

Report on Supply Chain Compliance Volume 2, Number 2. January 25, 2019

When new regulations 'challenge business continuity' — A conversation with Travis Miller

The United States' pivot last year from an open market system to a more protectionist stance that emphasizes "like for like" trade deals, if sustained, will be the biggest thing to hit the world economy in a century. In the past, the U.S. would offer up unfettered access to its market in exchange for geopolitical and ideological influential gain (i.e., to shape the world into a democratic, capitalistic mold). Now, however, the U.S.'s ideological goal has been set aside in favor of economic gain.

The impact was felt immediately across all sectors of the world economy. By far, the biggest impact was felt in the global value chain. Companies accustomed to doing things one way were suddenly faced with the pressing need to re-evaluate their supply chains, dig up mountains of data on their products, and make snap decisions regarding pricing, suppliers and markets.

We spoke with Travis Miller, General Counsel for Assent Compliance Inc., about some of the implications of the "new normal," and what we can expect going forward.

RSCC: What kind of specific problems have you seen crop up in the last year, specifically related to the U.S. pivoting away from free markets?

TM: Foundationally, the single biggest thing is supply chain implications; really, what [the U.S. pivot] is doing is challenging business continuity.

Let's take the example of a laptop. For me to make it, I have to have a consistent flow of parts and materials; I have to get the keys, the screen, all of the electronics and circuits; and I have to make sure there's someone who can put it all together. I've had to design that product and design in my suppliers, the people I trust to give me a quality integrated product. I've tested them, vetted them, I know they can produce in volume, for example, when Christmas comes. My pricing is also set and clear. I know it'll cost USD 1,000, and I know my margin is 40 percent.

All of a sudden, when tariffs kick in, I realize I didn't track any of the components of my product as a metric. I don't even know the data that's needed. I don't know the country of origin for every component, because I never needed to. I didn't classify any of my components, because they came as a complete product, tariff- and duty-free. Now I have to go figure that all out. Who makes what from where? How does it come together? What are the HTS codes, and where exactly does this product or component come from?

But that's only step 1. Once I have that information, now I can think smarter.

Now, I have to cross reference that list of codes and country-of-origin data with the tariff list. Does it make sense to use this supplier? Do I have to switch suppliers? Maybe I'll have to requalify that entire laptop and reprice it. The question then arises, can I continue to make this product, or are the margins no good anymore? Will the tariff take my margin down to 15 percent or 20 percent? Do I have to reprice? Am I competitive, or is this product no longer viable?

Companies that approach us generally do not have all of this data and don't even know where to look for it. Their databases need to be updated, and in many respects, linked up with greater databases in order to get a handle on the situation. So one of the biggest problems we've seen companies deal with is establishing accurate databases that allow them to adapt quickly to changes and remain competitive as the market fluctuates.

RSCC: What are some specific things a supply chain manager will have to do to ensure business continuity?

TM: For supply chain managers, there are three basic processes.

The first is a form of enterprise resource planning. A company needs to know what it needs to know. What do you need to ask about? Managers have to put all the parts' numbers in a product list and figure out what they're buying and who they're buying from. Once you have that data, then you can begin to approach individual suppliers.

Which brings us to the second phase: communicating with the supplier. What questions are you going to ask? What certifications are you looking for? You have to send your list out, get the data from the supplier regarding certifications and tariffs, and then get that list back from the supplier. Who is going to manage that? Who's going to speak with the supplier and ensure all the right steps are taken?

The last phase is actually doing something with that info. Once you have your list updated and ready, then you can test the product list against future tariffs, seek out alternative suppliers and ensure all certifications and other documents are in order.

One of the most critical things a supply chain compliance officer needs to have up and running is a solid database to aggregate all of that information and keep it up-to-date and current. Companies should be able to automate a lot of the process once their database is up: There are many types of software solutions that enable communication, analysis and cooperation.

At Assent we help manage data related to all the parts, products, certifications and suppliers they deal with. Cloud-based data hubs are some of the most effective tools for supply chain managers, especially when the market is in turmoil.

It's all about transparency. The more transparency is available to you via your own systems or the interaction with other systems, the more efficient business will be.

RSCC: On the history of regulations and what to expect going forward?

TM: Laws don't happen in a vacuum — laws are reactive, particularly to catastrophic events. The U.S.'s Clean Air Act, for example, came about due to the industry in the Midwest region being so polluted that the rain falling in Washington D.C. was melting away statutes. Air quality in California was so bad from all of the cars that living in L.A. was like smoking packs of cigarettes. So people reacted; they passed laws to address the discharge from industry and automobiles, and then people came up with catalytic converters, scrubbers and other solutions to handle emissions. One of the solutions was outsourcing.

When you outsource manufacturing to China, Malaysia or Mexico, there is no way to regulate that factory, and no way to regulate whether or not they're using slaves or prisoners, or if that blouse is full of lead. So then cue in catastrophic events: people get sick from clothes, from hazardous materials; we realize there is forced labor throughout the supply chain, and emissions continue to rise. The problem is, we can't regulate the people responsible due to their physical locations. The only thing we can do is regulate what comes into our market and our jurisdictions.

So instead of emission control regulations, we demand info and data on the product. And there are all sorts of standards that speak to that: country-of-origin requirements; the [EU's Restriction of Hazardous Substances Directive](#); the [Registration, Evaluation, Authorisation and Restriction of Chemicals](#) regulation; and the U.S.'s [Countering America's Adversaries Through Sanctions Act](#). Then you've got corporate social responsibility and modern slavery detection and disclosure rules, the EU's [Non-Financial Reporting Directive](#) and many more. All of these rules and standards are responses to regulations that require companies to protect consumers from catastrophic events.

In the new era, we're not controlling emissions; we're controlling data. It's behavior-based regulation, based on who you've chosen to do business with. And the only way to do that with efficiency is industry-wide standardization; IPC-1752A for electronics, for example, or PC-1754 for aircraft and large scale equipment. With one standardized form you can tell everyone in your industry what they need to know in relation to a certain data point.

Regulations don't tell you how to comply; they say there is a penalty if you don't figure out a way to do it. It's up to industry standards and people to figure out how to achieve the objectives of regulations. So coming up with industry-wide standards and ensuring everyone has quick access to the data they need in order to adapt to changing conditions is one of, if not the most, critical task of the new era.

About Travis

Travis Miller, General Counsel for Assent Compliance Inc., is an international trade and compliance attorney specializing in environmental, health and safety; product stewardship; and corporate social responsibility. He manages Assent's worldwide legal activities in supply chain data management and provides legal support and insight to every team at the company.

This publication is only available to subscribers. To view all documents, please log in or purchase access.

[Purchase Login](#)