



# The Zephyr

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Memphis World Trade Club

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## Upcoming events

### **New Orleans Port Tour: September 9-11, 2016**

Every two years since 1998, Ben Jabbour (V. Alexander) has led a group of MWTC members on a trip to the Port of New Orleans. This year marks trip number 10. According to Jabbour, he came up with the idea for the trip upon realizing that many exporters and logistics professionals have never actually seen a container being loaded aboard a ship. He decided to remedy that in what has become one of the MWTC's most enjoyed traditions.

This year's trip will begin on the morning of Friday, September 9 with a chartered bus ride from Memphis to New Orleans, which is a lot more fun than that might sound. Games are played, cocktails are enjoyed, and fellowship is had. At about 5:00 p.m., the bus will arrive in New Orleans, where the MWTC has arranged a group discount for rooms at the Marriott, which is located on Canal Street at the edge of the French Quarter. After settling in, participants are free to explore the city.

On Saturday the 10<sup>th</sup>, the activities commence. The group will tour the container and breakbulk terminals, enjoy lunch at a local spot (in 2014 we ate at the home of the owners of Tipitina's Foundation—see pictures to the right), and check out other interesting facilities. The trip back to Memphis begins Sunday morning.

Go to the [MWTC website](#) for more info and to reserve your spot.



Loading operations at the Port of New Orleans.



Lunch at the home of Roland & Mary von Kurnatowski, founders of Tipitina's Foundation.

## In case you missed it: events from earlier this year



David Underwood (Dunavant Logistics) takes a swing while teammates Eddie Fuchs and Don Lake provide encouragement.

### MWTC Golf Scramble

It was hot out there! Thanks to everyone who came out to the event and made it a success.

Many thanks to our sponsors: FedEx Services, IMCG, CMC, Alliance Shippers, NTG, Atlantic Trucking, YML, V. Alexander, WW Rowland, Vanguard Logistics, APL, BDO, and Electric Guard Dog, as well as to our many hole sponsors.

Check out more pictures from the tournament at the [MWTC Facebook page](#).



Clockwise from top left: Craig Pahls (Nike), Mark Padilla (Expeditors), Summer Ray (Nike), and Makita Surgeon (Nike).

## SOLAS Container Weight Verification: Update by Michael Symonanis

**Back in November of last year, Michael Symonanis (Louis Dreyfus Company) spoke at the MWTC's monthly luncheon about the then-pending amendment to the Safety of Life at Sea Convention ("SOLAS"). The new amendment imposes a new requirement on shippers to provide a verified gross mass ("VGM") of container shipments to ocean carriers. The amendment also prohibits ocean carriers from loading a container absent a VGM shipper certification. Much ado has been made over exactly how the VGM requirement would be implemented. The new rules went into effect on July 1 of this year. We recently reached out to Mr. Symonanis, and he kindly provided the following update:**

After much work with industry stakeholders, regulators and legislators primarily driven by the Agriculture Transportation Coalition SOLAS Committee's efforts in numerous public and private conversations, the ultimate process for US exporters exporting through a US port remains largely unchanged after July 1st due to industry decisions aligned with the [United States Coast Guard guidance in Maritime Safety Information Bulletin 009/16](#) (known as the "Equivalency Bulletin").

The AgTC "Rationale Method" / Ocean Carrier Equipment Management Association (OCEMA) Terminal Weighing Approach (TWA):

1. For local port (CY) cargo, the ocean carriers will accept terminal scale weights that are captured when containers enter a marine terminal (re-validation of existing US process/practice).
2. For intermodal (IPI) cargo, ocean carriers are moving to accept shipper provided cargo weights and marrying up the container weights (re-validation of existing US process/practice).



Rear Admiral Paul Thomas of the United States Coast Guard, which represents the US within the International Maritime Organization (IMO) had been very clear since his first public communication on February 18th that (1) SOLAS is not law in the United States, and there is no safety data to compel a rule making review; (2) the industry has been complying with SOLAS since 1994 implementation and (3) existing US industry processes represent one path to the updated SOLAS VGM compliance. It took a long time to get the ocean carrier industry to accept the United States Coast Guard's guidance. On top of these three points, there are other US laws and regulations governing ocean container shipping that support SOLAS compliance as amended.

The Ocean Carrier Equipment Management Association (OCEMA) received approval from the Federal Maritime Commission (FMC) on June 27th under the Port Operations and Safety Discussion Agreement to have industry wide-discussions with six Atlantic and Gulf Coast ports to facilitate the implementation of the above. Most ocean carriers have adopted the above position, yet it is important to be clear for the specific port(s) of export you use today.

While there continue to be some disconnections between local ocean carrier customer service teams and senior ocean carrier management in the first weeks on how they are managing SOLAS VGM compliance, the net result will be a continuation of existing export Shipper Letter of Instruction (SLI) processes and existing US industry requirements to meet "No Doc / No Load" cutoffs for specific booked vessels, if that is your process today.

Therefore, there are at least 3 possible compliance methods available you can follow today:

**Method 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.

**Method 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.

**Method 3** - Terminal Weighing Approach, outlined above

Please note that if you are shipping through a Canadian port, our understanding is that SOLAS VGM is part of the Canadian Shipping Act and therefore law requiring Method 1 or Method 2 compliance only. When it comes to U.S. exports, the Ocean Carrier Equipment Management Association (OCEMA) has shown strong support for the usage of terminal weights to satisfy the new VGM requirements. ([http://ocema.org/VGM\\_SOLAS.html](http://ocema.org/VGM_SOLAS.html)).

More questions within the industry have come to light as the new requirements are put into practice, such as how on-dock rail weights will be handled since containers do not come through the terminal gates. It appears existing processes comply, yet it is important to work with your ocean carriers or freight intermediaries to be clear for intermodal cargo. Many are using a "better safe than sorry" approach— submit VGM even if already provided at the terminal level, until all of the uncertainties are clearly defined across all ports and by the service providers in the marketplace. VGM weight submission procedure has varied for each ocean carrier, and each seems to encourage EDI instead of manual submission, for ease of data flow.

Internationally, at non-U.S. ports, the VGM requirements were gradually released for each port and country, and had a lot to do with local infrastructure and willingness of terminal operators to support the requirements. Cut-off times for submission of the container weights is key to how much disruption the new data requirement will cause short-term. Whether or not overseas shippers and factories are able to keep up with the extra weight information required, as peak season ramps up, will be a true barometer of its successful implementation into shipping procedures. Despite much anxiety in the industry, overall, things have gone relatively smooth, given this additional requirement to the already complicated shipping process.

## Doing Business in Cuba by Evan Berquist



After President Obama's historic visit to Havana earlier this year, many Americans are excited about greater trade and travel opportunities to the island. For good reason: Cuba is an alluring place, and new regulations issued by the Obama administration now permit an unprecedented level of economic activity by U.S. interests. But amid the optimism, U.S. businesses and individuals must be mindful of the risks — as well as rewards — of greater engagement.

As a student at the University of Havana in 2002, I saw firsthand what a challenging environment Cuba can be. The Castro regime exerts total control over almost every aspect of daily life. Poverty on the island is endemic. Free speech is forbidden. Infrastructure is decayed.

All of which is to say, Cuba will not be an easy place for U.S. companies to do business. For companies and individuals considering trade or travel to Cuba, here are just a few things to keep in mind.

First, the embargo is still in place. This means that many economic transactions are still prohibited for U.S. activities. Only Congress has the power to repeal the legislation that underpins the embargo.

Until the embargo is lifted, any economic transactions involving Cuba must be authorized by a license, either general or specific. In most cases these licenses will be issued by the Department of Treasury's Office of Foreign Assets Control (OFAC) or Commerce's Bureau of Industry and Security (BIS). Penalties for violating the embargo can include stiff fines and even criminal charges.

The good news is that OFAC and BIS have done nearly everything in their power to authorize travel and trade within the limits of existing law. Since Presidents Obama and Raul Castro announced a path of normalization in December 2014, OFAC and BIS have issued five sets of regulatory amendments that significantly expand the types of licensed activities. Here are just a few of the highlights:

### **Travel**

The most recent round of regulations permits so-called people-to-people exchanges by individuals. Practically speaking, this means that individuals no longer have to travel to Cuba as part of a licensed group. For businesses seeking to carry out permitted economic activities, travel to Cuba is also permitted, including for sales or marketing purposes.

### **Financial transactions**

U.S. banking institutions can engage in certain Cuban-related transactions that involve Cuban parties, as long as the beneficiaries are not U.S. persons. The rules also increase the remittances that U.S. persons can send to Cuba, permit the use of U.S. credit and debit cards on the island, and allow U.S. financial institutions to open correspondent accounts with Cuban counterparts.

### **Telecom and related transactions**

Telecom-related transactions will now be subject to a general license. Already AT&T and Verizon have established

roaming networks that U.S. travelers can use while on the island. Google will also open a new high-tech artists' studio in Havana, offering superfast Wi-Fi connections and the latest Google gadgets, in a country with one of the lowest rates of Internet connectivity in the world.

This list is by no means exclusive. Other industries benefited by recent regulations include commercial aviation, cruise lines and energy. Moreover, OFAC officials have signaled that they will look favorably on any activities that are "incident to" licensed activities. So, for example, if your company sells a product with general application that can also be used to improve the telecommunications network, you may be able to sell to Cuba.

Any project that helps the Cuban people without enriching the regime will also be evaluated on a case-by-case basis.

## **Risks to U.S. companies**

While these opportunities for U.S. businesses are real, so are the challenges. Here are the main risks U.S. companies are likely to face when doing business in Cuba.

First, be prepared for the Cuban bureaucracy. Before a project can proceed in Cuba, it must go through a lengthy and confusing permitting process by the Cuban government. Oftentimes, it is not clear even which Cuban government agency is responsible for issuing a final decision on a project. It will take some time before this process becomes more streamlined.

Second, Cuba's economy is in tatters. Average wages are just \$20 a month. Many professionals, including doctors, have abandoned their former careers and begun working in the tourist economy, driving taxicabs or waiting tables. Cuba has a shortage of hard currency, limiting the government's purchasing power.

The third main concern is one that investors look to in any foreign market: rule of law and political risk. Put simply, companies want to know that any money they invest will be safe. In Cuba, there are no such guarantees. While Raul Castro has introduced some modest reforms, Cuba is still a one-party state. There is no independent judiciary to resolve commercial disputes.

In the United States, of course, there is cause for uncertainty as well. The next president could reverse all of Obama's policies with the stroke of a pen.

This is not to suggest that U.S. businesses should avoid Cuba at all costs; far from it. The thaw in relations and new regulations make this an opportune time to explore Cuba's potential. But when evaluating Cuba, make sure that you do your due diligence and proceed with a clear view of the risks involved.

Cuba is an enchanting place with lots to offer. But it is not for the faint of heart.

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## A Note to Our Readers

Thank you to everyone who takes the time to read this first issue of the Zephyr. Our aim with this newsletter is to present information to the Memphis World Trade Club's membership that is both timely and relevant to our common industries, as a supplement to the articles that we link to on our social media platforms (Face Book, Twitter, LinkedIn) and the speakers that we host at our monthly luncheons.

As you can surely imagine, starting a newsletter from scratch is a learning process for those involved; but if we mess up, please don't hold back. If you have any questions, comments, article ideas, high praise, or angry invective please contact me, Jack Shelton. All going well, we will fine-tune our processes and this newsletter will become a publication truly worthy of this historic Club.

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