

Shazam or CBAM?

There is no magic shortcut to managing new international supply chain rules

Imagine there was an app that could scan a product presented for import into the EU and instantly identify its carbon footprint (or perhaps even the labour used to produce it). Alas, the EU's Carbon Border Adjustment Mechanism (CBAM) is no Shazam, so, for now at least, other solutions are going to be necessary.

Many if not all trade and customs specialists are not ESG experts. It may not be immediately obvious to them that they even have a role to play in their organisation's ESG management. Nevertheless, despite all the talk about globalisation going in reverse, in at least the short term companies are going to have to become much better at managing the regulatory aspects of their international supply chains. As is often the case, the rubber meets the road at Customs. Meaning to say that the policing of environmental, social and governmental aspects of international supply chains will often be the job of customs officials, even if they are not necessarily the instigators of the relevant regulations, nor well-informed or well-trained to evaluate compliance.

We see this already in the relatively well-trodden space of Free Trade Agreements. Despite the best efforts of Ministry of Trade negotiators to create FTAs that are clear and transparent, commercial reality means that there are many aspects of international trade that are not well catered for in such FTAs. Consequently, customs officials are left to decide for themselves how to deal with such ambiguous aspects, leading to unexpected and / or inconsistent experiences for exporters and importers alike. Indonesia's change from referring to "non-party invoicing" rather than "third party invoicing" (see the Indonesia territory report) is a simple but illustrative example of this.

Extrapolating from FTA experience, it seems to us that the average trade and customs professional would do well to take the proverbial bull by the horns and proactively start a discussion, if not implement a strategy, to deal with newer regulatory aspects of international supply chains in their organisation.

CBAM would be an obvious start. Although clearly most trade and customs professionals will need support from someone else in order to determine embedded carbon emissions (be they tier 1, tier 2 or tier 3), whether or not a product is covered by the CBAM regulations in the first place is determined by its HS code. Hence it should be the responsibility of the trade and customs manager to determine which, if any, of their company's products are captured. They should also monitor the list of covered HS codes, which is constantly subject to change. While doing so, it may not be a bad idea to perhaps review their company's tariff classification codes in their entirety?

The actual implementation of full additional import charges under CBAM is a long way away (currently slated for 2034 - see [this](#) for further details). But reporting requirements start as early as this year. It is our experience that few exporters in Asia are ready for what is to come. To avoid an inevitable scramble towards the end of the year, now is a good time to act. Align all relevant personnel (dare we say form a task force?!); determine affected products; establish a data capture process; start communications with EU based customers on their expectations and requirements; implement a robust reporting structure. At a minimum.

From there, it would be a small step to start thinking about other ESG aspects of international supply chains that trade and customs professionals would be well placed to help manage. As part of either FTA or US First Sale management, they may already be actively involved in reviewing suppliers' (and their suppliers', and so on) compliance with the relevant rules. This can be achieved through physical factory visits and inspections, but may also rely on joint supply chain management systems or virtual supply chain reviews. Expanding these processes to manage for example the new Supply Chain Transparency Law in Germany or the US's Forced Labor Act would be a natural next step.

Many organisations may still view such new and additional international supply chain management regulations as a hassle. However, the regulatory landscape as well as public opinion appear irrevocably moving in this direction. In the immediate future, proactive and next-in-class management of such regulations may create significant competitive advantage. In the longer run, not doing so will likely undermine the viability of any business. Not unlike FTAs, in fact. The call to action for the trade and customs professional of the future should be clear. App or no app.

