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To: MODraft@amsa.gov.au
Cc: [Kimme Shaw](#); [Ash Sinha](#)
Subject: MO 42 - Ports Australia Submission
Date: Monday, 2 May 2016 4:11:31 PM

RE: Draft Marine Order 42 – Verification of container weights

Ports Australia appreciates the opportunity to comment on the revised draft MO 42 released for public consultation on 10 March 2016.

We note that there remains a significant level of concern within the shipper community concerning their capacity and understanding in relation to their compliance with the new requirements. Accordingly we believe that AMSA should make allowance for a reasonable transitional period to bed in compliance and for shippers to continue to acquaint themselves with the essentials of compliance. We are particularly concerned that this continuing level of uncertainty not lead to disruptions to the supply chain and to port operations.

We have identified 4 key areas on which we would like to offer comment:

- The need for simpler guidelines in relation to compliance with standards of accuracy for weighing instruments.
- The definition of ‘shipper’.
- The need for AMSA to adopt a more deliberate approach to enforcement.
- The ability to replace a PRA with one with a different Verified Gross Mass (VGM).

Accuracy Standards of Weighing Instruments

The major issue which seems to have arisen from the MO 42 Consultation sessions which were convened recently, is the confusion and lack of awareness regarding the standards of accuracy applying to measurement instruments used to determine VGM, whether using method 1 or 2. This particular aspect of the requirements for VGMs is unfamiliar to many export supply chain parties, unless they are already using an instrument certified for trade eg, a public weighbridge which provides weights for trade.

The current draft refers to the ‘Accuracy Standards for Weighing Equipment approved by AMSA’ which refer in turn to National Measurement Instrument (NMI) standards). These documents set out the accuracy standards applying to the various types of weighing instruments which are approved by AMSA. Understanding the content of these documents will not be easy for most industry players, because they are quite technical. For example it will be almost impossible to determine whether a particular instrument meets AMSA standards from these documents, without reference to an expert. Where can such a person or organisation be found? It would be beneficial if AMSA could develop a simple guide to explain accuracy standards, how to determine if an instrument meets AMSA standards, and who to contact to find out. By way of example, the NMI has a hotline which provides access to the NMI Licencing Team, who can assist. Likewise the yellow pages or Google could be used to access specialists who are not licenced, but who have the expertise to determine whether an instrument meets AMSA standards, even if they are not licenced to ‘verify’ that an instrument is approved for ‘trade’.

Definition of Shipper

- An further source of confusion to emerge at the consultation sessions was the definition of

‘shipper’. The draft MO 42 does not define it. Draft MO 42 seems to rely on SOLAS, but there is no specific reference to SOLAS in the draft MO 42 in relation to the definition of ‘shipper’.

Aside from SOLAS, it appears the only reference to shipper is “Verified Gross Mass Industry FAQs” distributed in December 2015. It relies on SOLAS to define the ‘shipper’ 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 concluded with a shipping company”*.

This indicates the shipper is the entity shown on the Master Ocean Bill of Lading, ie, the one submitted to the shipping line and shown on the export manifest.

However, the document commonly used to provide export container weight information to the terminals and shipping lines is the Export Pre-Receipt Advice (PRA). It is understood that the terminals will rely on this document to receive details of the VGM, and 1 stop is presently in the process of modifying it to detail not only the VGM, but also the method used to determine it. However if there is a difference in VGMs between the two documents, which ones takes precedence? What happens if the ‘shipper’ differs on the two documents?

It is suggested that a more comprehensive definition of shipper in MO 42 is warranted, including reference to the PRA as an “equivalent multimodal transport document”, rather than relying on SOLAS documents. Alternatively, the issue could perhaps be addressed in a Guide to MO 42, which could also encompass accuracy standards. This matter lends further support to the desirability of AMSA issuing some sort of guidance document.

Compliance and Enforcement

AMSA has given the impression during the consultation sessions that it does not have the resources, nor does it have in mind an aggressive effort to enforce compliance. Some form of auditing was mentioned, but the overall impression was that AMSA will be waiting for reports of non-compliance, whether from the stevedores or from incidents at the terminals or on the ship.

This approach may encourage a ‘business as usual’ approach from some elements of industry.

In this context that many import container weights are misdeclared. One of the aims of Container Weight Declarations (CWD) when they were introduced as part of the introduction of Chain Of Responsibility (COR) legislation was to provide more accurate import CWDs for transport operators. This objective appears not to have not been achieved, partly because there has been minimal or no enforcement.

It is suggested that AMSA reconsider its apparent approach to the enforcement of VGMs, even if it accepts an initial period of transition. AMSA could consider some sampling approach to at least give it an indication of the extent of the problem it is dealing with and to indicate any trends in compliance. Any non-compliances and action taken would likely impact on how seriously industry is going to take the attempt by IMO to introduce greater rigour to the regime. Sampling levels could be set to reflect AMSA’s resource position which seems to be a major consideration. It appears that a number of terminals do have at least some equipment which can measure weights so sampling may well be a procedure which could be done with minimal additional cost.

VGM Amendment

I stop apparently mentioned at the Melbourne session that a VGM submitted on a PRA could not be amended, but it could be cancelled and replaced with a new one with a different (and presumably more accurate) VGM. This is probably a process issue rather than one for MO 42 itself, but it does raise a number of questions/issues ie, can this be done, and if so, when?

The issue could also be addressed in a Guide to MO 42.

Yours sincerely
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Ports Australia will be celebrating its Centenary in 2016.

Mark the dates for our Biennial Conference 2016, 18-21 October, Sofitel Hotel, Melbourne.