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TRANSNATIONAL COMPLIANCE STRATEGIES: HARMONIZING TAX, ENVIRONMENTAL, AND CONTRACTUAL REQUIREMENTS IN CROSS-BORDER TRANSACTIONS

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Abstract: This article analyzes transnational compliance strategies to harmonize tax, environmental, and contractual requirements in cross-border transactions. It starts from the premise that compliance involves complying with and demonstrating compliance through governance, controls, and auditable evidence. It adopts the notion of a regulatory triad of tax, environmental, and contractual regulations as an interdependent system, in which the contract structures the international economic fact and conditions the allocation of risks and results, while environmental obligations and liabilities associated with chemicals, waste, and emissions affect compliance costs, operational continuity, and decisions in corporate transactions. On the tax front, we discuss Brazil's convergence with the arm's length principle in transfer pricing and its impacts on economic substance, functional analysis, and documentation. On the environmental axis, emphasis is placed on the centrality of responsibility and due diligence for mitigating liabilities and risks in global chains and in mergers and acquisitions, including the strengthening of chemical controls and traceability. On the contractual axis, instruments of predictability and enforcement mechanisms are highlighted, as well as limits to private autonomy in the face of mandatory rules and public order. It is concluded that three-dimensional harmonization reduces regulatory risk and transaction costs by minimizing documentary inconsistencies, increasing predictability, and strengthening the defensibility of corporate decisions, recommending compliance by design with integrated due diligence, harmonized contracts, playbooks, and continuous monitoring.

Keywords: Compliance; cross-border operations; ESG; due diligence; enforcement.

Introduction

Conceptually, compliance can be understood as the organizational capacity to know, comply with, and demonstrate compliance with applicable legal standards, internal policies, and commitments made to third parties (customers, financiers, certifications, and industry standards). In cross-border operations, this concept becomes more complex: formal adherence to local rules is not enough; it is necessary to organize a governance architecture that coordinates multijurisdictional decisions, maintains consistent controls, and produces auditable evidence capable of withstanding regulatory and contractual scrutiny in different countries. From this perspective, compliance is less of a "checklist" and more of a management system connected to risk assessment, organizational culture, and continuous improvement, in line with international standards for compliance management systems (INTERNATIONAL ORGANIZATION FOR STANDARDIZATION - ISO, 2021).

This work adopts the notion of a regulatory triad of tax, environmental, and contractual issues as an interdependent system. The contract describes and organizes the cross-border economic transaction (obligations, risks, price, delivery, guarantees, remedies), directly influencing the allocation of profits and tax risks. in turn, environmental impacts and liabilities (including chemicals, waste, and emissions) create legal obligations and compliance costs that fall on operations, supply chains, and corporate transactions. Thus, integrated analysis avoids the fragmentation typical of "silo" (disconnected) approaches, in which the contractual design ignores tax or environmental risks, or tax planning disregards reporting, traceability, and licensing obligations.

Methodology

This research is characterized as a qualitative bibliographic-documentary study, whose objective is to systematize and analyze transnational compliance strategies aimed at harmonizing tax, environmental, and contractual requirements in cross-border operations, with an emphasis on the Brazilian regulatory context and its interfaces with international standards. The investigation adopted procedures for critical analysis of primary and secondary sources, covering legislation, normative acts, incorporated treaties, technical standards, and international guidelines, as well as academic literature and institutional reports, in order to construct an integrated overview of the so-called regulatory triad ( ) and its operationalization in governance, controls, and evidence.

Works and documents were selected that presented discussions directly related to transfer pricing and arm's length documentation, environmental responsibility and due diligence in global chains and M&A, instruments of contractual predictability and transnational enforcement mechanisms, as well as references to hard law and soft law and their practical effects through audits, financiers, and contractual clauses. The selection criteria included thematic relevance to cross-border operations, analytical consistency, institutional authority, and practical applicability, prioritizing official sources and recognized international organizations, such as Brazilian federal legislation, relevant standards and conventions, and technical guides widely used in corporate governance and responsible conduct.

Materials that were purely opinion-based, content without verifiable documentary support, and works that dealt with compliance in a generic manner, without connection to tax, environmental, and contractual interdependence or without a transnational perspective, were excluded. We chose to prioritize the Brazilian axis because it reflects recent regulatory changes with a direct impact on multinationals and global chains, without prejudice to using international references as a comparative and harmonization parameter. Thus, the methodology adopted allowed us to consolidate evidence on typical inconsistencies in siloed approaches, as well as to identify guidelines and practices applicable to the structuring of compliance by design, with integrated due diligence, harmonized contracts, operational playbooks, and continuous monitoring.

Theoretical Framework

ISO 37301 reinforces the structuring of requirements and guidelines for the implementation, evaluation, and improvement of compliance systems, with an emphasis on leadership, planning, support, operation, performance evaluation, and improvement. In operational terms, this unfolds into three pillars: governance (roles, responsibilities, resources, independence, and accountability), controls (policies, procedures, due diligence, monitoring, auditing, and remediation), and evidence (records, documentation, and traceability that demonstrate the diligence and effectiveness of the program) (ISO, 2021). In a transnational context, the evidence pillar takes center stage because the company needs to demonstrate not only the result ("complied"), but also the process ("took reasonable, proportionate, and verifiable measures").

Understanding transnational compliance requires distinguishing, without ar-

tificially separating, hard law and soft law. Hard law corresponds to internally incorporated laws, regulations, and treaties, with coercive state mechanisms; soft law includes guidelines, principles, and standards (often voluntary) that operate through technical legitimacy, reputational pressure, and market and financing requirements. In contemporary practice, soft law often gains strength through indirect enforcement: contractual clauses, third-party audits, requirements of large economic groups, banks, and insurance companies, as well as chain effects.

In Brazil, the institutionalization of corporate compliance has intensified since 2013, with Law No. 12,846/2013, which establishes administrative and civil liability of legal entities for acts against the public administration and encourages integrity structures as a preventive mechanism and to mitigate sanctions. Subsequent regulations, notably Decree No. 11,129/2022, detail relevant parameters for evaluating integrity programs (Articles 56 and 57) and procedures at the federal level, influencing contracting chains and compliance requirements in B2G (business-to-government) and B2B (business-to-business) relationships. This environment reinforces the centrality of the "evidence" component: the effectiveness of the program is demonstrated by documentation, routines, records, and responses to incidents.

Recent Brazilian legislation has greatly enriched compliance routines, making it essential that tax, environmental, and contractual approaches work in a coordinated manner for the success of customs operations. Below, we will address each of these in their main points:

Tax dimension: Law No. 14,596/2023 restructures the Brazilian transfer pricing regime and explicitly aligns it with the arm's length principle (principle of full competition), bringing the country closer to the standard set out in the OECD Transfer Pricing Guidelines (OECD, 2022). As a result, transnational tax compliance shifts from a predominantly formal, " " approach to a regime that is more dependent on economic substance, functional analysis (functions, assets, and risks), comparability, and robust documentation, reinforcing the centrality of evidence trails and data governance to support the tax position adopted. Infralegal regulations, in particular IN RFB No. 2,161/2023, operationalize documentation and procedural requirements that, in practice, reorient the internal routines of multinational groups (BRAZIL, 2023).

From a strategic point of view, this convergence produces two combined effects. First, it reduces the cost of regulatory compliance for groups that already operate under OECD standards, favoring intercompany consistency and comparability of pricing policies (OECD, 2022). Second, it increases the burden of evidentiary consistency: intercompany contracts, accounting, management reports, and operational evidence must tell the same economic story, under penalty of increased risk of tax questioning. In terms of control design, this recommends: a corporate pricing policy with clear governance; a materiality matrix for each controlled transaction; documentation standards with a trail of assumptions and comparables; and contractually agreed true-up procedures to maintain arm's length compliance when there are significant variations in execution.

Environmental dimension: in Brazil, the National Environmental Policy, established by Law No. 6,938/1981, provides

instruments and grounds for liability for environmental damage, directly affecting corporate reorganizations, asset acquisitions, and M&A (Mergers and Acquisitions) transactions, including cross-border ones. The decisive point, for compliance purposes, is that environmental risk is not limited to administrative sanctions: it involves hidden liabilities, remediation costs, impacts on valuation, financing restrictions, and reputational risk. Consequently, environmental due diligence must go beyond the formal verification of licenses and authorizations, incorporating technical assessment (contaminated areas, waste, effluents, emissions, accident risks) and contingency analysis (records, proceedings, and compliance history), with contractual risk allocation mechanisms.

Contractual dimension: contractual predictability in international transactions is reinforced by instruments of substantive harmonization and procedur . The CISG (United Nations Convention on Contracts for the International Sale of Goods) provides uniform rules for the international sale and purchase of goods in applicable cases, reducing transaction costs and interpretative uncertainty. In the field of dispute resolution, Law No. 9,307/1996 structures arbitration in Brazil, and the New York Convention, promulgated by Decree No. 4,311/2002, strengthens the recognition and enforcement of foreign arbitral awards, a key element for transnational enforcement. This tripod (CISG + domestic arbitration + international enforcement) allows for the drafting of contracts with greater stability, especially in long and highly critical chains.

Freedom of choice (choice of applicable law, jurisdiction, or arbitration) coexists with limits imposed by mandatory rules and public policy. In Brazil, LINDB governs general rules for the application of law in space, while the Code of Civil Procedure (CPC) organizes cases of international jurisdiction and the practical effects of jurisdiction clauses, directly influencing the design of transnational contracts. In terms of compliance, this requires caution: environmental and tax obligations, as a rule, remain governed by rules of immediate application and by state jurisdictions, and cannot be waived by contractual clauses. Thus, harmonization requires "regulatory-aware contracts" with carve-outs and document cooperation mechanisms that allow local duties to be fulfilled without disrupting the execution of the business.

Discussion

The harmonization of compliance in cross-border transactions is not equivalent to regulatory standardization. In practice, companies operate under an arrangement of actors in which state rules (hard law) simultaneously apply to market standards and guidelines (soft law), which produce effects through private audits, financier requirements, contractual clauses, and reputational mechanisms. In analytical terms, "harmonizing" means organizing an integrated architecture of governance, controls, and evidence that is capable of complying with the mandatory rules of each jurisdiction and, at the same time, reducing divergences between regimes through consistent documentation and auditable contracts. This approach is particularly relevant in the recent Brazilian context, marked, on the one hand, by the institutionalization of integrity mechanisms and, on the other, by regulatory convergence on issues sensitive to international operations, such as transfer pricing and chemical control.

ESG (Environmental, Social, Governance) as an integrative framework

ESG functions as an integrating layer by organizing reporting routines, metrics, and governance for environmental and social risks; however, it does not replace hard law, nor does it remove local regulatory obligations. The value of ESG, for transnational compliance purposes, lies in providing a mechanism for standardizing evidence and processes across global chains, especially when anchored in internationally recognized due diligence guidelines, such as the OECD model (OECD, 2018; OECD, 2023). In this configuration, ESG tends to act as a "bridge" between jurisdictions, while the final validity of compliance remains conditional on the applicable legal system and immediately applicable rules.

Efficient operationalization requires three-dimensional due diligence, avoiding "silos" (tax isolated from the contract; valuation isolated from the environment; contract isolated from enforcement). In methodological terms, a matrix is recommended for each phase of the operation (pre-deal, execution, post-deal), jurisdiction (origin, destination, and relevant transit/intermediation countries), and object (controlled transaction, asset, product, contract). This structure favors consistency of evidence and alignment between economic design and execution, responding to growing requirements for transfer pricing documentation (BRAZIL, 2023; OECD, 2022) and environmental obligations associated with liabilities and chemicals (BRAZIL, 1981; BRAZIL, 2024).

The risk map should distinguish between: non-compliance risk (direct violation), inconsistency risk (divergent documents), enforcement risk (difficulty in enforcing rights), and reputational/financing risk (market requirements). Standardizing the due diligence cycle (identify, prevent/ , monitor, communicate, and remedy) is useful for creating comparability between units and jurisdictions, in line with international guidelines for responsible conduct (OECD, 2018). This matrix allows for prioritization by materiality, definition of controls, and design based on the actual risks of the operation.

Effective harmonization materializes in two products: harmonized contracts, with technical annexes and verifiable clauses; and operational playbooks, which translate legal duties and corporate standards into routines (who does what, how, what evidence is generated, where it is recorded, how it is audited). In taxation, this involves arm's length governance and robust documentation. In environmental matters, it includes inventory/control of chemicals, licenses, and waste management. In contractual matters, it includes enforcement and evidence design, with reference to stabilizing instruments such as UNIDROIT/UNCITRAL (UNIDROIT, 2016; UNCITRAL, 2006).

Without monitoring, harmonization is reduced to a static snapshot. The recommended design includes internal sampling audits, periodic review of contractual standards, update triggers (regulatory changes, critical suppliers, incidents), and a response protocol with documented remediation. This architecture strengthens the program's defensibility before regulators and private stakeholders, who often require auditable evidence of diligence and compliance (OECD, 2018; ISO, 2021).

Final considerations

The results of this research indicate that, in cross-border operations, the effectiveness of compliance depends less on isolated adherence to a single domain and more on the construction of a three-dimensional harmonization (tax, environmental, and contractual) supported by governance, controls, and evidence. This harmonization does not imply standardizing legal regimes, but rather managing fragmentation through minimum corporate standards, jurisdictional standards, and auditable documentation.

In terms of implications, the study suggests that three-dimensional harmonization reduces regulatory risk and transaction costs by decreasing document inconsistencies, increasing contractual predictability, and strengthening the defensibility of corporate decisions in inspections and disputes, in line with the logic of compliance management systems geared toward integration, traceability, and continuous improvement. From this perspective, transnational compliance tends to consolidate itself as a sustainable competitive advantage when structured as a system, as it improves internal consistency, reduces coordination costs, and increases responsiveness to audits and market demands. Additionally, due diligence and responsible conduct models reinforce chain governance and incident response, with effects on reputation, market access, and cost of capital. At the contractual level, competitive gains result from the reduction of information asymmetries and stability of execution, especially when recognized references are used for dynamic risk management and dispute resolution.

Limitations include institutional asymmetry between jurisdictions, regulatory dynamism, and the absence of in-depth empirical measurement of costs and effectiveness by sector, which opens the agenda for studies on the effectiveness of multi-layered compliance clauses, documentation and litigation standards, sectoral impacts of chemical control and corporate climate governance, and their contractual and financial repercussions. From an applied perspective, a compliance by design model is recommended, with a risk matrix by phase, three-dimensional due diligence, harmonized contracts, and continuous monitoring; for regulators, greater interpretive predictability and interinstitutional coordination. Finally, the trend is toward greater ESG enforceability and compliance automation, with continuous monitoring and digital evidence as requirements for efficiency and defensibility, reinforcing that effective transnational compliance is that which is conceived as strategic infrastructure and governance.

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