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US Congress urged to seek container weight clarity to avoid port congestion

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[Reynolds Hutchins, Associate Editor](#) | Apr 20, 2016 2:50PM EDT



WASHINGTON — A major U.S. exporter on Thursday urged Congress to send the country’s coast guard back to international authorities and request clarification on a new and controversial [container weight rule](#) in order to avoid severe port congestion. The Tyson Fresh Meats executive said the rulemaking process was kept under wraps and made without input from shippers.

U.S. exporters, particularly in the agriculture industry, have taken issue with the International Maritime Organization’s rule, specifically the two methods prescribed for obtaining container weights. According to the amendment to the SOLAS convention, shippers can either weigh their containers with the cargo loaded or weigh the contents of their containers separately and add that mass to tare weight of the boxes to produce a verified gross mass, or VGM.

Effective July 1, without a VGM, containers will not be loaded onto vessels. Both methods are “impossible with current port infrastructure” and would disrupt the flow of cargo in a manner akin to the 2014 to 2015 U.S. West

Coast port crisis, in which containers were backlogged at West Coast terminals and billions of dollars were lost, Perry Bourne, director of international transportation and rail operations at Tyson Fresh Meats, told Congress.

“We need this committee to request the Coast Guard to go back to the IMO and clarify there are multiple ways to satisfy the SOLAS regulation,” Bourne told the Senate Surface Transportation and Merchant Marine Infrastructure, Safety and Security subcommittee Wednesday.

How to meet the container weight mandate

As a shipper, what are your options?

METHOD 1
Take a loaded container over a **weighbridge**, subtract the weight of the truck, chassis, and fuel to get the weight of the packed container.

METHOD 2
Weigh each item – including its packaging, palleting, dunnage and other packing and securing materials – going into the box. Add that sum to the weight of the container to find the weight of the packed container.

TOTAL WEIGHT
- TRUCK, FUEL, etc.
= **LOADED WEIGHT**

GOODS
+ PACKING, etc.
+ **CONTAINER**
= **LOADED WEIGHT**

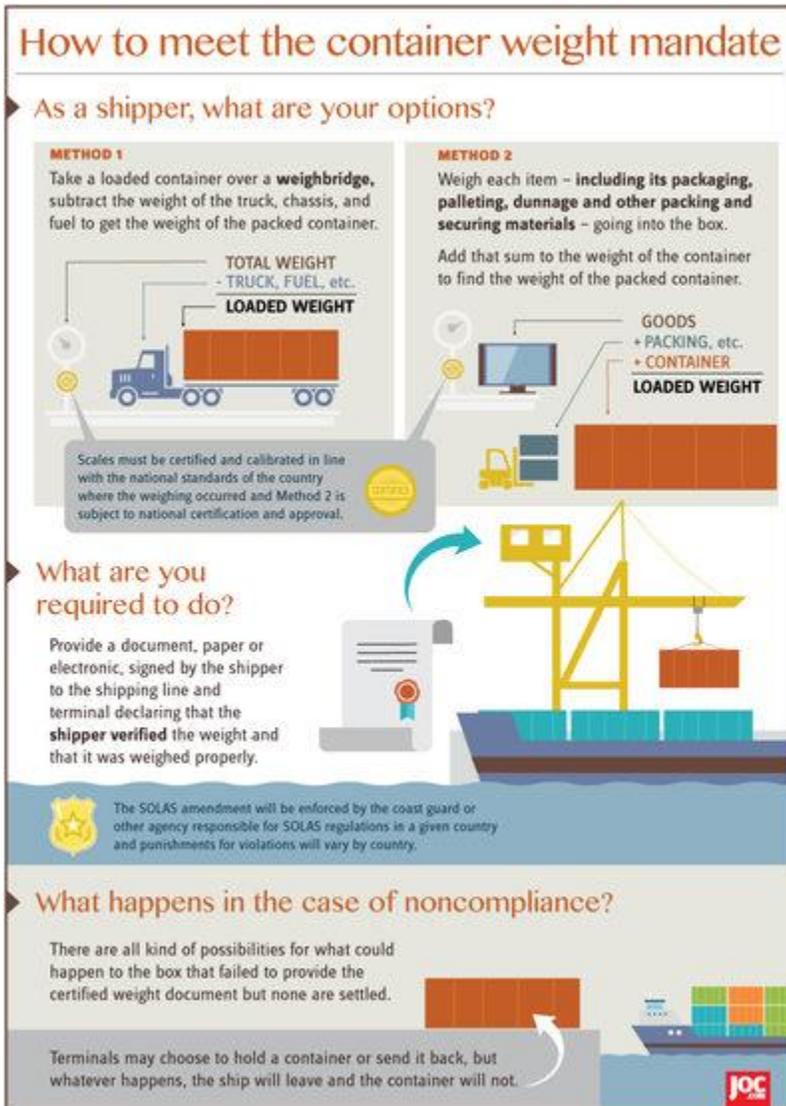
Scales must be certified and calibrated in line with the national standards of the country where the weighing occurred and Method 2 is subject to national certification and approval.

What are you required to do?
Provide a document, paper or electronic, signed by the shipper to the shipping line and terminal declaring that the **shipper verified** the weight and that it was weighed properly.

The SOLAS amendment will be enforced by the coast guard or other agency responsible for SOLAS regulations in a given country and punishments for violations will vary by country.

What happens in the case of noncompliance?
There are all kind of possibilities for what could happen to the box that failed to provide the certified weight document but none are settled.

Terminals may choose to hold a container or send it back, but whatever happens, the ship will leave and the container will not.



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Tyson Fresh Meats is a subsidiary of Tyson Foods, the largest exporter of beef in the U.S. and the world’s largest processor and marketer of chicken, beef and pork products. Bourne said at a public hearing in [February](#) that his company “guesstimates” the SOLAS amendment could add \$250 per box in extra non-value added services that Tyson won’t be able to recover from its customers.

Many of Tyson's products are time sensitive, Bourne told the Senate subcommittee Wednesday. In these cases, there simply isn’t enough time between container loading and vessel loading for Tyson to provide an accurate VGM to its carriers.

If time-sensitive products were to miss their vessel loading, Bourne said the cargo would either have to be shipped by air to its final destination — an expensive endeavor that would result in a cost to customers — or frozen and sold at lower prices in stores — resulting in a cost to Tyson.

“Bottom line is, customer doesn’t get what they want,” Bourne said.

Pressed by Senate lawmakers as to how the IMO could draft a regulation with such catastrophic impact, Bourne alleged that the rule had been crafted without shipper input.

“There was really no outreach to shippers,” Bourne told the subcommittee Wednesday. “It was frankly hush-hush.”

The IMO regulation, though, was drafted with the cooperation of the Global Shippers Forum, the largest shippers group in the world and an umbrella organization for other shipper groups including the largest U.S.-shipper group, the National Industrial Transportation League.

Bourne also said Wednesday that the first time he had ever heard of the SOLAS amendment was in late fall of 2015, more than a year after the SOLAS amendments were drafted and approved by the IMO.

“The first time I heard about it was in periodicals, the JOC,” Bourne said. “The Journal of Commerce had some stories early on in October, November of 2015.”

Meanwhile, media outlets — [JOC.com included](#) — have been covering the new rule since it was codified in 2014.

In his testimony before Senate lawmakers Wednesday, Bourne praised the U.S. Coast Guard, the agency tasked with enforcing the rule stateside, for its [relatively hands-off approach](#) since the SOLAS amendment was ratified nearly two years ago.

The agency has maintained that compliance should be handled as a “business practice” instead of through regulatory enforcement and has also said that shippers, who have been historically required to provide container weights under U.S. regulation, are already compliant with the rule.

Bourne, Tyson and shippers associated with the Agriculture Transportation Coalition have said the coast guard’s stated position leaves room for more than just the two methods outlined to obtain a VGM.

Under a [“rational” method proposed by AgTC](#), U.S. exporters would certify the weight of their cargo and packing materials, while container lines would certify the weight of the containers that they own, control and manage. The liners would then combine the two weights to create a VGM that is submitted to the terminal operator before loading.

Bourne told Senate subcommittee members that ocean carriers are not receptive to shippers’ “rational” method and are not taking the same approach to the SOLAS amendment as the U.S. Coast Guard.

“Ocean carriers take a more rigid approach,” he told the Senate subcommittee. “If implemented under a strict interpretation, the amended SOLAS regulations can and will cause major congestion problems at the port.”

Bourne Wednesday repeated previous AgTC requests for Congress to send the U.S. Coast Guard back to the IMO and ask for clarification on their proposed “rational” method.

What recourse Congress actually has on the matter, though, is uncertain and lawmakers in the House of Representatives, who held their own hearing on the matter [just last week](#), showed little interest in getting directly involved in the controversy.

“I don’t think there is a legislative answer for this,” said Rep. Duncan Hunter, R-Calif., chairman of the House of Representatives Subcommittee on Coast Guard and Maritime Transportation.

Contact Reynolds Hutchins at reynolds.hutchins@ihs.com and follow him on Twitter: [@Hutchins_JOC](#).