

# ***Research on legal risk prevention and control strategies of multinational corporations from the perspective of international commercial law***

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**Abstract:** In the context of globalization, multinational companies (multinational) face complex and changing legal risks, which not only affect their operational efficiency, but also may pose a significant threat to their long-term development. The business activities of multinational companies around the world require legal risk management to be conducted in different countries and regions, which increases the complexity of management. This paper aims to explore the legal risks of MNCs from an international commercial law perspective, analyzing their definitions, characteristics, and impacts, and studying the application strategies of international commercial law in managing legal risks. The research not only provides a practical legal risk management framework for MNCs but also contributes new perspectives and insights to academic research in the field of international commercial law.

## **1. Introduction**

With the deepening of economic globalization, the business activities of multinational corporations (MNCs) on a global scale are becoming increasingly frequent. These activities not only bring enormous business opportunities but also come with complex legal risks. Legal risks, as an important type of risk in international trade, refer to the potential legal sanctions, economic losses, or reputational damages that companies may suffer due to various uncertainties during the international trade process<sup>[1]</sup>. These risks are characterized by uncertainty, unpredictability, complexity, and diversity, posing severe challenges to the sustainable development of MNCs.

## **2. Overview of Legal Risks of Transnational Corporations**

### **2.1 Definition of Legal Risk**

Legal risks of multinational corporations refer to economic losses or legal liabilities that may arise during international business operations due to the diversity of legal environments changes in regulations and policies the complexity of contract execution and the uncertainty of intellectual property protection<sup>[2]</sup>. The emergence of such risks primarily stems from the need for multinational corporations to adapt to the differences and complexities of legal systems in various countries and

regions during their global expansion which poses challenges in complying with legal requirements. Legal risks can be categorized into the following types:

Contract risks primarily involve uncertainties during the process of contract signing and performance, at their core they include incomplete contract terms such as defective clauses, ambiguous wording, or the absence of key elements (such as liability for breach of contract, dispute resolution mechanisms, etc.)<sup>[3]</sup>. These deficiencies may lead to disputes or inability to perform according to the agreement during contract execution. Additionally, contract risks also encompass the possibility of breach by the other party, such as delayed payments, failure to provide goods or services as agreed, which directly result in economic losses for the company.

Legal change risks originate from the revision of laws and regulations or the issuance of new rules, which directly impact the daily operations of enterprises. Specifically, existing laws may change due to policy adjustments or market dynamics, leading to compliance risks for previously legal business practices; furthermore, newly enacted laws may set new standards for the company's business structure, market entry barriers, and product standards, compelling enterprises to quickly adapt and adjust their strategies to fit the new legal framework.

Litigation risk refers to the risk that a company may encounter legal litigation or arbitration during its operations, which can lead to economic losses<sup>[4]</sup>. Specific scenarios include litigation or arbitration arising from contract disputes, intellectual property infringement, product quality issues, etc., between the company and its partners, competitors, or consumers. This not only consumes a significant amount of time and resources but can also have negative impacts on the company's financial condition and reputation.

Intellectual property (IP) risks mainly stem from defects in enterprises' IP protection or infringement behaviors, covering the possibility that enterprises may unintentionally infringe upon others' patents, trademarks, copyrights, and other IP rights, thereby facing the risk of legal litigation and potential liability for compensation. At the same time, enterprises' own IP rights may suffer from infringement due to inadequate protection, thereby weakening the core competitive advantages of the enterprise.

Tax risks are related to the tax planning and compliance of enterprises in cross-border operations. Specifically, enterprises may bear additional tax burdens due to insufficient understanding of cross-border tax regulations or operational errors, and if they fail to meet local tax compliance requirements in their operations in various countries, they may face the risk of fines, late payment penalties and even criminal liability.

## 2.2 Characteristics of Legal Risks of Transnational Corporations

The global business operations of multinational corporations face an extremely complex and changing legal environment<sup>[5]</sup>. This complexity stems from the need to adapt to unique legal systems, intricate regulations, and diverse judicial interpretations in different countries. These differences not only increase the difficulty of understanding and complying with local laws but also significantly enhance the complexity of legal risk management. More importantly, the legal risks faced by multinational corporations are not confined to a single legal field but encompass multiple aspects including compliance management, contract performance, intellectual property protection, tax compliance, and adherence to labor laws, exhibiting a diversified characteristic. This diversity requires companies to possess comprehensive legal risk management capabilities to address potential challenges in various fields.

In addition, given the diversity and complexity of legal systems across countries and the ongoing evolution of international political and economic conditions, the legal risks faced by multinational corporations exhibit a high degree of uncertainty. This uncertainty makes it difficult for companies

to accurately anticipate and assess potential legal risks, thereby exacerbating the complexity of business decisions. Once legal risks emerge, their consequences often have far-reaching impacts and can directly threaten the financial health of the company, damage its brand reputation, and even undermine its competitive advantage in the market. Therefore, for multinational corporations, establishing a comprehensive and efficient legal risk management system to effectively respond to the complex and changing legal environment is a core element for ensuring the continuous and stable development of the company.

### **2.3 The Impact of Legal Risks on Multinational Corporations**

The impact of legal risks on multinational corporations exhibits profound and multi-dimensional characteristics. Such risks not only potentially trigger direct economic losses such as fines and compensation, severely damaging the companies financial condition and profitability, but can also cause damage to the companies reputation and brand image, reducing consumer and investor trust, thereby threatening its market share and partnerships. Moreover, legal risks may hinder business operations, such as contract non-performance or product bans, directly impacting the companies market position and competitiveness. More seriously, multinational corporations may need to adjust their global strategies and business layouts to comply with legal requirements in different countries or regions, which increases operational costs and uncertainty. Additionally, to address legal risks, multinational corporations must invest additional resources and effort in compliance management, legal consulting, and litigation response, further increasing the cost of legal risk management. Therefore, effective management and reduction of legal risks are crucial for multinational corporations to maintain their market position and ensure sustainable development.

## **3. Application of International Commercial Law in the Prevention and Control of Legal Risks in Transnational Corporations**

### **3.1 Basic Principles and Norms of International Commercial Law**

International Commercial Law establishes the legal system regulating international commercial relations, with its core principles and norms covering the following aspects: Firstly, the principle of internationality focuses on optimizing global resource allocation and the uniform implementation of commercial rules. Secondly, the principle of equality and mutual benefit ensures that international commercial entities enjoy equal status, rights, and responsibilities, ensuring that both parties achieve common interests in a fair environment. The principle of state economic sovereignty reflects the rights and image of a country or region in international commercial activities. Additionally, international commercial law emphasizes the principle of party autonomy, granting commercial entities full autonomy and ensuring that transactions are based on voluntary consensus. The principle of good faith, as the moral foundation of the market economy, requires parties to pursue their own interests while maintaining the interests of others and public interests. The principle of transaction convenience aims to enhance the efficiency of commercial transactions. Finally, international commercial law recognizes and grants legal effect to international commercial practices and conventions, demonstrating respect for traditional practices. These principles and norms together form the foundation of international commercial law, providing a solid legal support for international commercial exchanges.

## **3.2 Application of International Commercial Law in Transnational Transactions**

### **3.2.1 Define the Applicable Legal System**

The security and legality of cross-border transactions depend on the clarity and applicability of the chosen legal system. Given the diversity of legal systems in different countries, multinational corporations need to carefully select and clearly define the applicable legal framework when conducting transactions. This decision-making process requires companies to rely on professional legal consulting services to achieve precise legal confirmation and ensure that the chosen legal system aligns with both parties' intentions while effectively regulating transactional activities. Clearly defining the applicable law in the transaction contract helps reduce legal discrepancies caused by differences in legal systems, creating a clear and predictable legal environment for both parties, thereby reducing legal risks and enhancing the security and stability of transactions.

### **3.2.2 Ensure the Legality and Validity of the Contract**

In cross-border transactions, the legality and validity of contracts form the core of addressing legal risks. Multinational corporations must ensure that the formation of contracts strictly adheres to relevant legal norms to avoid any illegal acts. This requirement encompasses thorough due diligence before the signing of contracts, aiming to confirm the legitimate identities of the transaction participants and review the legality and compliance of contract terms. Additionally, contract terms must be clearly stated, comprehensive, and non-explanatory, and possess executability to fully protect the legitimate rights and interests of all parties during the contract performance phase. To this end, multinational corporations can engage professional legal advisors to conduct a comprehensive review of the contracts, enabling timely identification and correction of potential legal flaws, thereby ensuring the legality and validity of the contracts.

### **3.2.3 Selection and Application of Dispute Settlement Mechanism**

In the process of cross-border transactions, disputes are inevitable. Therefore, selecting an appropriate dispute resolution mechanism is crucial for effectively controlling legal risks. The main dispute resolution methods include arbitration and litigation. Arbitration, with its high efficiency, low cost, and strong confidentiality, is particularly suitable for resolving disputes in cross-border transactions. In contrast, litigation is a more formal and public method, suitable for dispute resolution that requires national judicial intervention. Cross-border enterprises need to combine specific circumstances and contractual agreements to comprehensively evaluate factors such as the nature, amount, time cost, and mutual willingness of the dispute to choose the most appropriate dispute resolution method. Additionally, clearly specifying the dispute resolution mechanism in the contract facilitates the swift initiation of relevant procedures when disputes arise, thereby enhancing the efficiency and effectiveness of dispute resolution.

## **3.3 Strategies of the Application of International Commercial Law in the Prevention and Control of Legal Risks of Multinational Corporations**

### **3.3.1 Establish a Sound Compliance System**

To ensure robust operations in the global market, multinational corporations need to establish a comprehensive and efficient compliance framework. The core elements of this framework are to formulate and enforce a set of internal rules and regulations that span all business areas and operational processes of the company, aiming to prevent violations. At the same time, strengthening

employee training and awareness is a crucial aspect of building a compliance system. By organizing regular training and education activities, we raise employees' awareness of the importance of compliance and cultivate their compliance consciousness and sense of responsibility. In addition, the establishment of a compliance monitoring and reporting mechanism to continuously monitor and evaluate the Company's business operations enables the timely identification and correction of potential compliance risks and ensures the effective operation of the compliance framework

### **3.3.2 In-Depth Study of Local Laws and Continuous Attention to Legal Changes**

Multinational corporations operate in multiple countries and regions around the world, each with its own distinctive legal systems and regulations. Therefore, thoroughly researching the local legal systems and regulations is crucial for multinational corporations. This requires not only understanding the local legal environment and potential legal risks but also conducting in-depth studies on the specific content and implementation of local laws to better guide the company's business activities. At the same time, since the legal environment is constantly evolving, multinational corporations must continuously monitor legal changes and updates. This includes paying attention to the revision of laws in various countries, the introduction of new laws, and the issuance of judicial interpretations, ensuring that the company's business activities always comply with the latest legal requirements. To achieve this, multinational corporations can establish specialized legal research teams or entrust professional legal service providers to provide timely and accurate legal information, offering strong legal support for the company's decision-making and operations.

### **3.3.3 Establish Legal Risk Identification and Evaluation Mechanism**

Multinational corporations urgently need to establish a comprehensive legal risk identification and evaluation system when dealing with the complexities of international legal environments. This system should cover all legal fields touched upon in business activities, including but not limited to contract law, intellectual property law, labor law, etc., aiming to ensure that enterprises strictly comply with domestic and international laws and regulations in all business processes. By conducting periodic internal compliance policy reviews and updates, enterprises can promptly identify and correct potential violations. At the same time, assessing the legality and enforceability of contract terms is crucial for preventing contract disputes. Enterprises should establish dedicated legal departments or hire professional legal advisors to rigorously review key contracts to ensure that contract content aligns with legal provisions and possesses legal binding force. Additionally, monitoring competitors' legal dynamics is also an essential measure, which helps anticipate industry trends and potential legal risks, thereby enabling the adoption of corresponding preventive measures.

## **4. Conclusion**

Overall, the legal risks faced by multinational corporations exhibit complexity and variability, posing significant challenges to their operations and growth. International commercial law, as the legal framework regulating international commercial activities, provides robust legal support and risk management strategies for multinational enterprises. By establishing applicable legal systems, ensuring the legal validity and compliance of contracts, selecting appropriate dispute resolution methods, and building comprehensive compliance mechanisms, companies can effectively reduce legal risks and protect their legitimate rights and interests as well as their market position. Furthermore, in-depth analysis of local laws, continuous tracking of legal trends, and the establishment of legal risk identification and assessment mechanisms help companies swiftly

address potential legal risks and maintain their competitive edge in global markets. Looking ahead, with the advancement of globalization and the sustained growth of international trade, multinational corporations need to continuously deepen their understanding and application of international commercial law, continuously enhancing their legal risk management capabilities to lay a solid foundation for the long-term sustainable development of the enterprise.

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