

**U.S. Customs and Border Protection**  
Commercial Operations Advisory Committee  
Global Supply Chain (GSC) Subcommittee

DRAFT #5

**Summary**

The Commercial Operations Advisory Committee (COAC), Subcommittee on Global Supply Chain was asked to look at Electronic Cargo Security Devices (ECSDs), and the commercial viability of these products in international trade. The subcommittee has concluded that ECSDs may have wide ranging functions for tracking certain shipments, but there are operational shortcomings that prohibit wide scale adoption. While they do provide certain industries with the capabilities that they are looking for in the supply chain, many other industries have found alternatives that accomplish their goals in supply chain security and visibility.

The COAC recognizes that expenses associated with the device are not limited to the cost of the device itself. The devices require corresponding technology, maintenance, personnel support and data warehousing. Some companies are able to justify these additional costs, particularly when working with high-risk and high-value shipments. Other companies have determined them to be redundant with internal controls.

We have also learned that ECSDs have some operational shortcomings including, but not limited to, false positives, battery charging, data management, reverse logistics and lack of interoperability among different devices in the market. While we applaud those companies who continue to voluntarily invest and test the technology, on the whole, we have not found that additional expense would be offset by additional security benefits, at the current time.

For these reasons, the COAC makes the following recommendations.

**Recommendations**

- 1) Companies that voluntarily use ECSDs should not face additional burdens when crossing international borders. Regulations should be modernized and interoperable to eliminate any additional paperwork, data entry, duty payments or customs declarations when moving these devices, regardless of positioning or number of devices, inside or outside of the shipping container. ECSDs should be universally accepted and declared as part of the packaging or an instrument of international traffic (IIT). CBP should work with trade partners to find a 21st century solution that overcomes these barriers.
- 2) COAC recommends that CBP monitor the technology market, focusing on technologies that are gaining wide market acceptance. The voluntary use of ECSDs and other technologies will create a better product, and drive a market-based solution that is mindful of international trade and transportation modes. Any consideration of these devices would have a large impact on international trade, with variation by mode of transportation, and should always consider operational impacts and cost-benefit analysis.

- 3) Companies that voluntarily use ECSDs, utilize the data to monitor movements of a shipment's life cycle. This information is, and should remain, proprietary and should not reside in the public domain. There should be no expectation that this data will be made available to parties outside of the shipper, its contracted carrier and other authorized parties.

### **Background**

To provide more background information about recommendation one, we have provided the following information. ECSD face an obstacle to their widespread use: a Customs framework written before these devices were actually invented. Customs regulations did evolve after "9/11" to accommodate container security devices ("CSDs") which are attached to intermodal shipping containers, the current regulatory framework dates back to the 1972 Customs Convention on Containers. Consequently, these regulations struggle to address ECSDs, which are accessories not to a container, but rather to the cargo itself.

New Customs rules are needed for these new devices. Carriers and logistics providers are seeking streamlined Customs treatment of embedded ECSDs in order to enhance cargo security. Both cargo interests and the interests of Customs authorities would be well served by affording the same trade facilitation benefits to ECSDs as are currently given to CSDs. These benefits vary by country but often include the reduction or elimination of entry filing and bonding requirements, and relief from duty payment after initial commercial deployment.

Moreover, the benefits should accrue to carriers and logistics providers, not just to importers. The reason is that ECSDs – like intermodal shipping containers – are often owned by carriers or logistics providers rather than shippers. This ownership model permits devices to be used on multiple shipments for different customers, thereby achieving economies of scale that would be beyond the reach of a single shipper attempting to manage its own pool of devices.

### **Current Customs Regulations**

The existing regulatory framework and customs rulings (HQ H236467 in particular) comprehend most cargo security and integrity sensors either as types of electronic seals (that must be placed on the outside of a container), or as accessories to another supply chain component (typically an instrument of international traffic ("IIT") like an aircraft ULD or specially-constructed reusable container).

When one takes the same device used as a CSD or accessory to IIT and places it inside the cargo for the maximum desired security effect, the electronic cargo sensor device no longer receives streamlined Customs treatment. Instead, it must be manifested and declared even though functionally it operates no differently than when it was mounted on a container, truck or ULD. This means that when the device arrives in the United States, inside the cargo, the device must be declared as part of the import Customs declaration. This means the device must be described and value attached as part of or as an appendix to the commercial invoice which accompanies the actual cargo.