

Informal meeting on Code of Practice for Packing of Cargo Transport Units

at the request of the United Nations Economic Commission for Europe Working Party on Intermodal Transport and Logistics

Geneva and virtual, 5-6 July 2023

References to Verified Gross Mass (VGM)

Submitted by the World Shipping Council (WSC)

Background

Document CTU-Code/2023/first-informal-meeting/3 provides comments by Germany regarding proposed changes to Clauses 5.2 and 5.3 of the CTU Code. One of the proposed changes pertains to a new Clause 5.3.7 regarding weighing that would read as set out below:

5.3.7 Weighing

5.3.7.1 All packed CTUs should comply with international and national regulations concerning the gross mass of the CTU and transport vehicle. However, containers carried by sea are covered by specific requirements.

5.3.7.2 The international convention for Safety Of Life At Sea (SOLAS) requires that all packed containers are weighed prior to loading on board a ship, and that a verified gross mass certificate (VGM) is presented to the carrier and the marine terminal.

5.3.7.3 Under the current terms of SOLAS, dry bulk cargoes can only have a VGM produced by method 1, therefore, on completion of packing and after the container has been sealed, the packer should weigh the packed and sealed container on a calibrated weighting device.

The position of Germany is to oppose the inclusion of the quoted new Clause in its entirety. In support of this stance, Germany provides two arguments:

1. The proposed text contains a provision that the gross mass of a CTU containing solid bulk cargo should be verified by weighing. As this is a mandatory requirement by SOLAS chapter VI regulation 2, it is not necessary to repeat this provision as recommendation in the CTU Code.
2. Furthermore, it might create confusion when the CTU Code contains this provision only for CTU containing solid bulk cargoes but not for CTU containing flexitanks.

The position of Germany was considered at the Informal meeting on the CTU Code held on 29-30 March. WSC had advised the Secretariat in advance that due to scheduling conflicts it was not able to participate in the deliberations on the first meeting day. WSC had also in advance of the meeting informed the Secretariat that it could not agree with the position of Germany regarding proposed new Clause 5.3.7 and requested that consideration of this proposal be deferred to the second meeting day. Nevertheless, the informal meeting considered on the first meeting day the comments submitted by Germany and agreed to oppose the inclusion of proposed new Clause 5.3.7.

Discussion

WSC continues to disagree with the comments by Germany and thus cannot agree to delete proposed new Clause 5.3.7.

Mis-declared container weights are known safety hazards and have been proven to be a contributing factor in serious accidents on land, e.g. overturning trucks; in marine terminals, e.g. containers collapsing under the gantry crane putting longshoremen's lives at risk; and at sea, e.g. containers lost overboard.

The IMO in response to such known and demonstrated safety hazards amended the Safety of Life at Sea Convention (SOLAS) to require, as a condition for vessel loading, that the shipper or its agent (the packer) provides to the carrier and the terminal in advance the verified gross mass (VGM) of the packed container. SOLAS also prescribes that the VGM shall be obtained using one of two methods. However, as proposed new Clause 5.3.7.3 of the CTU Code clarifies, only Method 1 (weighing of the container upon completion of the packing and sealing) is feasible for dry bulk cargoes. This important clarification regarding the applicability of Method 1 to dry bulk cargoes is not provided in the SOLAS VGM amendments proper; it is instead provided in guidelines developed by the IMO.¹

The SOLAS VGM requirements became effective in 2016. However, they were generally known to the Group of Experts that developed the CTU Code, including the intent to make them mandatory internationally through their inclusion in SOLAS. Germany was an active member of the Group of Experts, and did not object then to include VGM provisions in several instances in the CTU Code, including in Clauses 4.2.3 and 4.2.4; in fact, Germany was a vocal advocate for their inclusion in the interest of promoting safety in containerized supply chains – and Germany did so with the knowledge that the VGM requirements would be made mandatory internationally by their inclusion in SOLAS.

It is therefore surprising to us that Germany now argues for the non-inclusion of proposed Clause 5.3.7 with the principal argument that because the VGM requirements have been made mandatory by their inclusion in SOLAS, “it is not necessary to repeat this provision as recommendation in the CTU Code”.

However, as noted above, the SOLAS VGM provisions do not clarify that only Method 1 may be used for dry bulk cargoes. This clarification – that is critically important for the safe carriage and loading of containers – is provided in the IMO 2014 Guidelines. It is therefore not correct to state that because the VGM requirements have been made mandatory in SOLAS, it is not necessary to repeat or clarify them in the CTU Code -- the proposed new Clause would provide additional and critically important guidance on how to obtain the VGM for dry bulk cargoes.

Furthermore, the CTU Code is first and foremost intended as an instrument to assist packers in the safe packing and handling of CTUs, including containers. As stated in the Preamble to the current CTU Code, “[t]he person who packs and secures cargo into/onto the cargo transport unit (CTU) may be the last person to look inside the unit until it is opened at its final destination. Consequently, a great many people in the transport chain will rely on the skill of such persons [...] All persons, such as the above, passengers and the public, may be at risk from a poorly packed freight container, swap body or vehicle”.

However, it is not reasonable, let alone realistic, to expect packers – who may not know the mode(-s) of transport of the container being packed – to consult an instrument, SOLAS (and the associated IMO 2024 guidelines) whose scope of application – as the name also implies – is geared towards maritime traffic. Nor is

¹ MSC.1/Circular 1475, dated 9 June, 2014, on “*Guidelines regarding the verified gross mass of a container carrying cargo*”. The SOLAS VGM requirements are set out in the annex.

it reasonable to argue against the inclusion of proposed Clause 5.3.7 in the CTU Code because the issue being addressed in that new Clause is already regulated in the SOLAS provisions -- which, as noted above, is actually not the case. Using that argumentation could arguably lead to the deletion of multiple other provisions in the CTU Code, thus fundamentally undermining its stated purpose of providing guidance to frontline workers such as packers.

As Germany will be aware from its active participation in the Group of Experts that developed the CTU Code, only one exception was made for including in the CTU Code text regarding safety-related issues that are regulated elsewhere. That sole exception was in regard to dangerous goods (DG). The Group of Experts concluded that because international and regional DG regulations are being revised regularly, the inclusion of expansive and detailed references to such DG regulations in the CTU Code was not advisable as doing so would necessitate frequent revisions of the Code. Instead, the Group of Expert agreed to include in the CTU Code a general chapter with additional advice on the packing of dangerous goods (Chapter 10).

Germany has not provided a rationale for why this carefully considered, single exception approach should now be broadened so as not to include proposed important guidance regarding the application of the VGM requirements to dry bulk cargoes. Such a stance represents, we believe, a disservice to the frontline workers who are essential for enhancing the safety of containerized supply chains.

Finally, Germany's second argument for not including proposed new Clause 5.3.7 – namely that the proposal does not include similar VGM provisions and clarifications regarding CTUs containing flexitanks – is easily addressed: Such VGM provisions and clarifications could be added to the Clauses in the Code that address flexitanks. WSC would be pleased to work with Germany to make such a proposal regarding obtaining the VGM for CTUs containing flexitanks.

Request

WSC respectfully requests that the decision not to include proposed Clause 5.3.7 be revisited at the 5-6 July, 2023, Informal Meeting.

ANNEX: SOLAS CHAPTER VI

CARRIAGE OF CARGOES AND OIL FUELS

Part A

General Provisions

Regulation 2 – Cargo information

The following new paragraphs 4 to 6 are added after existing paragraph 3:

“4 In the case of cargo carried in a container,* except for containers carried on a chassis or a trailer when such containers are driven on or off a ro-ro ship engaged in short international voyages as defined in regulation III/3, the gross mass according to paragraph 2.1 of this regulation shall be verified by the shipper, either by:

- .1 weighing the packed container using calibrated and certified equipment; or
- .2 weighing all packages and cargo items, including the mass of pallets, dunnage and other securing material to be packed in the container and adding the tare mass of the container to the sum of the single masses, using a certified method approved by the competent authority of the State in which packing of the container was completed.

5 The shipper of a container shall ensure the verified gross mass** is stated in the shipping document. The shipping document shall be:

- .1 signed by a person duly authorized by the shipper;
- .2 submitted to the master or his representative and to the terminal representative sufficiently in advance, as required by the master or his representative, to be used in the preparation of the ship stowage plan.***

6 If the shipping document, with regard to a packed container, does not provide the verified gross mass and the master or his representative and the terminal representative have not obtained the verified gross mass of the packed container, it shall not be loaded on to the ship.”

* The term “container” should be considered as having the same meaning as defined and applied in the International Convention for Safe Containers (CSC), 1972, as amended, taking into account 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).

** Refer to the Guidelines regarding the verified gross mass of a container carrying cargo (MSC.1/Circ.1475).

*** This document may be presented by means of EDP or EDI transmission techniques. The signature may be an electronic signature or may be replaced by the name, in capitals, of the person authorized to sign.