

The Transnational Governance Dilemma of Corporate Compliance in the Context of Globalization and Solutions to International Relations

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Abstract: The deepening of the globalization process has made cross-border business operations the norm for enterprises. However, cross-border compliance governance is confronted with multiple predicaments such as differences in legal systems, policy fragmentation, and regulatory conflicts. This article starts from the theoretical framework of transnational governance, systematically analyzes the transnational governance predicaments of enterprise compliance, including core issues such as legal system conflicts, policy fragmentation, regulatory arbitrage and cultural differences, and proposes to solve governance problems through paths such as international rule reconstruction, bilateral cooperation mechanisms, technological empowerment and cultural integration. Provide theoretical references and practical guidance for enterprise compliance management in the context of globalization.

Keywords: Globalization; Enterprise Compliance; Transnational Governance; International Relations; Fragmentation of Policies

1. Introduction

The deepening of the globalization process has made cross-border business operations the norm for enterprises, but the complexity of cross-border compliance governance has significantly increased accordingly. The number of valid legal provisions worldwide has exceeded 2 million, among which there are over 100,000 legal provisions related to cross-border operations, and new ones are being added every year [1]. Enterprises need to simultaneously deal with differentiated regulatory requirements such as the EU's General Data Protection Regulation (GDPR) and the US Foreign Corrupt Practices Act (FCPA), and the proportion of compliance

costs to operating costs has risen to an average of 15%-20% [2]. Against this backdrop, the predicament of transnational governance not only concerns the survival of enterprises but has also become a key factor affecting the stability of the international economic order.

The traditional theory of transnational governance focuses on the coordination of rules among sovereign states. However, in the context of globalization, the role of enterprises as transnational actors is becoming increasingly prominent[3]. Cultural dimension differences have a profound impact on the formulation of compliance strategies by multinational enterprises, and there are significant differences in compliance preferences and implementation efforts under different cultural backgrounds [4]. For instance, in a culture with a higher power distance, enterprises respond more promptly to authoritative regulation, while in a culture with a stronger individualistic tendency, enterprises may be more inclined to resolve compliance disputes through legal means.

The root cause of the predicament of transnational governance lies in the interweaving of legal system conflicts, policy fragmentation and cultural differences. Dunning's [5] "Eclectic Theory of International Production" emphasizes that enterprises operating across borders need to possess ownership advantages, internalization advantages, and location advantages simultaneously. However, the increase in compliance costs may weaken these advantages. For instance, the EU's GDPR requires enterprises to store their data locally, while the US Act Clarifying the Use of Foreign Data allows governments to access data across borders. Enterprises need to strike a balance between the two [6]. This balance not only involves data management at the technical level, but also the complexity of legal interpretation and strategic decision-making.

2. Theoretical Framework and Practical Challenges of Transnational Governance

2.1 Theoretical Evolution of Transnational Governance: From Sovereign Coordination to Co-governance by Actors

The theory of transnational governance has undergone an evolution from the "sovereign state-centered theory" to the "multi-actor co-governance theory". Early theories emphasized that sovereign states coordinate rules through international organizations such as the WTO and the IMF. However, in the context of globalization, the influence of non-state actors such as enterprises and non-governmental organizations (ngos) has significantly increased. Cross-border governance requires the integration of regulatory subjects at the cross-national, national, and sub-national levels to form a governance network with the collaboration of multiple subjects [7].

As transnational actors, enterprises have dual governance demands: on the one hand, they need to abide by the laws of the host country; on the other hand, they need to meet the regulatory requirements of the home country. This dual regulation leads enterprises to face a "compliance paradox" - excessive compliance may cause them to lose market competitiveness, while insufficient compliance will expose them to legal risks [8].

The multi-subject collaboration in cross-border governance needs to address the "collective action dilemma". Small-scale groups are more likely to reach cooperation, while large-scale groups are difficult to coordinate due to the dispersion of interests. In cross-border governance, enterprises, as rational actors, may undermine collective compliance goals in pursuit of individual interests.

2.2 Practical Challenges: Legal System Conflicts and Policy Fragmentation

Legal system conflicts are the core predicament of transnational governance. There are fundamental differences between civil law systems (such as Germany and France) and common law systems (such as the United States and the United Kingdom) in terms of legal sources and enforcement mechanisms. According to statistics from the International Comparative Law Association (ICLA), the number of legal precedents in common law countries is more than three times that in civil

law countries, which leads enterprises to need to invest more resources in case study. Take labor law as an example. The German "Enterprise Committee Act" requires enterprises to establish employee representative offices, while the United States "Labor Relations Act" grants employers greater autonomy in employment. Enterprises need to adjust their governance structures in accordance with the laws of the host country.

Policy fragmentation further intensifies the difficulty of governance. Regulatory standards in areas such as data protection, anti-monopoly, and taxation are not uniform among countries, resulting in "regulatory silos". For instance, there are significant differences between the EU's GDPR and the US's California Consumer Privacy Act (CCPA) in terms of data subject rights and cross-border transmission rules. Enterprises need to establish differentiated compliance systems. Data from the Organization for Economic Cooperation and Development (OECD) shows that the compliance costs for multinational enterprises increase by an average of 30% annually due to fragmented policies, with data protection accounting for the highest proportion.

3. Analysis of the Transnational Governance Dilemma of Enterprise Compliance

3.1 Legal System Conflicts: Regulatory Differences between the Civil Law System and the Common Law System

The conflicts in the legal system are reflected in three levels: legislative principles, enforcement mechanisms and judicial practices. In terms of legislative principles, the civil law system is dominated by written laws, with clear legal provisions but limited space for interpretation. The Anglo-American legal system is mainly based on case law, which is flexible but frequently updated in case law. For instance, the German Anti-Unfair Competition Act specifically defines commercial bribery as "offering or promising to offer economic benefits", while the US Foreign Corrupt Practices Act adopts the "substantial benefit" standard. Enterprises need to adjust their anti-corruption compliance strategies in accordance with the laws of the host country.

In terms of the enforcement mechanism, the regulatory authorities in civil law countries have centralized powers and strict penalty procedures.

In common law countries, judicial proceedings are relied upon, and the intensity of penalties fluctuates greatly. Take anti-monopoly as an example. The fine imposed by the European Union on Google accounts for 4% of its global revenue, while the penalties for similar behavior in the United States are usually less than 1% of its revenue. This difference leads enterprises to adopt differentiated competitive strategies in different markets.

3.2 Policy Fragmentation: Regulatory Conflicts Over Data Protection, Anti-monopoly and Taxation

Policy fragmentation is particularly prominent in the fields of data protection, anti-monopoly and taxation. In the field of data protection, the EU's GDPR requires enterprises to establish a Data Protection Officer (DPO) system, while the US CCPA only requires enterprises to disclose the purpose of data collection. This difference leads multinational enterprises to establish a dual data management system, increasing compliance costs. The report of the European Commission shows that the average cost for multinational enterprises to comply with GDPR amounts to several million euros per year, which is much higher than that of American enterprises.

In the field of anti-monopoly, there are fundamental differences in regulatory logic between the European Union and the United States. The European Union, with "protecting market competition" at its core, holds a strict attitude towards behaviors such as price discrimination and market segmentation. The United States, guided by the principle of "protecting consumer interests", offers more exemptions for the fair use of intellectual property rights. For instance, the European Union has imposed huge fines on Google for discriminatory biases in its search results, while the US FTC has not found it illegal. This regulatory conflict leads enterprises to need to adjust their business models in different markets. In the field of taxation, the differences in tax systems among countries and the imperfection of tax treaties lead enterprises to face the risk of double taxation. The corporate income tax rate in Germany is 30%, and cross-border profits are strictly taxed. The United States, on the other hand, adopts the principle of territoriality and only taxes profits within its territory. Oecd data shows that the average effective tax rate for German multinational companies is as high as

37%, while for American companies it is only 25%. This disparity forces enterprises to reduce their tax burden through means such as transfer pricing and optimization of tax treaties, but it may trigger regulatory scrutiny.

3.3 Regulatory Arbitrage and Cultural Differences: Hidden Obstacles to Compliance Enforcement

Regulatory arbitrage is a common means for enterprises to take advantage of regulatory differences to reduce compliance costs, but it may trigger legal risks. For instance, some enterprises transfer profits by setting up subsidiaries in countries with low regulation to circumvent the anti-corruption requirements of countries with high regulation. World Bank statistics show that from 2018 to 2023, the number of compliance investigation cases triggered by regulatory arbitrage worldwide increased by 40%, among which cases involving multinational enterprises accounted for 65%.

Cultural differences are hidden obstacles to compliance implementation. There are differences in the definitions of commercial bribery and conflicts of interest among different countries. For instance, the "gift-giving culture" is widespread in Middle Eastern countries, but the FCPA in the United States explicitly prohibits any form of benefit transfer. In Japan, "relationship marketing" emphasizes long-term trust, while the EU's Anti-Unfair Competition Act prohibits obtaining contracts through non-transparent means. Enterprises need to strike a balance between respecting local culture and abiding by international rules; otherwise, they may face compliance risks.

4. Governance Solutions from the Perspective of International Relations

4.1 Reconstruction of International Rules: Multilateral Cooperation and Standardization

The reconstruction of international rules is the key to breaking through the fragmentation of policies. Promoting the unification of regulatory standards through multilateral cooperation can reduce the compliance costs for enterprises. For instance, the "Code of Conduct for Multinational Corporations" formulated by the Organization for Economic Cooperation and Development (OECD) covers areas such as anti-corruption and data protection, providing a unified compliance

framework for multinational enterprises. Negotiations between the European Union and the United States in the field of data protection indicate that both sides are exploring the establishment of an "equivalence certification" mechanism, allowing enterprises that meet EU standards to enjoy compliance conveniences in the US market.

Bilateral investment agreements (Bits) are important tools for coordinating regulatory conflicts. The China-Eu Comprehensive Agreement on Investment (CAI), which is currently under negotiation between China and the European Union, includes a chapter on "Regulatory Cooperation", requiring both sides to establish dialogue mechanisms in areas such as data flow and environmental standards. Such agreements can reduce compliance risks for enterprises caused by regulatory differences and promote cross-border investment.

4.2 Bilateral Cooperation Mechanism: Inter-governmental Dialogue and Enterprise Participation

The bilateral cooperation mechanism needs to take into account both inter-governmental dialogue and enterprise participation. Governments can reduce regulatory conflicts by establishing joint regulatory committees and sharing compliance information, among other means. For instance, under the China-US Economic Dialogue mechanism, the regulatory authorities of both sides regularly hold consultations on issues such as anti-monopoly and data protection, reducing compliance risks for enterprises caused by unclear rules.

Enterprise participation is an important supplement to the bilateral cooperation mechanism. Through platforms such as industry associations and chambers of commerce, enterprises can report compliance challenges to the government and promote the optimization of rules. For instance, the "Recommendation on EU Businesses in China" issued by the European Union Chamber of Commerce in China has repeatedly mentioned issues such as data localization and anti-monopoly reviews, prompting the Chinese government to adjust relevant policies.

4.3 Technology Empowerment: Digital Compliance and Risk Early Warning

Technology empowerment is the core means to enhance compliance efficiency. Through

technologies such as artificial intelligence and blockchain, enterprises can achieve the automation of compliance processes and real-time risk warnings. For instance, the "Compliance Agent" developed by Lenovo Group can automatically identify compliance risks in contracts, reducing the review time from 72 hours to 2 hours. Siemens has established a "blockchain compliance platform" that traces the entire supply chain process, ensuring compliance with the EU's Conflict Minerals Regulation.

Digital compliance can also promote collaboration between enterprises and regulatory authorities. By opening API interfaces, enterprises can submit compliance data to regulatory authorities in real time, reducing the cost of manual review. For instance, the EU's GDPR requires enterprises to establish data Protection Impact assessment (DPIA) systems. Some enterprises have achieved the automated submission of compliance reports by sharing system interfaces with regulatory authorities.

4.4 Cultural Integration: Balancing Localization Strategies with Global Standards

Cultural integration needs to take into account both localization strategies and global standards. Enterprises can establish a "global-local" compliance system to respect local culture while abiding by international rules. For instance, Huawei has established the position of "Compliance Culture Ambassador" in the Middle East market, responsible for training employees to understand local business customs and FCPA requirements. Alibaba has launched a "Multilingual compliance manual" in the Southeast Asian market, converting GDPR requirements into local language versions to reduce the cost for employees to understand.

Enterprises also need to enhance their compliance reputation through social responsibility projects. For instance, Apple has implemented the "Supplier Responsibility Standard" in its global supply chain, requiring suppliers to comply with international rules such as labor laws and environmental laws. At the same time, it enhances their compliance capabilities through the "Supplier Education Program". This strategy not only reduces compliance risks but also enhances the brand value of enterprises.

5. Conclusion

Under the backdrop of globalization, the

cross-border governance predicament of enterprise compliance stems from multiple dimensions such as legal system conflicts, policy fragmentation, regulatory arbitrage, and cultural differences. To break through these predicaments, it is necessary to start from four paths: the reconstruction of international rules, bilateral cooperation mechanisms, technological empowerment and cultural integration. By promoting the unification of regulatory standards through multilateral cooperation, establishing a government-enterprise collaboration mechanism, leveraging technology to enhance compliance efficiency, and balancing localization strategies with global standards, enterprises can achieve dual improvements in compliance and competitiveness in the wave of globalization. Future research can further explore the impact of emerging technologies (such as generative AI) on compliance governance, as well as the challenges posed by geopolitical conflicts (such as the technological decoupling between China and the United States) to cross-border governance. At the same time, it is necessary to pay attention to the changing roles of developing countries in cross-border governance and build a more inclusive global governance system.

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