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法律法规简报

Legal Update

2024-11



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目录

Contents

1. 国家知识产权局、国家市场监督管理总局共同发布《关于做好知识产权领域信用监管工作的通知》
CNIPA and SAMR Jointly Issue the Circular on Ensuring Effective Credit Regulation in the Intellectual Property Sector
2. 全国人大常委会通过《中华人民共和国矿产资源法》等六部法律
NPC Standing Committee Passes Six Laws Including the Mineral Resources Law
3. 仲裁法修订草案等四件法律草案征求意见
Four Draft Laws Including the Arbitration Law (Draft Revision) Seek Comments
4. 工信部制发《重点工业产品碳足迹核算规则标准编制指南》
MIIT Issues the Guide to the Formulation of Carbon Footprint Accounting Rules and Standards for Key Industrial Products
5. “两高”发布《关于办理拒不执行判决、裁定刑事案件适用法律若干问题的解释》
SPC and SPP Issue Interpretation on the Application of Law in Handling Criminal Cases Involving Refusal to Execute Judgments or Rulings



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6. 商务部印发促进外贸稳定增长若干政策措施

MOFCOM Issues Several Policy Measures to Promote Stable Growth in Foreign Trade

7. 浙江省政府发布全国首个大宗商品资源配置枢纽建设方案

Government of Zhejiang Province Releases Plan for Building China's First Commodities Resource Allocation Hub



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1. 国家知识产权局、国家市场监督管理总局共同发布《关于做好知识产权领域信用监管工作的通知》2024.11.05

CNIPA and SAMR Jointly Issue the Circular on Ensuring Effective Credit Regulation in the Intellectual Property Sector

为全面加强知识产权保护和知识产权领域信用监管工作，推进知识产权领域诚信体系建设，加强知识产权保护，促进经济高质量发展，国家知识产权局办公室和国家市场监督管理总局办公厅共同发布《关于做好知识产权领域信用监管工作的通知》（下称“《通知》”）。

In order to comprehensively strengthen the protection of intellectual property rights and credit supervision in the field of intellectual property rights, promote the construction of an integrity system in the field of intellectual property rights, strengthen the protection of intellectual property rights, and promote the high-quality development of the economy, China National Intellectual Property Administration (CNIPA) and the State Administration for Market Regulation (SAMR) have jointly issued the *Circular on Ensuring Effective Credit Regulation in the Intellectual Property Sector* (the “Circular”).

《通知》部署了建立健全知识产权领域信用承诺制、加强重点环节信用监管等六个方面工作内容。《通知》指出，在行政项目审批、展会企业入驻等工作中积极推行信用承诺制，对信用状况较好的申请人，部分申报材料不齐全但书面承诺在规定期限内提供的，可以先行受理。《通知》要求，加强对商标恶意注册、非正常专利申请等行为的信用监管，加强风险监测预警，努力做到早发现、早提醒、早处置；加强知识产权代理行业信用监管，做好知识产权代理行业信用评价，促进知识产权代理机构、从业人员依法诚信执业；加强对故意侵犯知识产权行为的信用监管，依法依规将失信主体列入严重违法失信名单。The *Circular* deploys six aspects of work, including the establishment and improvement of credit commitment system in the field of intellectual property rights and the strengthening of credit supervision in key areas. The *Circular* points out that the credit commitment system could be actively promoted in administrative project examination and approval and exhibitor settlement, the application by an applicant with good credit records with provision of written commitment within the prescribed time limit, despite incomplete application materials, can be accepted. The *Circular* requires to strengthen the credit supervision and risk early warning for such acts as malicious trademark registration and abnormal patent application and strive for early detection, earning, and disposal; to enhance the credit supervision in the industry of intellectual property agency by such means as initiating credit evaluation in a bid to promote the agencies and operators to practice pursuant to laws and regulations and



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with integrity; to reinforce the credit supervision of the intentional infringement of intellectual property, and list dishonest subjects in the lists of entities with serious violations of law and trust in accordance with laws and regulations.

(Source: https://www.cnipa.gov.cn/art/2024/11/5/art_75_195882.html)

2. 全国人大常委会通过《中华人民共和国矿产资源法》等六部法律 2024.11.08 NPC Standing Committee Passes Six Laws Including the Mineral Resources Law

第十四届全国人民代表大会常务委员会第十二次会议审议通过《中华人民共和国矿产资源法（2024 年修订）》（下称“《矿产资源法》”）、《中华人民共和国能源法》、《中华人民共和国反洗钱法（2024 年修订）》、《中华人民共和国文物保护法（2024 年修订）》等六部法律，《矿产资源法》自 2025 年 7 月 1 日起施行。

At the 12th Session of the Standing Committee of the 14th National People's Congress (NPC), six laws are deliberated and passed, including *the Mineral Resources Law of the People's Republic of China (Revised in 2024)* (the “*Mineral Resources Law*”), *the Energy Law of the People's Republic of China*, *the Anti-Money Laundering Law of the People's Republic of China (Revised in 2024)*, *the Law of the People's Republic of China on the Protection of Cultural Relics (Revised in 2024)*. The *Mineral Resources Law* will take effect on July 1st, 2025.

本次《矿产资源法》的修订是自 1986 年实施以来的第一次大修，对保障国家矿产资源安全、促进矿业高质量发展具有重大意义。《矿产资源法》将保障国家矿产资源安全作为重中之重，从法律上构建了全面系统的矿产资源安全保障体系。此次修订中提出许多重大的制度创新，全面推进竞争性方式出让矿业权、实行矿业权物权登记与矿产资源勘查开采行为许可相分离、创立新型的探矿权保留制度、对矿业用地作出专门规定，加强对矿业权人合法权益的保护。此外，为了实现“加强矿产资源和生态环境保护”的立法目的，新法建立了矿区生态修复制度，加强矿产资源规划和压覆管理，并明确矿产资源督察的法律地位。

This revision of the *Mineral Resources Law* is the first major one since its implementation in 1986, and is of great significance in safeguarding the security of national mineral resources and promoting the high-quality development of the mining industry. The *Mineral Resources Law* prioritizes the security of national mineral resources, and legally constructs a comprehensive and systematic system to ensure the security of mineral resources. The revision introduces a number of significant institutional innovations, including comprehensive promotion of competitive granting



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of mineral rights, separating the registration of mineral rights from the licensing of mineral resources exploration and exploitation, creating a new type of prospecting rights reservation system, and making special provisions on land use in the mining industry, so as to strengthen the protection of the legitimate rights and interests of mineral rights holders. In addition, in order to realize the legislative objective of “strengthening the protection of mineral resources and ecological environment”, the new law establishes a system of ecological restoration in mining areas, strengthens the management of mineral resource planning and overburdening, and clarifies the legal status of mineral resource inspectors.

(Source: https://www.gov.cn/lianbo/bumen/202411/content_6986009.htm
<http://www.npc.gov.cn/npc/c2/c12435/c12488/>
http://www.npc.gov.cn/npc/c2/c30834/202411/t20241108_440885.html)

3. 仲裁法修订草案等四件法律草案征求意见 2024.11.08 **Four Draft Laws Including the Arbitration Law (Draft Revision) Seek Comments**

第十四届全国人民代表大会常务委员会第十二次会议对《中华人民共和国仲裁法（修订草案）》（下称“《仲裁法草案》”）、《中华人民共和国海商法（修订草案）》等四部法律草案进行了审议，现对外公布全文，面向社会征求意见，征求期限为 30 日。

The 12th Session of the Standing Committee of the 14th National People’s Congress (NPC) has deliberated four draft laws, including the *Arbitration Law of the People’s Republic of China (Draft Revision)* (the “*Arbitration Law Draft*”), the *Maritime Law of the People’s Republic of China (Draft Revision)*, with the full text of these draft laws announced to solicit public opinions for a term of 30 days.

《仲裁法草案》主要涉及明确仲裁工作坚持党的领导；扩大涉外仲裁范围；引入“特别仲裁”制度；增设“仲裁地”制度；提高仲裁公信力，包括完善仲裁机构内部治理及管理制度，提高仲裁机构和仲裁员的透明度、拓宽仲裁员聘任渠道、明确司法行政工作职责、防范虚假仲裁等；推进与国际通行规则相融通的中国特色仲裁实践创新；明确网络进行仲裁的法律效力；缩短申请撤销裁决的时限等。

The Arbitration Law Draft primarily involves: re-affirming the Party’s leadership in arbitration work; expanding the scope of foreign-related arbitration; introducing a “special arbitration” mechanism; establishing a “seat of arbitration” system; raising the credibility of arbitration, with the efforts to improve internal governance and



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management rules of arbitration institutions, enhance the transparency of arbitration institutions and arbitrators, broaden the channels for appointing arbitrators, clarify the responsibilities in the judicial and administrative work, and prevent fraudulent arbitration, among others; promoting arbitration practices with Chinese characteristics aligned with international standards; clarifying the legal validity of online arbitration; shortening the time limit regarding the application for revoking an arbitral award.

(Source: <http://www.npc.gov.cn/flcaw/>
<http://www.npc.gov.cn/flcaw/userIndex.html?lid=ff808181927f0931019305ee4e0f7c4b>
www.npc.gov.cn/flcaw/flca/ff808181927f0931019305ee4e0f7c4b/attachment.pdf)

4. 工信部制发《重点工业产品碳足迹核算规则标准编制指南》 2024.11.11 **MIIT Issues the Guide to the Formulation of Carbon Footprint Accounting Rules and Standards for Key Industrial Products**

为贯彻落实国家碳足迹管理工作部署，加快提升重点工业产品碳足迹管理水平，促进相关行业绿色低碳转型，支撑实现碳达峰碳中和，工业和信息化部办公厅印发《重点工业产品碳足迹核算规则标准编制指南》(下称“《指南》”)。In order to implement the deployment of the national carbon footprint management work, accelerate the enhancement of the carbon footprint management level of key industrial products, promote the green and low-carbon transformation of related industries, and support the realization of carbon peak carbon neutral, the General Office of the Ministry of Industry and Information Technology issued the *Guideline for the Preparation of Standards for Carbon Footprint Accounting Rules for Key Industrial Products* (the “*Guideline*”).

《指南》指出当前我国应逐步完善重点工业产品碳足迹核算方法规则和标准体系，推动建立符合国情实际的产品碳足迹管理体系，促进工业绿色低碳转型，助力经济高质量发展，并提出到 2027 年，制定出台 200 项重点工业产品碳足迹核算规则标准，应用场景得到显著拓展的工作目标。《指南》聚焦市场需求迫切、减排贡献突出、产业链关联性强、供应链带动作用明显、国际贸易量大的产品领域，优先开展钢铁、有色金属、石化化工、建材、新能源汽车、电子电器等行业产品碳足迹核算规则标准。

The *Guideline* points out that China should gradually improve the carbon footprint accounting methodology, rules and standard system for key industrial products, promote the establishment of a product carbon footprint management system in line



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with the actual national situation, promote the green and low-carbon transformation of industry, and facilitate the high-quality development of the economy, and puts forward the goal of formulating and introducing 200 carbon footprint accounting rules and standards for key industrial products by 2027, and significantly expanding the application scenarios. The *Guideline* focuses on product areas with urgent market demand, outstanding contribution to emission reduction, strong industry chain relevance, obvious supply chain driving effect, and large volume of international trade, and prioritizes the carbon footprint rules and standards for iron and steel, non-ferrous metals, petrochemicals and chemicals, building materials, new energy automobiles, electronic appliances.

(Source:

https://www.miit.gov.cn/zwgk/zcwj/wjfb/tz/art/2024/art_37f0001416b14bd58eca681aec9f1f37.html)

5. “两高”发布《关于办理拒不执行判决、裁定刑事案件适用法律若干问题的解释》
2024.11.18
SPC and SPP Issue Interpretation on the Application of Law in Handling Criminal Cases Involving Refusal to Execute Judgments or Rulings

最高人民法院、最高人民检察院联合发布《关于办理拒不执行判决、裁定刑事案件适用法律若干问题的解释》（下称“《解释》”），自 2024 年 12 月 1 日起施行。《解释》坚持罪责刑相适应原则，坚持实践需求、问题导向，严厉打击群众反映强烈的拒不执行犯罪行为，切实保障胜诉当事人合法权益，维护司法权威和司法公信。

The Supreme People's Court (SPC) and the Supreme People's Procuratorate (SPP) have jointly issued the *Interpretation on Several Issues Concerning the Application of Law in the Handling of Criminal Cases Involving Refusal to Execute Judgments or Rulings* (the “*Interpretation*”), which will take effect on December 1, 2024. The *Interpretation* adheres to the principle of appropriateness of crime and punishment, focuses on practical needs and problem orientation, severely cracks down on the crime of refusing to execute judgments and rulings that the public strongly reflects on, effectively safeguards the lawful rights and interests of the winning parties, and maintains judiciary authority and credibility.

《解释》共十六条，主要包括以下内容：明确“有能力执行而拒不执行，情节严重”的具体情形；明确判决、裁定生效前隐藏、转移财产的，可以构成拒不执行判决、裁定罪；明确案外人帮助隐藏、转移财产，可以共同犯罪追究



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刑事责任;明确从重、从轻情节;明确追赃挽损程序等。下一步,最高人民法院、最高人民检察院将强化对下指导,严格执行法律和司法解释有关规定,准确把握案件办理要求,依法打击拒不执行判决、裁定犯罪,保障人民群众切身利益。

The *Interpretation* consists of 16 articles, primarily including the following provisions: clarifies the specific circumstances of “if persons have the ability to comply with a judgment or ruling of a people’s court but refuse to do so, and the circumstances are serious”; concealing or transferring assets after the commencement of litigation but before the judgment or ruling takes effect can constitute the crime of refusal to comply with judgments and rulings; a non-party assisting concealing or transferring asset can be punished as an accomplice to the crime; clarifies the circumstances applying to a heavier or a lighter punishment. The SPC and SPP will then strengthen guidance to lower courts, strictly implement relevant legal provisions and judicial interpretations, accurately grasp the requirements for case handling, and legally combat crimes of refusing to execute judgments and rulings, thereby safeguarding the legitimate rights and interests of the public.

(Source: <https://www.court.gov.cn/zixun/xiangqing/447931.html>)

6. 商务部印发促进外贸稳定增长若干政策措施 2024.11.19 **MOFCOM Issues Several Policy Measures to Promote Stable Growth in Foreign Trade**

为促进外贸稳定增长,巩固和增强经济回升向好态势,商务部印发促进外贸稳定增长若干政策措施的通知,希望各地加大力度推进政策落实,外贸大省更好发挥带动作用。商务部要会同有关部门和单位密切跟踪外贸运行情况,分析形势变化,加强督促检查,抓好外贸领域存量政策和增量政策落地落实,帮助外贸企业稳订单拓市场,为经济持续回升向好提供有力支撑。

In order to promote the stable growth of foreign trade, consolidate and enhance the economic upturn, the Ministry of Commerce (MOFCOM) issued a number of policies and measures to promote the stable growth of foreign trade, aiming at increasing efforts to promote the implementation of the policy, foreign trade provinces to play a better role as a driving force. MOFCOM will work with relevant departments and units to closely track the operation of foreign trade, analyze changes in the situation, strengthen supervision and inspection, and grasp the stock of policies in the field of foreign trade and the implementation of incremental policies, to help foreign trade enterprises to stabilize orders to expand the market, and provide strong support for the economy to continue to rebound and improve.



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具体的措施包括一是扩大出口信用保险承保规模和覆盖面；二是加大对外贸企业的融资支持力度；三是优化跨境贸易结算；四是促进跨境电商发展；五是扩大特色农产品等商品出口；六是支持关键设备、能源资源等产品进口；七是推动绿色贸易、边民互市贸易；八是吸引和便利商务人员跨境往来；九是提升外贸海运保障能力，加强外贸企业用工服务。

Specific measures include: (1) expanding the scale and coverage of export credit insurance; (2) increasing financing support for foreign trade enterprises; (3) optimizing cross-border trade settlement; (4) promoting the development of cross-border e-commerce; (5) expanding the export of agricultural products with special characteristics and other commodities; (6) supporting the import of key equipment, energy resources and other products; (7) promoting the innovative development of green trade, mutual market trade at border; (8) attracting and facilitating cross-border exchanges of business people; (9) enhancing the capacity of foreign maritime transport security and strengthening services for foreign trade enterprises.

(Source:

https://www.mofcom.gov.cn/zwgk/zcfb/art/2024/art_384fe59818c249c9a6ca28cabe1d6cc.html)

7. 浙江省政府发布全国首个大宗商品资源配置枢纽建设方案 2024.11.25 **Government of Zhejiang Province Releases Plan for Building China's First Commodities Resource Allocation Hub**

日前，商务部、浙江省人民政府对外公布《中国（浙江）自由贸易试验区大宗商品资源配置枢纽建设方案》（下称“《方案》”）。

The Ministry of Commerce (MOFCOM) and the People's Government of Zhejiang Province have recently released the *Plan for Building Commodities Resource Allocation Hub in the China (Zhejiang) Pilot Free Trade Zone* (the “Plan”).

《方案》提出大宗商品资源配置枢纽建设以浙江自贸试验区舟山离岛片区、舟山岛北部片区、舟山岛南部片区为基础，统筹宁波片区，加强区内区外联动。力争到 2030 年，围绕大宗商品全产业链，建设一批大宗商品特色功能岛，储运规模稳步扩大，精深加工链条不断延伸，贸易交易生态趋于完善，海事服务国际市场竞争力日益增强，粮食、能源资源等大宗商品资源配置能力和产业链供应链保障能力显著提升，初步建成功能完备的大宗商品储运、加工、海事服务基地和贸易、交易中心，打造具有区域竞争力和国际影响力的大宗商品资源配置枢纽。

The *Plan* puts forward that the construction of commodities resource allocation hub is based on Zhejiang pilot free trade zone Zhoushan off island area, Zhoushan island



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northern area, Zhoushan island southern area, with the integration of Ningbo area, strengthening the linkage in and outside the area. By 2030 the hub strives to construct a number of commodities characteristic function island around the commodities industry chain, expand steadily storage and transportation scale, continue to extend deep processing chain, perfect the trade transaction ecology. The maritime services of the international market competitiveness continue to grow, food, energy resources and other commodities resource allocation capacity and industrial chain supply chain security capacity to significantly improve. A fully functional commodities storage, processing, maritime service base and trading and transaction center should be initially built, and a commodities resource allocation hub with regional competitiveness and international influence created.

(Source:

https://www.mofcom.gov.cn/zwgk/zcfb/art/2024/art_57435d69d36a403fbc16ce7a82bcaa03.html)

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