying Cargo*' (MSC.1/Circ.1475) dated 9 June 2014, to establish a common approach for the implementation and enforcement of the SOLAS requirements regarding the verification of the gross mass of packed containers. The Guidelines provide recommendations on how to interpret and apply the provisions of the SOLAS requirements.

The main principles of the guidelines are as follows:

- a. The shipper is responsible for obtaining and providing the verified gross mass of a packed container; and
- b. A container partially or fully packed should not be loaded onto a ship to which the SOLAS Convention applies unless the Master or his representative and the terminal representative have obtained, in advance of a vessel loading, the verified actual gross mass of the container.

The SOLAS requirements regarding the verified gross mass of a container carrying cargo (SOLAS regulations VI/2) are expected to enter into force in July 2016.

### 3. Definitions & Abbreviations

(as per IMO Guidelines regarding the verified gross mass of a container carrying cargo)

For the purpose of these Guidelines:

1. *Administration* means the Government of the State whose flag the ship is entitled to fly.
2. *Calibrated and certified equipment* means a scale, weighbridge, lifting equipment or any other device, capable of determining the actual gross mass of a packed container or of packages and cargo items, pallets, dunnage and other packing and securing material, that meets the accuracy standards and requirements of the State in which the equipment is being used.
3. *Cargo items* has the same general meaning as the term "cargo" in the International Convention for Safe Containers, 1972, as amended (hereinafter referred to as "the CSC"), and means any goods, wares, merchandise, liquids, gases, solids and articles of every kind whatsoever carried in containers pursuant to a contract of carriage. However, ship's equipment and ship's supplies, including ship's spare parts and stores, carried in containers are not regarded as cargo.
4. *Container* has the same meaning as the term "container" in the CSC and means an article of transport equipment:
  - a. of a permanent character and accordingly strong enough to be suitable for repeated use;
  - b. (specially designed to facilitate the transport of goods, by one or more modes of transport, without intermediate reloading;
  - c. designed to be secured and/or readily handled, having corner fittings for these purposes; and
  - d. of a size such that the area enclosed by the four outer bottom corners is either:
    - i. at least 14 m<sup>2</sup> (150 sq. ft.); or
    - ii. at least 7 m<sup>2</sup> (75 sq. ft.) if it is fitted with top corner fittings.
5. *Contract of carriage* means a contract in which a shipping company, against the payment of freight, undertakes to carry goods from one place to another. The contract may take the form of, or be evidenced by a document such as sea waybill, a bill of lading, or multi-modal transport document.
6. *Gross mass* means the combined mass of a container's tare mass and the masses of all packages and cargo items, including pallets, dunnage and other packing material and securing materials packed into the container (see also "Verified gross mass").
7. *Package* means one or more cargo items that are tied together, packed, wrapped, boxed or parcelled for transportation. Examples of packages include, but are not limited to, parcels, boxes, packets and cartons.
8. *Packed container* means a container, as previously defined, loaded ("stuffed" or "filled") with liquids, gases, solids, packages and cargo items, including pallets, dunnage, and other packing material and securing materials.
9. *Packing material* means any material used or for use with packages and cargo items to prevent damage, including, but not limited to, crates, packing blocks, drums, cases, boxes, barrels, and skids. Excluded from the definition is any material within individual sealed packages to protect the cargo item(s) inside the package.
10. *Securing material* means all dunnage, lashing and other equipment used to block, brace, and secure packed cargo items in a container.
11. *Ship* means any vessel to which SOLAS chapter VI applies. Excluded from this definition are roll-on/roll-off (ro-ro) ships engaged on short international voyages where the containers are carried on a chassis or trailer and are loaded and unloaded by being driven on and off such a ship.
12. *Shipper* means a legal entity or person named on the bill of lading or sea waybill or equivalent multimodal transport document (e.g. "through" bill of lading) as shipper and/or who (or in whose name or on whose behalf) a contract of carriage has been concluded with a shipping company.
13. *Shipping document* means a document used by the shipper to communicate the verified gross mass of the packed container. This document can be part of the shipping instructions to the shipping company or a separate communication (e.g. a declaration including a weight certificate produced by a weigh station).
14. *Tare mass* means the mass of an empty container that does not contain any packages, cargo items, pallets, dunnage, or any other packing material or securing material.
15. *Terminal representative* means a person acting on behalf of a legal entity or person engaged in the business of providing wharfage, dock, stowage, warehouse, or other cargo handling services in connection with a ship.

16. *Verified gross mass* means the total gross mass of a packed container as obtained by one of the methods described in paragraph 5.1 of these Guidelines. (see also "gross mass").

## Other Definitions

1. *Guidelines* means IMO Guidelines Regarding the Verified Gross Mass of a Container Carrying Cargo (MSC.1/Circ.1475) dated 9 June 2014.
2. *SAMSA accredited entity* means a legal entity accredited by SAMSA to conduct certification and approvals for shippers using Method No. 2 to verify the gross weight of a packed container.

## Abbreviations

Container Safety Convention	CSC
International Maritime Organisation	IMO
NRCS	National Regulator for Compulsory Specifications
SOLAS	Safety of Life at Sea Convention
SANAS	South African National Accreditation System
South African Maritime Safety Authority	SAMSA

## 4. Scope

### Role of the South African Maritime Safety Authority (SAMSA)

1. SAMSA is an agency of the Department of Transport and was established on 1 April 1998 in terms of the South African Maritime Safety Authority Act 5 of 1998
2. SAMSA's role is to administer and enforce various International Maritime Conventions and maritime related legislation to ensure safety of life and property at sea and to prevent and combat pollution of the marine environment by ships.
3. South Africa is a signatory to the SOLAS Convention as referred to above.
4. The following should be noted:
  - a. SAMSA will not accept any responsibility nor will SAMSA be involved in any way whatsoever in any commercial matters or disputes which may arise from the manner in which containers are planned and/or booked for shipment, or any other matter related thereto.
  - b. SAMSA will not accept any responsibility nor will SAMSA be involved in any way whatsoever in respect of any contingency planning or management of the receipt of non-conforming containers at any point in the logistics chain, or any other matter related thereto.
  - c. SAMSA will not accept any responsibility for any claim(s) and/or dispute(s) that may arise between the shipper (and/or their legal representative) and the SAMSA accredited entity in respect of the verification of the gross mass of the containers, or any other matter related thereto.
5. The logistics chain of a container may include different modes of transport in getting containers from the inception point to point of delivery. These different modes of transport are regulated by different Governmental Departments and different rules and regulations may apply.

As a result of the above, SAMSA does not take responsibility and will not accept any involvement in any of the procedures and/or processes and/or any dispute(s) that may arise in relation to any of these external processes of other Departments along the logistical chain, including but not limited to South African Customs and the Road Traffic Regulator.

It is imperative to note that the responsibility for providing the Verified Gross Mass of Packed Containers lies with the shipper and must be done in accordance with the methods and procedures as contained in this Marine Notice in order for the container shipment to be in compliance with the SOLAS Regulations.

### SOLAS

The SOLAS requirements to verify the gross mass of a packed container apply to all containers to which the CSC applies.

The term 'container' includes: tank containers, flat racks, bulk containers etc. Also included are containers carried on a chassis or a trailer except when such containers are driven on or off a ro-ro ship engaged in short international voyages. Excluded from the definition is any type of vehicle and "offshore containers" to which the CSC, according to the *Guidelines for the approval of offshore containers handled in open seas* (MSC/Circ.860) and the *Revised Recommendations on Harmonized Interpretation and Implementation of the International Convention for Safe Containers, 1972, as amended* (CSC.1/Circ.138/Rev.1), does not apply.

## Merchant Shipping Cargo Stowage Regulations, 2004

With respect to the verification of the gross mass of a packed container, the applicable South African legislation is the Merchant Shipping Cargo Stowage Regulations, 2004. The application of these regulations is as follows:

**“4. (1) Subject to subregulations (2) and (3), these regulations apply to every ship that is loaded or intended to be loaded with any cargo, and so apply to—**

- (a) South African ships anywhere; and*
- (b) other ships when in the Republic or its territorial waters.*

*(2) These regulations do not apply to small vessels, pleasure vessels or fishing vessels.*

*(3) These regulations apply to the carriage of all cargoes but are subject to the requirements of the Merchant Shipping (Dangerous Goods) Regulations, 1997, respecting the carriage of dangerous goods as defined in those regulations. Where those regulations regulate an aspect of carriage provided for in these regulations, those regulations apply to that extent, and not these”*

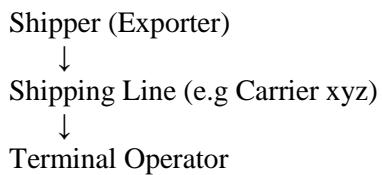


## 5. Information Flow

The shipper, or their appointed representative, is responsible for providing a “verified gross mass” to the carrier or their terminal representative, regardless of who actually packs the container.

In order to ensure the smooth flow of cargo, it is essential that information is provided to other parties timeously and as early as possible. How this is achieved will be for the relevant parties in the supply chain involved in moving goods to determine. SOLAS requires that the information is submitted sufficiently in advance to be used in the preparation of the ship’s stowage plan. It is essential that the verified gross mass is obtained before the container is physically loaded on to a ship.

In its simplest form the information flow regarding the provision of a verified gross mass may appear as follows:



## 6. Documentation

The SOLAS regulations require the shipper to verify the gross mass of the packed container using Method No. 1 or Method No. 2 and to communicate the verified gross mass in a shipping document.

This document can be part of the shipping instructions to the shipping company or a separate communication e.g. a declaration including a weight certificate produced by a weigh station utilizing verified and certified equipment en route between the shipper's origin and the port terminal.

In either case the document should clearly highlight that the gross mass provided is the "verified gross mass".

Irrespective of its form, the document declaring the verified gross mass of the packed container should be signed by the person duly authorised by the shipper. The signature may be an electronic signature or may be replaced by the name in capitals of the person authorised to sign it.

### **Example: Container Mass Verification Declaration**

#### **Name of Shipper:**

*Legal Entity or Person named on the Bill of Lading and / or who a contract of carriage has been concluded with a shipping company*

#### **Address of Shipper**

**Weight Calculation:**      **Method 1** ☐      **Method 2** ☐

**SAMSA No:** *(Method 2 only)*

**Container Number:**      **Verified Gross Mass:**      **Date Verified:**

*List of container numbers with corresponding verified gross mass*

#### **Name of Declarant:**

*Authorised by shipper to verify the gross mass of container (s)*

Entity | Phone | Email

#### **Name of Entity appointed to pack and weigh containers on the shipper's behalf**

*If this function is outsourced by the shipper, name of the packhouse / freight forwarder etc to be provided*

Address | Entity | Phone | Email

## 7. Weighing Equipment

The process for the verification of the gross mass of containers is dependent on accurate weighing equipment. The scale, weighbridge, lifting equipment or other devices used to verify the gross mass of the container, should meet the applicable accuracy standards and requirements of the State in which the equipment is being used

Within the Republic of South Africa there are two regulatory bodies involved with weighing equipment, namely the National Regulator for Compulsory Specifications (NRCS) and South African National Accreditation System (SANAS) both these regulatory bodies fall under the Department of Trade and Industry:

1. NRCS governs the Legal Metrology Act and Regulations, which ensures that consumers receive the quantity of goods, as declared by an importer, manufacturer or retailer. It also ensures that instrument measurements remain accurate, within prescribed limits of error, where measuring instruments are used to conclude a transaction. This ensures that both industry and consumers are protected.

NRCS approve weighing equipment, for commercial purposes, to ensure that it is fit for its intended purpose. All weighing equipment that is type approved can be found on a database on the NRCS website.

2. SANAS is the national body responsible for carrying out accreditations in respect of conformity assessment, as mandated through the Accreditation for Conformity Assessment, Calibration and Good Laboratory Practice Act (Act 19 of 2006). This includes the accreditation of calibration, testing and verification laboratories amongst other accreditations.

SANAS accredits verification laboratories. The verification laboratories are responsible for verifying weighing equipment periodically in accordance with the regulations pertaining to the type of equipment being used. The SANAS website lists all the accredited verification laboratories.

Verification Laboratories, may be suppliers or manufacturers of weighing equipment, must be accredited by the South African National Accreditation System (SANAS) according to SANS 10378.

Verification Laboratories must be accredited by SANAS and designated by NRCS to conduct the verification of weighing equipment.

3. The following are mandatory requirements for weighing equipment:
  - a. All weighing equipment must have a Verification Certificate, issued by a Verification Laboratory and endorsed with a Type Approval Number obtained from NRCS.
  - b. Verification Laboratories must verify the weighing equipment periodically in accordance with the Regulations.
  - c. Verification Officers conducting verifications for the Verification Laboratories must be appointed in writing, must be competent to conduct the required tasks and be able to work within the ambits of their listed scope.

## 8. Methods for Obtaining the Verified Gross Mass of a Packed Container

1. The SOLAS regulations prescribe two methods by which the shipper may obtain the verified gross mass of a packed container:

- a. **Method No.1:**

- Upon the conclusion of packing and sealing a container, the shipper may weigh, or have arranged that a third party weighs, the packed container.

- b. **Method No.2:**

- The shipper (or, by arrangement of the shipper, a third party), may weigh all packages and cargo items, including the mass of pallets, dunnage and other packing and securing material to be packed in the container, and add the tare mass of the container to the sum of the single masses using a certified method.

2. This section provides for the following conditions:

- a. Shippers using Method 1 and Method 2 to verify the gross mass of a container that are domiciled in South Africa.
  - b. Shippers using Method 1 and Method 2 to verify the gross mass of a container that are not domiciled in South Africa, but transport cargo and or warehouse cargo in or through South Africa, for export through South African Ports. Countries where this cargo is shipped from, may or may not be signatories to the SOLAS convention.

In the second instance above, the following scenarios may be relevant:

- i. The shipper uses Method 1 or Method 2 to verify the gross mass of a container in the country they are domiciled, before transporting it via South Africa for export through South African Ports.
    - ii. The shipper transports cargo into South Africa, where it is stored in a warehouse, before being packed into a container and then exported through a South African Port. Method 1 or Method 2 may be used to verify the gross mass of the container.
    - iii. Shippers domiciled outside South Africa that are not signatories to the SOLAS convention that transport cargo via South Africa for export through South African Ports.
3. Shippers of empty containers and operators of empty containers are encouraged to have practices and arrangements in place to ensure that they are empty. The tare weight will visually appear on the container in accordance with the International Organization for Standardization (ISO) standard for container marking and identification<sup>5</sup> and should be used.

## **9. Tolerances**

A 2% enforcement tolerance will be implemented strictly for guidance purposes only. It will be used and considered on a case by case basis. The enforcement threshold should not be confused with the issue of accuracy and the underlying issue that the verified gross mass of the container, arrived at by using either Method 1 or Method 2, should be accurate.

## 10. Shippers Domiciled in South Africa

### Method 1: Weighing the Packed & Sealed Container

Upon the conclusion of packing and sealing a container, the shipper may weigh, or have arranged that a third party weighs, the packed container. The IMO Guidelines do not stipulate that this method of verifying the gross mass of a packed container must be approved by SAMSA or that the weighing equipment used to weigh the packed and sealed container is approved or accredited by SAMSA.

The following documentation should, however, be available at all times to indicate that the weighing equipment is accurate:

1. A Verification Certificate;
2. SANAS accredited Verification Laboratories;
3. Appointed and competent Verification Officers;
4. Calibration and verification certificates;
5. Training records of operators of weighing equipment;
6. Servicing and maintenance records of weighing equipment; and
7. Records of weight tickets issued.

The following provides guidance with respect to containers on road vehicles where a weigh bridge is used:

#### Option 1:

- Weigh the entire vehicle and container = Gross
- Weigh the vehicle without the container = Tare
- $\text{Gross} - \text{Tare} = \text{Mass of Container}$

#### Option 2:

- Weigh the empty container on the truck (A)
- Weigh the packed container on the truck (B)
- Deduct (A) from (B) and add the tare weight of the container as marked on it

The following, but not limited to, may influence the accuracy of obtaining the verified gross mass of a container when using a weigh bridge:

1. Fuel onboard;
2. Whether the driver or passengers remain in or out of the truck during the weighing process;
3. Distribution of the load on the weigh bridge; and
4. Tyre pressure

Note: If two packed containers on a road vehicle are to be weighed, their gross mass should be determined by weighing each container separately. Dividing the total gross mass of the two containers by two after subtracting the mass of the road vehicle and the tractor, where applicable, would not produce an accurate verified gross mass for each container, and is not acceptable.

## 11. Shippers Domiciled in South Africa

### Method 2: Certification and approval as determined by the competent Authority

The shipper (or, by arrangement of the shipper, a third party), may weigh all packages and cargo items, including the mass of pallets, dunnage and other packing and securing material to be packed in the container, and add the tare mass of the container to the sum of the single masses using a certified method.

The use of Method No. 2 is subject to the following:

*5.1.2.3 The method used for weighing the container's contents under Method No.2 is subject to certification and approval as determined by the competent authority of the State in which the packing and sealing of the container was completed.*

*5.1.2.3.1 How the certification is to be done will be up to the State concerned, and could pertain to either the procedure for the weighing or to the party performing the weighing or both.*

SAMSA is the competent Authority, responsible for certifying and approving shippers using Method No. 2 for containers packed within the Republic of South Africa. SAMSA have opted to outsource this function to a third party in terms of Section 5 of the South African Maritime Safety Authority Act 5 of 1998.

### Accreditation of Certain Entities to Approve Shippers Using Method 2 to Verify the Gross Mass of Containers

It would not be practical or cost effective to have a SAMSA accredited entity monitoring the weighing process of every container in order to verify the gross mass. SAMSA will therefore accredit certain entities to conduct an assessment of the shipper's documented processes for verifying the gross mass of a container using Method 2. This may involve a desk top audit as well as random, physical, on-site inspections.

Neither SAMSA nor the SAMSA accredited entity are responsible for declaring the verified gross mass of the container. It is the process utilised for obtaining the verified gross mass that is assessed and authorised.

1. Marine Notice No. 25 of 2015, Method 2: Verification of the Gross Mass of a Packed Container contains the application procedure and form for entities interested in applying to SAMSA to become accredited entities.
2. To assess and inspect the entity's application and premises will result in a pro rata charge of R820.00 per hour or as per the SAMSA Determination of Charges, as amended.
3. The entity will be expected to enter into a service level agreement with SAMSA which sets out the terms and conditions of the accreditation. The accreditation is valid for a period of five years.
4. Qualifications of inspectors should include:
  - a. Relevant industry experience with respect to packing and sealing containers;
  - b. Knowledge and understanding of shipping documentation requirements;
  - c. Knowledge of and ability to audit quality management systems; and
  - d. Basic knowledge of Metrology Act requirements.
5. The conduct between SAMSA accredited entities and the shippers will be governed by individual service level agreements.

## Shipper Authorisation Process

1. The SAMSA accredited entity will assess the shippers' documented processes for verifying the gross mass of packed containers. The following listed documentation, including but not limited to, will need to be provided:
  1. The Shippers full entity name and head office address;
  2. Addresses where container packing and weight verification will be undertaken, inclusive of any sub-contractors used to pack containers on their behalf;
  3. Name of authorised person(s) at the entity;
  4. Letter of authorisation granting the designated person permission to state the verified gross mass of a packed container;
  5. Quality Management System certification e.g. ISO9001, if implemented;
  6. Following procedure/s to be provided:
    - a. Method used for verifying the gross mass of a packed container;
    - b. Safe packing of a container ideally in accordance with IMO/ILO/UNECE Code of Practice for Packing of Cargo Transport Units);
    - c. Description of weighing equipment to be used which includes:
      - i. A Verification Certificate;
      - ii. A Verification Certificate;
      - iii. SANAS accredited Verification Laboratories;
      - iv. Appointed and competent Verification Officers;
      - v. Calibration and verification certificates;
      - vi. Training records of operators of weighing equipment;
      - vii. Servicing and maintenance records of weighing equipment; and
      - viii. Records of weight tickets issued.
    - d. Management of weight discrepancies;
    - e. Inspection of containers prior to packing to ensure they are in sound condition; and
    - f. Ensuring CSC safety approvals are valid and containers are not overloaded.
2. Should the shipper utilise the services of a sub-contractor(s) to conduct the weighing and packing function, the shipper should formally appoint the sub-contractor(s) in writing.
3. The SAMSA accredited entity will confirm that the sub-contractor has been formally appointed and include the sub-contractor(s) in the assessment. The SAMSA accredited entity and/or SAMSA may at any time request a copy of the written appointment.
4. Approval will not be granted until proof of all the above mentioned documentation is provided and an on-site inspection has been conducted to verify the entity's weighing processes to the satisfaction of the SAMSA accredited entity.
5. If a sub-contractor(s) has been utilised, the on-site inspection will be conducted at the sub-contractor(s) premises where the weighing and packing function is conducted.
6. Upon the successful completion of an assessment, SAMSA accredited entities will obtain from SAMSA, a unique number that will be recorded on the certificate of authorisation.
7. The shipper will be entered into the SAMSA Database of Authorised Shippers.
8. Authorised Shippers will be issued a certificate which will be valid for a period not exceeding five years and will be subject to ad hoc inspections by the SAMSA accredited entities and/or by SAMSA.



## 12. Shippers Domiciled Outside South Africa

### Method 1: Weighing the Packed & Sealed Container

For shippers domiciled outside South Africa who ship cargo through South African Ports:

1. If the cargo is packed, sealed and weighed using Method No. 1, in the country of origin, prior to it being transported to a South African port, MSC1/Circ1475 applies, i.e.:

The scale, weighbridge, lifting equipment or other devices used to verify the gross mass of the container, in accordance with either Method No.1 or Method No.2, should meet the applicable accuracy standards and requirements of the State in which the equipment is being used.

2. If the cargo is transported into South Africa and stored in a local warehouse and subsequently packed into a container for shipment, and the entire packed and sealed container is weighed in South Africa, the following applies:

- a. Delegation of authority:

- I. Formal written appointment by the shipper (domiciled outside of South Africa) nominating a local representative to assist with obtaining the verified gross mass of the container.
  - II. Where applicable, the formal written appointment by the shipper who is domiciled outside South Africa, must name a person(s) who is authorised to sign the document declaring the verified gross mass of the container. The appointed person(s) could be a representative of the local representative who is appointed by the shipper to weigh the container in South Africa.
  - III. In the event of a dispute, SAMSA will address the matter with the appointed local representative.
- b. The documentation referred to in section 10 of this document should be available at all times from the local representative to prove that the weighing equipment being utilised is legal and accurate

## 13. Shippers Domiciled Outside South Africa

### Method 2: Certification and approval as determined by the competent Authority

1. If the cargo is packed and weighed using Method No. 2 in the country of origin, prior to it being transported to a South African port, MSC1/Circ1475 5.1.2 applies. The following to be noted:

The method used for weighing the container's contents under Method No.2 is subject to certification and approval as determined by the competent authority of the State in which the packing and sealing of the container was completed.

2. If the cargo is transported via road vehicle, into South Africa, stored at a local warehouse and then packed into a container for shipment, using Method 2, the following applies:
  - a. The mass of the cargo, packaging and securing materials should be ascertained in South Africa, using weighing equipment that meets the requirements of the Legal Metrology Act.
  - b. Delegation of authority:
    - I. Formal written appointment by the shipper (domiciled outside of South Africa) nominating a local representative to assist with obtaining the verified gross mass of the container.
    - II. Where applicable, the formal written appointment by the shipper who is domiciled outside South Africa, must name a person(s) who is authorised to sign the document declaring the verified gross mass of the container. The appointed person(s) could be a representative of the local representative who is appointed by the shipper to weigh the container in South Africa.
    - III. In the event of a dispute, SAMSA will address the matter with the appointed local representative.
  - c. Approval Process:
    - I. The SAMSA accredited entity will assess the documented processes and conduct on-site inspections of the local representative appointed by the shipper, where the weighing and packing is conducted.
    - II. Upon the successful completion of an assessment, SAMSA accredited entities will obtain from SAMSA, a unique number that will be recorded on the certificate of approval.
    - III. The local representative where the packing and weighing is conducted will be entered into the SAMSA Database of Authorised Shippers.
    - IV. The local representative appointed by the shipper will be issued a certificate which will be valid for a period not exceeding five years and will be subject to ad hoc inspections by the SAMSA accredited entities and or SAMSA.
    - V. The local representative will only be able to use the unique SAMSA number for a specific shipper and not all shippers.
    - VI. Should there be more than one shipper domiciled outside of South Africa, utilising the services of the same facility, the local representative will have to apply for separate SAMSA numbers.

#### **14. Shippers Domiciled in Countries Outside South Africa that are not Signatories to the SOLAS Convention**

Shippers that are domiciled in countries that are not signatories to the SOLAS convention, that ship cargo through South African ports, will have to comply with the SOLAS Regulations and by providing the verified gross mass of the container using Method 1 or Method 2. Reference should be made to the relevant provisions in sections 12 and 13 above. A container may not be loaded onboard a vessel if the verified gross mass is not provided.

## **15. Transshipments**

For a period of three consecutive months after the 1<sup>st</sup> July 2016 i.e. up to and including 30<sup>th</sup> September 2016, containers loaded prior to 1<sup>st</sup> July 2016 and then transshipped on or after 1<sup>st</sup> July 2016 may be shipped to their final load port of discharge without the verified gross mass specified in SOLAS Regulations VI/2.4 to VI/2.6.

## **16.Non Conformances and Contingencies**

### **1. Discrepancies in gross mass**

- a. Any discrepancy between a packed container's gross mass declared prior to the verification of its gross mass and its verified gross mass should be resolved by use of the verified gross mass.
- b. Any discrepancy between a verified gross mass of a packed container obtained prior to the container's delivery to the port terminal facility and a verified gross mass of that container obtained by that port facility's weighing of the container should be resolved by use of the latter verified gross mass obtained by the port terminal facility.

### **2. Containers exceeding their maximum gross mass**

SOLAS regulation VI/5 requires that a container not be packed to more than the maximum gross mass indicated on the Safety Approval Plate under the International Convention for Safe Containers (CSC), as amended. A container with a gross mass exceeding its maximum permitted gross mass may not be loaded onto a ship.

### **3. Contingencies for containers received without a verified gross mass**

Should a packed container be delivered to a port terminal facility without the shipper providing the verified gross mass of the container, the container should not be loaded onto the ship until the verified gross mass has been obtained.

In order to prevent potential delays and congestion in the port, the Master or his representative and the terminal representative may obtain the verified gross mass of the packed container on behalf of the shipper. The verified gross mass so obtained should be used in the preparation of the ship loading plan. Whether and how to do this should be agreed between the commercial parties, including the apportionment of the costs involved.

## **17.Masters Ultimate Decision Whether to Stow a Packed Container**

Ultimately, and in conformance with the *Code of Safe Practice for Cargo Stowage and Securing*, the ship's Master should accept the cargo on board his ship only if he is satisfied that it can be safely transported. There is no provision in the SOLAS regulations that limits the principle that the Master retains the ultimate discretion in deciding whether to accept a packed container for loading onto his ship. The availability of the verified gross mass of a packed container, to both the terminal representative and to the Master or his representative, must be provided sufficiently in advance by the shipper and/or his representative, for the verified gross mass to be used in the ship stowage plan. It should be noted that this is a prerequisite for a container to be loaded onto a ship to which the SOLAS regulations apply. It does not, however, constitute an entitlement for loading.

## 18. Enforcement and Penalties for Non Compliance

### 1. Enforcement

SAMSA will enforce the amended SOLAS requirements and Merchant Shipping Carriage of Cargo Regulations through:

- Port State Control Inspections;
- Ad hoc inspections;
- Continuous auditing of SAMSA accredited entities; and
- Reporting of non-conforming containers and/or cargo information by SAMSA accredited entities.

### 2. Tolerance

A 2% enforcement tolerance will be implemented strictly for guidance purposes only. It will be used and considered on a case by case basis. The enforcement threshold should not be confused with the issue of accuracy and the underlying issue that the verified gross mass of the container, arrived at by using either Method 1 or Method 2, should be accurate.

### 3. Penalties

The Merchant Shipping Carriage of Cargoes Regulations, 2004 states the following:

#### ***Cargo information***

- “5. (6) Every shipper or forwarder commits an offence who—*
- (a) fails to provide appropriate cargo information as required by this regulation;*
  - (b) furnishes cargo information that he or she knows to be false; or*
  - (c) recklessly furnishes cargo information that is false”*

#### **Penalties and Defences (as amended)**

- 15. (1) A person who commits an offence in terms of these regulations is liable on conviction to a fine or to imprisonment for a period not exceeding 12 months*
- (2) In proceedings for an offence in terms of these regulations it is a defence to prove that the accused took reasonable precautions and exercised due diligence to avoid the commission of the offence.*

If SAMSA or one of the SAMSA accredited entities identifies that a shipper has mis-declared the gross mass of a packed container, SAMSA may:

- Require that the SAMSA accredited entity suspend or revoke the shipper’s approval. It will then be necessary for the shipper to use Method 1 to verify the gross mass of a packed container; and/or
- Require an Admission of Contravention to be signed and paid, failing which, the alleged contravention will be prosecuted.

## **19.Reference Documents**

1. SOLAS Convention;
2. Merchant Shipping Act, 1951;
3. Merchant Shipping Carriage of Cargoes Regulations, 2004;
4. Legal Metrology Act, 2014;
5. IMO Guidelines Regarding the Verified Gross Mass of a Container Carrying Cargo (MSC.1/Circ.1475);
6. Merchant Shipping Safe Containers Convention Act, 2011;
7. South African Maritime Safety Act, 1998;
8. IMO/ILO/UNECE Code of Practice for Packing of Cargo Transport Units;
9. Code of Safe Practice for Cargo Stowage and Securing;
10. Marine Notice No. 11 of 2015, Verification of the Gross Mass of a Packed Container; and
11. Marine Notice No. 25 of 2015, Method 2: Verification of the Gross Mass of a Packed Container.