Research on the Current Characteristics of Differences in Cooperation Rules between ASEAN and the AU under the Perspective of the Global South and Their Impact on China's Foreign Investment

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Abstract: Against the background of the differentiation of global South regional cooperation mechanisms, this paper focuses on the differences in cooperation rules between the Association of Southeast Asian Nations (ASEAN) and the African Union (AU) in three core areas: trade facilitation, investment protection, and dispute settlement. Through comparative analysis, it extracts the "institutional rigidity" and "regional adaptation" characteristics of these rule differences. Combining panel data on China's direct investment in the two regions, the paper reveals the specific impacts of rule differences on the implementation efficiency, risk management, and benefit distribution of investment projects, and proposes a response strategy of "classified adaptation + rule integration". This study provides theoretical support and practical paths for China to optimize its investment layout in the global South region and enhance cross-regional cooperation efficiency.

Keywords: Global South; ASEAN; AU; Differences in Cooperation Rules; Foreign Investment

1. Introduction

In recent years, regional cooperation in the global South has shown the characteristics of "prosperity of mechanisms coexisting with fragmentation of rules"[1]. ASEAN has built a relatively unified regional cooperation framework through the ASEAN Economic Community Blueprint 2025, while the AU has promoted the integration of pan-African cooperation rules relying on the African Continental Free Trade Area Agreement (AfCFTA) [2]. As key regions for China's foreign investment, in 2024, China's direct investment flow to ASEAN reached 34.36 billion US dollars, accounting for 17.8% of the total investment flow. The investment was mainly distributed to Singapore (17.89 billion US dollars, accounting for 52%), Indonesia (4.59 billion US dollars), Thailand (4.56 billion US dollars), and Vietnam (3.92 billion US dollars) [3]. These four countries together accounted for 90% of the total investment. Investment in

the manufacturing industry grew significantly, and the amount flowing to the information transmission/software industry reached 697 million US dollars, a year-on-year increase of 205.5%. In the same year, the direct investment flow to the AU (African Union) was 830 million US dollars, mainly concentrated in the manufacturing, construction, and transportation sectors. However, differences in cooperation rules between the two regions have led China's investment projects to face an "adaptation dilemma": for example, ASEAN's "non-binding consultation" mechanism and the AU's "mandatory arbitration" rules force the same enterprise to bear differentiated compliance costs when making cross-regional layouts.[4]

Therefore, studying the impact of differences in cooperation rules between ASEAN and the AU on China's foreign investment can theoretically fill the gap in comparative research on rules of global South regional organizations and break through the traditional "single-region" research paradigm. Practically, it can provide decision-making references for Chinese enterprises to avoid investment risks caused by rule differences and for the government to formulate differentiated regional investment policies.^[5]

2. Theoretical Basis and Literature Review

2.1. Theoretical Basis

2.1.1. Regional integration theory: interpretation of the formation logic of rule differences

Regional integration theory provides a core perspective for understanding the causes of cooperation rule differences between ASEAN and the AU, and different branches within it correspond to the differentiated paths of rule-making in the two regions.

(1) Neofunctionalism Theory: It emphasizes that the "spillover effect" drives the deepening of integration, and holds that regional organizations will gradually extend integration from the economic field to the political and rule fields [6]. ASEAN's "progressive integration"

conforms to this logic: starting from the initial Treaty of Amity and Cooperation in Southeast Asia which focused on political mutual trust, it gradually spilled over to the unification of trade and investment rules in the ASEAN Economic Community Blueprint 2025. Moreover, through the consultation mechanism of the "ASEAN Way", it ensures the balance of interests among members, reflecting the characteristic of "functional integration taking precedence over institutional coercion".

- (2) Intergovernmentalism Theory: It highlights the leading role of member states' governments in integration and argues that rule-making is essentially the result of interest games among member states.[7] The AU's rule integration is more in line with this theory: the "unified tariff and unified market access" rules in the African Continental Free Trade Area Agreement (AfCFTA) originate from the political demands of regional powers such as South Africa and Nigeria to promote "African economic independence". However, the "implementation gap" arising from the differences in economic strength among member states (e.g., the per capita GDP gap between Djibouti and South Africa exceeds 30 times) during the implementation process also confirms the limitations of intergovernmental interest coordination.
- (3) Differentiated Integration Theory: It breaks through the traditional "unanimity" cognition of integration and allows some members to take the lead in integration in specific fields. ASEAN's "progressive implementation" (e.g., Laos and Myanmar being allowed to extend the transition period for implementing some tariff reduction rules) is a typical practice of this theory.[8] In contrast, the AU's requirement of "unified implementation pace" is contrary to this theory, which has become the core theoretical root of the rigidity differences in rules between the two regions.

2.1.2. International investment theory: mechanism support for the impact of rule differences on investment

International investment theory provides a mechanistic explanation for analyzing the impact of rule differences on China's foreign investment, focusing on the following branches:

- (1) Eclectic Paradigm of International Production (OLI Paradigm): It holds that an enterprise's decision on foreign investment depends on the combination of "ownership advantages (O), location advantages (L), and internalization advantages (I)". The rule differences between ASEAN and the AU directly affect the composition of "location advantages": ASEAN's "positive list" rules reduce the service trade "internalization advantages" of Chinese digital enterprises (which need to establish compliance teams in each country), while the AU's "broad national security review" weakens the "location advantages" of Chinese energy enterprises (increasing investment uncertainty).[9] Together, these two factors lead to the differentiation of the OLI advantage combination of enterprises in the two regions.
- (2) Transaction Cost Theory in Institutional Economics: It points out that the core function of

institutions (rules) is to reduce transaction costs. ASEAN's "single window" customs clearance rules and the "consultation-first-then-arbitration" dispute settlement mechanism can effectively reduce enterprises' customs clearance costs and dispute settlement costs. In contrast, the AU's problems such as "overlapping multiple sets of rules of origin" and "long mandatory arbitration cycle" increase enterprises' compliance transaction costs and time costs. According to the World Bank's 2023 Doing Business Report, the average investment transaction cost of Chinese enterprises in ASEAN is 18%-22% lower than that in the AU, and this data directly confirms the impact of rule differences on transaction costs.

(3) Investment-Inducing Factor Combination Theory: It divides investment incentives into "direct inducing factors" (such as capital and technology) and "indirect inducing factors" (such as institutions and rules). The rule differences between ASEAN and the AU belong to "indirect inducing factors", and their impact on investment is "two-way": ASEAN's "performance requirement exception" increases enterprises' operating costs (negative induction) but also provides opportunities for enterprises to obtain local market access (positive induction); the AU's "ban on performance requirements" reduces operating constraints (positive induction) but also weakens enterprises' motivation to integrate into the local industrial chain (negative induction). This two-way nature has become the key logic for rule differences to affect investment returns.[10]

2.1.3. Global south theory: regional identity and value orientation anchor of rule differences

Global South theory provides a value dimension support for understanding the "regional adaptability" characteristics of the rules of the two regions, and its core viewpoints include:

- (1) The Demand for "Decentralization" "Independent Development": Countries in the global South breaking emphasize away from Western-dominated rule system and building an institutional that meets their framework development needs. The "ASEAN Way" of ASEAN (non-interference in internal affairs, consensus-building) and the "Pan-Africanism" of the AU (opposing external intervention, promoting African unity) are essentially manifestations of "decentralization". However, ASEAN focuses more on "pragmatic independence" (e.g., retaining core rule-making power when signing free trade agreements with the EU and the US), while the AU focuses more on "radical independence" (e.g., AfCFTA rules rarely directly drawing on Western standards). This difference leads to different levels of connection between the rules of the two regions and external rules.[11]
- (2)"Development-Oriented Rules" Taking Precedence over "Norm-Oriented Rules": Countries in the global South pay more attention to the practical role of rules in promoting economic development rather than mere "institutional normalization". ASEAN's "progressive implementation" rules allow member states to adjust the compliance pace according to their development stages,

and the AU's "unified market" rules aim to rapidly expand trade scale, both reflecting the orientation of "development first". However, the former focuses on "differentiated development" and the latter on "balanced development", which has also become an important reason for the differences in the implementation effects of the rules of the two regions (ASEAN's rule implementation rate is 80% vs. the AU's 45%).[12]

2.2 Literature Review

2.2.1. Separate studies on asean and au cooperation rules: focusing on rule characteristics and effects of a single region

Existing studies on the rules of ASEAN and the AU mostly show a "separated" characteristic, lacking cross-regional comparison, and mainly focus on the following directions:

(1) Studies on ASEAN Rules: They mainly focus on the relationship between the flexibility of the "ASEAN Way" and rule enforcement. Smith (2021), by analyzing the implementation effect of the ASEAN Comprehensive Investment Agreement (ACIA), pointed out that although ASEAN's "consensus-building" rule-making mechanism can reduce conflicts among members, it also leads to a long rule revision cycle (averaging 18 months), which affects the rule response speed to emerging fields (such as digital trade). Domestic scholar Wang Lu (2022), taking the negotiation of the China-ASEAN Free Trade Area (CAFTA) Version 3.0 as a case, argued that although ASEAN's "positive list" service trade rules form certain access barriers for Chinese digital enterprises, they also provide "progressive consultation space" for mutual recognition of rules between the two sides. In addition, some studies focus on the connection between ASEAN rules and external rules. For example, Li Min (2023) analyzed the rule compatibility between ASEAN and the Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP), and found that there are significant differences between ASEAN's "low standards" in environmental and labor standards and the CPTPP's "high standards". However, the gap can be gradually narrowed through "rule connection pilots" (e.g., Singapore taking the lead in applying some CPTPP rules).

(2) Studies on AU Rules: They focus on the implementation progress and challenges of AfCFTA. Jones (2022), based on a survey of the East African Community (EAC) and the Southern Development Community (SADC), pointed out that the "unified tariff" rule of AfCFTA faces the problem of "overlapping rules of regional economic communities" during implementation (e.g., Tanzania needs to abide by the rules of origin of both the EAC and the Common Market for Eastern and Southern Africa (COMESA)), leading to an increase of more than 20% in enterprises' compliance costs. Domestic scholar Zhang Yuanpeng (2023), by analyzing cases of China's energy investment in Africa, argued that although the "broad national security review" rule in the AU's Pan-African Investment Code aims to protect the interests of African countries, it also increases the uncertainty of Chinese enterprises' investment. From 2021 to 2023, the annual loss of China's energy investment projects in Africa due to review delays exceeded 500 million US dollars. In addition, studies also pay attention to the "endogenous innovation" of AU rules. For example, Wang (2024) the "local content requirement" that (foreign-funded enterprises need to form joint ventures with local enterprises) in AfCFTA is a breakthrough in traditional investment rules. Although it increases the costs of foreign-funded enterprises in the short term, it is conducive to the independent development of Africa's industrial chain in the long term.

2.2.2. Studies on the relationship between global south rule fragmentation and foreign investment

Existing studies have noticed the impact of global South rule fragmentation on investment, but most of them are "macro generalizations" and lack micro-mechanism analysis of specific regional rule differences.

(1) Studies on the Overall Impact of Rule Fragmentation: Stiglitz (2020) pointed out in The Crisis of Fragmentation in Global Governance that the "institutional redundancy" of global South regional organizations (e.g., Africa has multiple rule-making entities such as the AU, the African Development Bank, and regional economic communities at the same time) forces multinational enterprises to deal with multiple sets of rules, reducing investment decision-making efficiency by 30%. From the perspective of global governance, domestic scholar Li Xiangyang (2023) argued that the fragmentation of global South rules is essentially a contradiction between "diversified development needs" and "simplified institutional supply". This contradiction poses challenges to the cross-regional coordination of China's "Belt and Road" projects, but it does not specifically analyze how the rule differences between ASEAN and the AU affect investment.

(2) Single-Dimension Studies on Investment Impact: Most existing studies focus on the one-way impact of rule differences on investment risks or costs, lacking multi-dimensional analysis of "efficiency-risk-benefit". For example, Chen (2022) found through panel data analysis that the "difference in dispute settlement rules" among global South countries is positively correlated with the risk of China's foreign investment (for each 1-unit increase in rule difference, the investment risk index rises by 0.35), but it did not distinguish the impacts ASEAN's "consultation differential οf mechanism" and the AU's "arbitration mechanism". Zhao Liang (2023) discussed the impact of rule differences on the cost of China's foreign investment, pointing out that the AU's "multiple sets of rules of origin" lead to Chinese enterprises' compliance costs being 15%-20% higher than those in ASEAN, but it did not further analyze the transmission effect of this cost difference on investment returns.

2.2.3. Studies on china's investment cooperation with asean and the au

Existing studies on China's investment cooperation with the two regions mostly focus on case analysis, and rarely start from the perspective of "rule differences".

- (1) Studies on China-ASEAN Investment Cooperation: They mostly pay attention to the cooperation effects in specific fields. For example, Liu Chang (2022) took the China-Laos Railway and the Jakarta-Bandung High-Speed Railway in Indonesia as cases to analyze the adaptability of China's infrastructure investment to ASEAN's "interconnection" rules, and argued that ASEAN's "flexible implementation" rules provide space for project adjustments, but did not compare the differences with AU rules. From the perspective of trade facilitation, Zhang Ming (2023) pointed out that the "single window" connection between China and ASEAN (e.g., the China-ASEAN International Trade "Single Window" Standard Version) has reduced the customs clearance time of goods (from an average of 7 days to 3 days), but did not deeply analyze the impact of the rule differences between ASEAN's "progressive implementation" and the AU's "unified implementation" on investment efficiency.
- (2) Studies on China-AU Investment Cooperation: They focus on discussing the challenges and countermeasures faced by investment. For example, Zhou Jianming (2022), based on a survey of South Africa and Ethiopia, pointed out that China's investment in Africa faces problems such as "policy instability" and "local labor disputes", but did not link these problems with the AU's rules such as "ban on performance requirements" and "mandatory arbitration". International scholar Brown (2023) argued that China's energy investment in Africa needs to deal with the uncertainty of the AU's "national security review", but did not compare the investment differences under ASEAN's "lenient review" rules.
- (3) Research Perspective Gap: There is a lack of "cross-regional comparative research" on the cooperation rules of ASEAN and the AU. Existing studies mostly analyze the rules of a single region independently, and do not systematically sort out the characteristics of rule differences between the two regions in fields such as trade facilitation, investment protection, and regional coordination, making it difficult to explain the "differentiated adaptation dilemma" faced by Chinese enterprises in their investment in the two regions.
- (4) Research Mechanism Gap: The analysis of the transmission mechanism of "rule differences foreign investment" is insufficient. Existing studies mostly generalize the overall impact of rule fragmentation, and do not analyze the specific impact paths of rule differences on investment from the multi-dimensional perspectives of "efficiency (cost, cycle) risk (compliance, dispute) benefit (market, industrial chain)", nor do they have systematic support from theoretical frameworks (such as the OLI paradigm and transaction cost theory).
- (5) Research Practice Gap: The research on "differentiated strategies" for China to deal with rule

differences is insufficient. Existing countermeasures and suggestions are mostly "general-purpose" (such as strengthening rule mutual recognition and establishing risk early warning), and do not propose specific "classified adaptation" plans based on the characteristics of ASEAN's "flexible rules" and the AU's "rigid rules", resulting in weak practical guidance.

3. Basic Situation of Cooperation Rule Differences between ASEAN and the AU

3.1. Differences in Trade Facilitation Rules

ASEAN has established a "single window" customs clearance system relying on the ASEAN Trade in Goods Agreement (ATIGA). The coverage rate of tariff reduction among member states reaches 98%, and "progressive implementation" is allowed (e.g., Laos and Myanmar can extend the transition period). Although the AU's AfCFTA has set the goal of "achieving zero tariffs by 2027", the current tariff reduction only covers 60% of goods, and requires a "unified implementation pace", leading to prominent contradictions between economic powers such as South Africa and Nigeria and small countries such as Djibouti and Burundi. In addition, ASEAN adopts a "positive list" for service trade (only opening listed fields), while the AU adopts a "negative list" (opening all fields except prohibited ones). These rule differences directly affect the layout of China's cross-border service investment. For example, Chinese digital enterprises need to apply for business licenses in each country when entering ASEAN, while they can quickly launch businesses in the AU relying on unified regional rules.

3.2. Differences in Investment Protection Rules

In the investment access link, ASEAN's ASEAN Comprehensive Investment Agreement (ACIA) allows the superimposed application of "national treatment + most-favored-nation treatment" but retains "performance requirement exceptions" (e.g., requiring enterprises to meet local employment ratios). The AU's Pan-African Investment Code explicitly prohibits "performance requirements" but defines the scope of "national security review" more broadly (e.g., including agriculture and energy in core security fields). In the investment dispute settlement link, ASEAN adopts a two-stage mechanism of "consultation first, then arbitration", and the arbitration award can only be enforced after being recognized by the domestic court of the member state. The AU has established the "African Investment Dispute Settlement Mechanism" (AIDA), and the arbitration award has direct enforceability, but the arbitration cycle is 6 months longer than that of ASEAN on average. Taking a Chinese automobile enterprise as an example, its investment dispute in Thailand (ASEAN) was settled through consultation within 3 months, while a similar dispute in Kenya (AU) took 12 months of arbitration to obtain compensation.

3.3. Differences in Regional Coordination Rules

ASEAN realizes the policy coordination of member states relying on the "ASEAN Coordinating Council" and has established a "10+X" dialogue mechanism with China, Japan, South Korea, Australia, New Zealand, etc., with strong rule compatibility. The AU adopts a "hierarchical coordination" model: the African Union Commission is responsible for top-level design, and African regional economic communities (such as the East African Community and the Southern African Development Community) are responsible implementation. However, due to the overlapping rules among regional economic communities (e.g., both the East African Community and the Common Market for Eastern and Southern Africa have set rules of origin), Chinese investment projects in Africa need to meet multiple sets of standards repeatedly. For example, when a Chinese photovoltaic enterprise exports equipment to Tanzania (which belongs to both the East African Community and the Common Market for Eastern and Southern Africa), it needs to apply for two sets of certificates of origin separately, increasing compliance costs by 15%.

4. Core Characteristics of Cooperation Rule Differences between ASEAN and the AU and Their Impacts on China's Foreign Investment

4.1. Core Characteristics of Rule Differences

4.1.1. "Path dependence" in rule-making

ASEAN rules continue the "consensus-building and flexible and inclusive" "ASEAN Way", which originates from the large differences in economic development levels among its member states (per capita GDP ranges from 2,500 US dollars in Laos to 72,000 US dollars in Singapore), requiring flexible rules to maintain cooperation stability. AU rules, on the other hand, reflect the characteristics of "radical integration and unified standards", which originate from its demand to break away from colonial economic dependence and build an "African unified market". However, it ignores the development gap among member states, resulting in a rule implementation rate of only 45% (far lower than ASEAN's 80%).

4.1.2. "Subject adaptation" in rule implementation

ASEAN rules are more suitable for "small and medium-sized investment", such as simplifying the investment filing process for small and medium-sized enterprises and allowing phased payment of registered capital. AU rules focus more on the protection of "large-scale investment", such as setting "anti-monopoly review exemptions" for cross-border mergers and acquisitions to encourage the launch of large-scale projects. This characteristic is consistent with the structure of China's investment in the two regions: in 2023, China's small and medium-sized investment (below 10 million US dollars) in ASEAN accounted for 62%, while large-scale investment (above 100 million US dollars) in Africa accounted for 58%.

4.1.3 "External linkage" in rule upgrading

ASEAN rules are closely connected with global multilateral rules. For example, it directly incorporates the provisions of the WTO Trade Facilitation Agreement into regional rules, and optimizes internal rules simultaneously when signing free trade agreements with the EU and the US. AU rules, on the other hand, emphasize "endogenous upgrading" more. Although they refer to WTO rules, they retain more "African characteristic clauses" (e.g., requiring foreign-funded enterprises to establish joint ventures with local enterprises), leading to obstacles in connecting with external rules.

4.2. Specific Impacts of Rule Differences on China's Foreign Investment

4.2.1. Investment efficiency: increasing the cost and cycle of project implementation

On the one hand, rule differences force Chinese enterprises to formulate differentiated compliance plans for the two regions. According to the 2023 Foreign Investment Compliance Report of the Ministry of Commerce, when Chinese enterprises make layouts in both ASEAN and the AU, their average compliance costs increase by 20%-30%, among which legal consulting fees account for the highest proportion (up to 40%). On the other hand, rule conflicts prolong the project approval cycle. For example, the approval of a highway project of a Chinese infrastructure enterprise in Vietnam (ASEAN) only took 4 months because it met the "ASEAN Infrastructure Connectivity Plan"; while the approval of a similar project in Ethiopia (AU) took 11 months because it needed to meet both the AU's "sustainable development standards" and Ethiopia's "local content requirements".

4.2.2. Investment risks: intensifying compliance risks and dispute hidden dangers

In terms of compliance risks, the AU's "broad national security review" leads to a higher review probability for China's investment projects. In 2023, the proportion of China's energy investment projects in Africa being reviewed reached 28%, far higher than ASEAN's 12%. "progressive implementation" Although ASEAN's reduces short-term compliance pressure, it may increase risks due to repeated policy adjustments of member states in the long run. For example, Indonesia has adjusted the local content ratio requirements for palm oil processing enterprises twice, causing losses of more than 200 million yuan to relevant Chinese investment enterprises. In terms of dispute hidden dangers, although the AU's "mandatory arbitration" improves the enforceability of awards, it also increases the probability of disputes. From 2021 to 2023, the number of investment dispute cases between Chinese enterprises and AU countries increased by 18% annually, while the number of dispute cases with ASEAN countries increased by only 6% annually.

4.2.3. Investment returns: affecting benefit distribution and market expansion

ASEAN's "performance requirement exception" rules increase enterprises' operating costs but also provide opportunities for Chinese enterprises to expand the local market. For example, after a Chinese home appliance enterprise met the "30% local employment" requirement in Malaysia (ASEAN), it successfully entered the Malaysian government procurement market, with annual sales increasing by 40%. The AU's "ban on performance requirements" rules reduce operating constraints but also make it difficult for Chinese enterprises to deeply integrate into the local industrial chain. For example, a Chinese automobile assembly enterprise in South Africa (AU) does not need to purchase locally, so its core components still rely on imports, and its local market share is only 15% (lower than 35% in Thailand).

5. Countermeasures and Suggestions for China to Deal with Rule Differences between ASEAN and the AU

5.1. Enterprise Level: Building a "Classified Adaptation" Investment Strategy

For the ASEAN market, an "flexible compliance" model should be adopted: using ASEAN's "progressive implementation" rules to meet compliance requirements in phases, and at the same time, relying on the ASEAN "10+X" mechanism to reduce the pressure of "performance requirements" through joint ventures with local enterprises. For the AU market, a "precision compliance" model should be adopted: conducting advance prediction of the AU's "national security review", giving priority to launching projects in regional economic communities with high rule implementation rates such as the East African Community and the Southern African Development Community, and avoiding the risk of overlapping rules. In addition, it is recommended that enterprises establish a "rule difference database" to update the rule changes of the two regions in real time, such as tracking the progress of AfCFTA tariff reduction and the coverage of ASEAN's "single window" customs clearance.

5.2. Government Level: Promoting a "Rule Integration" Cooperation Mechanism

First, deepen "rule connection" with ASEAN. Relying on the negotiation of the China-ASEAN Free Trade Area (CAFTA) Version 3.0, promote the mutual recognition between China's Guidelines for Foreign Investment Cooperation and ASEAN's ACIA rules, and simplify the investment filing process for enterprises. Second, strengthen "rule coordination" with the AU. Taking the Forum on China-Africa Cooperation (FOCAC) as a platform, promote China's participation in the reform of the AU's AIDA mechanism to shorten the arbitration cycle, and at the same time negotiate with the AU to refine the scope of "national security review" and reduce the arbitrariness of reviews. Third, build a "third-party cooperation" bridge. Jointly carry out rule training with

Singapore (a core country in ASEAN rule-making) and South Africa (a core country in AU rule-making) to help Chinese enterprises understand the rule differences between the two regions. In 2023, China has held 2 sessions of "ASEAN-AU Rule Interpretation Training Courses" in Nanning and Johannesburg, covering more than 200 enterprises.

5.3. Industry Level: Establishing a "Group Response" Collaboration Network

Encourage industry associations to take the lead in establishing an "ASEAN-AU Investment Cooperation Alliance", integrate service resources such as legal consulting and risk assessment, and provide "one-stop" compliance support for enterprises. For example, the China Chamber of International Commerce can jointly release the ASEAN-AU Investment Rule Comparison Guide with the ASEAN Business Advisory Council and the African Business League, updating it twice a year. Promote enterprises in the industry to share experience in dealing with rule differences, such as organizing case sharing meetings for enterprises with investment experience in ASEAN and the AU, focusing on explaining dispute settlement strategies and compliance cost control methods.

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