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法律法规简报

Legal Update

2025-02



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1. 商务部 海关总署决定对钨、铋等相关物项实施出口管制 **2025.02.05**
MOFCOM and GAC Impose Export Control on Tungsten-, Bismuth-Relevant Items

2025 年 2 月 4 日，商务部与海关总署发布 2025 年第 10 号公告公布出口管制相关决定，公告自发布之日起正式实施。《中华人民共和国两用物项出口管制清单》同步予以更新。

On 4th February, 2025, the Ministry of Commerce (MOFCOM) and the General Administration of Customs (GAC) released the Announcement [2025] No. 10 about decision to impose export control, and the announcement took effect upon release. The *Dual-Use Export Control List of the People's Republic of China* is updated accordingly.

根据《中华人民共和国出口管制法》《中华人民共和国对外贸易法》《中华人民共和国海关法》《中华人民共和国两用物项出口管制条例》有关规定，为维护国家安全和利益、履行防扩散等国际义务，经国务院批准，决定对钨、铋、铋、钼、铟相关物项实施出口管制。出口经营者出口上述物项应当依照相关法律法规向国务院商务主管部门申请许可。

In accordance with the *Export Control Law of the People's Republic of China*, the *Foreign Trade Law of the People's Republic of China*, the *Customs Law of the People's Republic of China*, and the *Regulations of the People's Republic of China on Export Control of Dual-Use Items*, and in order to safeguard national security and interests and fulfill international obligations related to non-proliferation, the State Council has approved the decision to impose export control on Tungsten-, Tellurium-, Bismuth-, Molybdenum- and Indium-related items. Export operators of the above listed items must apply for an export license from the competent commerce authority under the State Council in accordance with relevant laws and regulations.

(Source:

https://www.mofcom.gov.cn/zwgk/zcfb/art/2025/art_e623090907fc4e1092f0a4db72f57b95.html)

2. 国务院办公厅发文推动成品油流通高质量发展 **2025.02.05**
The General Office of the State Council Promotes the High-quality Development of Refined Oil Circulation

成品油是关系国计民生的基础性和战略性资源，与国民经济运行和人民生产生活密切相关。为进一步健全成品油流通管理体系，推动成品油流通高质量



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发展，国务院办公厅印发《关于推动成品油流通高质量发展的意见》（下称《意见》）。

Refined oil is a kind of basic and strategic resource, and is closely related to the operation of national economy and people's production and life. In order to further improve the management system of refined oil circulation and promote the high-quality development of refined oil circulation, the General Office of the State Council has issued the *Opinions on Promoting the High-Quality Development of Refined Oil Circulation* (the "Opinions").

《意见》包含五个方面共 21 条：完善成品油流通管理制度、健全成品油流通跨部门监管机制、加强成品油流通重点领域监管、促进成品油流通现代化发展及保障措施。

The *Opinions* contains 21 measures in five areas: improving the management system for the refined oil circulation, perfecting the cross-sectoral regulatory mechanism for the refined oil circulation, strengthening the regulation of key areas of the refined oil circulation, boosting the modernized development and safeguard measures of the refined oil circulation.

(Source: https://www.gov.cn/zhengce/content/202502/content_7002336.htm)

3. 六部门就规范供应链金融业务 引导供应链信息服务机构更好服务中小企业融资征意 2025.02.07

Six Departments Seek Comment on Standardizing Supply Chain Finance Business Guiding Supply Chain Information Service Institutions to Better Serve the Financing of SMEs

为提升金融服务实体经济质效，优化中小企业融资环境，强化供应链金融规范，防控相关业务风险，中国人民银行会同国家金融监督管理总局等部门起草了《关于规范供应链金融业务 引导供应链信息服务机构更好服务中小企业融资有关事宜的通知（征求意见稿）》（下称《征求意见稿》）。

In order to enhance the quality and efficiency of financial services for the real economy, optimize the financing environment for small and medium-sized enterprises (SMEs), strengthen the specification of supply chain finance, and prevent and control the related business risks, the People's Bank of China (PBC) drafted the *Circular on Relevant Matters Concerning Standardizing Supply Chain Finance Business Guiding Supply Chain Information Service Institutions to Better Serve the Financing of SMEs (Draft for Comment)* (the "Draft") with the State Administration of Financial Supervision and Administration (SAFSA) and other departments.



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《征求意见稿》共 21 条内容，主要包括：（一）明确供应链金融发展内涵方向、保障中小企业权益；（二）规范商业银行供应链金融管理、有效防范业务风险；（三）明确应收账款电子凭证规范管理基本框架。《征求意见稿》现向社会征求意见，意见反馈截止于 3 月 8 日。

The *Draft* consists of 21 articles, mainly including: (1) clarifying the connotation and direction of the development of supply chain finance and safeguarding the rights and interests of SMEs; (2) standardizing the management of supply chain finance of commercial banks and effectively preventing business risks; (3) clarifying the basic framework of standardized management of electronic certificates of accounts receivable. The *Draft* is now open for public comments by 8th March.

(Source:

<http://www.pbc.gov.cn/tiaofasi/144941/144979/3941920/5579680/index.html>)

4. 工信部等十一部门印发《铜产业高质量发展实施方案》 2024.02.11 **Eleven Authorities Including MIIT Issue the Implementation Plan for High-quality Development of the Copper Industry**

近年来，我国铜产业规模不断壮大、产业结构持续优化、装备技术水平不断提升，初步形成了一批具有国际竞争力的产业集聚区，有力支撑了新能源、新一代信息技术等战略性新兴产业发展。但资源保障能力不足、产业结构有待优化等问题也同时凸显。为推动铜产业高质量发展，更好支撑制造业重点产业链发展，工业和信息化部等十一部门制定《铜产业高质量发展实施方案》（下称《方案》）。

In recent years, China's copper industry scale continues to grow, industrial structure continues to optimize, equipment and technology level continues to improve, a number of industrial clusters with international competitiveness preliminarily formed, which give a strong support for the development of new energy, new generation of information technology and other strategic new industries. However, problems such as insufficient resource security capacity and optimization of industrial structure have also been highlighted at the same time. In order to promote the high-quality development of the copper industry and better support the development of key manufacturing industry chains, eleven authorities including MIIT formulated the *Implementation Plan for High-Quality Development of the Copper Industry* (the "Plan").

《方案》提出到 2027 年，产业链供应链韧性和安全水平明显提升，展望 2035 年，产业链水平世界领先，高质量发展局面全面形成的总体要求。《方案》



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明确 5 项重点任务：强化国内原料保障基础、推动结构调整、提升产业创新能力、推动产业绿色化智能化发展、提升开放合作水平。

The *Plan* puts forward the overall requirement that the resilience and security level of the industrial chain supply chain shall be significantly improved by 2027, and the industrial chain level will be world-leading and the situation of high-quality development will be fully formed by 2035. The *Plan* specifies five key tasks: strengthening the domestic raw material security base, promoting structural adjustment, enhancing industrial innovation capacity, promoting development of the industry turning green and smart, and enhancing the level of openness and cooperation.

(Source:

https://www.miit.gov.cn/zwgk/zcwj/wjfb/tz/art/2025/art_62193141b5d34873bf13da2026624b34.html)

5. 国家网信办公布《个人信息保护合规审计管理办法》 2025.02.12 **Cyberspace Administration of China Publishes the Administrative Measures for Personal Information Protection Compliance Audits**

为了规范个人信息保护合规审计活动，保护个人信息权益，根据《中华人民共和国个人信息保护法》、《网络数据安全条例》等法律、行政法规，国家互联网信息办公室制定了《个人信息保护合规审计管理办法》（下称《办法》），自 2025 年 5 月 1 日起施行。

In order to regulate personal information protection compliance audit activities and protect personal information rights, the Cyberspace Administration of China formulated *Administrative Measures for Personal Information Protection Compliance Audits* (the “*Measures*”), in accordance with the *Personal Information Protection Law of the People’s Republic of China*, the *Regulations on Network Data Security Management*, and other relevant laws and administrative regulations. The *Measures* shall take effect on May 1st, 2025.

《办法》对合规审计活动的开展、合规审计机构的选择、合规审计的频次、个人信息处理者和专业机构在合规审计中的义务等作出细化规定，旨在为个人信息处理者开展个人信息保护合规审计提供系统性、针对性、可操作性的规范。The *Measures* makes detailed provisions on the conduct of compliance audit activities, the selection of compliance audit organizations, the frequency of compliance audits, and the obligations of personal information processors and professional organizations in compliance audits, with the aim of providing systematic,



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targeted, and operable norms for the conduct of compliance audits on personal information protection by personal information processors.

(Source: https://www.cac.gov.cn/2025-02/14/c_1741233507681519.htm)

6. 最高法对外币及港澳台货币逾期付款利息计算标准作出批复 2025.02.12
SPC Issues Reply on Calculation Standards for Interest on Overdue Payments in Foreign Currencies and Hong Kong, Macao, and Taiwan Currencies

涉外及涉港澳台民商事审判实践中，跨境货物买卖、借贷、承揽等各类合同纠纷经常涉及逾期付款利息的认定问题。为统一裁判尺度，规范各地法院审判实践中对外币及港澳台货币逾期付款利息的计算标准，最高人民法院 2 月 12 日发布《最高人民法院关于外币及港澳台货币逾期付款利息计算标准的批复》（以下简称《批复》）。

In the civil and commercial trial practice concerning foreign affairs, Hong Kong, Macao and Taiwan, contract disputes such as cross-border sale and purchase of goods, lending and borrowing, and contracting often involve the determination of interest on overdue payment. In order to standardize the criteria for calculating interest on overdue payments in foreign currencies, Hong Kong, Macao and Taiwan currencies in the trial practice of courts around the country, the Supreme People's Court (SPC) issued the *Reply of the Supreme People's Court on the Criteria for Calculating Interest on Overdue Payments in Foreign Currencies, Hong Kong, Macao and Taiwan Currencies* on February 12th (the "Reply").

当合同约定的币种为外币以及港澳台货币，但没有就逾期付款明确约定违约金或违约损失的计算方法时，《批复》分别对美元、欧元、英镑等常见外币逾期付款利息的计算标准确定了适用的利率标准；对于其他外币逾期付款利息的计算标准，则可以参考相关国家中央银行官方网站公布的该币种基准利率予以确定。此外，《批复》第三条还专门对港币、澳门元、新台币逾期付款利息的计算标准作了规定。

When the contract is in foreign currency or Hong Kong, Macao and Taiwan currency, without reaching an explicit agreement on the calculation of penalty or liquidated damages for overdue payment, the *Reply* set the applicable interest rate standard for the calculation of interest on overdue payment in common foreign currencies such as US Dollar, Euro and Pound Sterling, etc.; As for the interest on overdue payment in other foreign currencies, the calculation standard can be determined by reference to the benchmark interest rate of the currency as announced on the official website of the national central bank. In addition, Article 3 of the *Reply* also specifically provides



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the calculation standard of interest on overdue payments in Hong Kong Dollars, Macanese Patacas, and New Taiwan Dollars.

(Source: <https://www.court.gov.cn/zixun/xiangqing/454651.html>)

7. **最高法批复在粤港澳大湾区内地登记设立的香港、澳门企业选择港澳法律效力问题** 2024.02.14

SPC Addresses Validity in Selection of Hong Kong or Macao Laws as Governing Law by Hong Kong and Macao-invested Enterprises Registered in Mainland Cities of the Greater Bay Area

最高人民法院对在粤港澳大湾区内地登记设立的香港、澳门投资企业协议选择港澳法律为合同适用法律或者协议约定港澳为仲裁地效力问题进行了批复, 该批复自 2025 年 2 月 14 日起施行。

The Supreme People's Court (SPC) made the reply on the validity of the agreements by Hong Kong- or Macao-invested enterprises registered in mainland cities of the Guangdong-Hong Kong-Macao Greater Bay Area (GBA) to select Hong Kong or Macao laws as the governing law of their contracts or to designate Hong Kong or Macao as the arbitration seat, with the effective date on February 14th, 2025.

《最高人民法院关于在粤港澳大湾区内地登记设立的香港、澳门投资企业协议选择港澳法律为合同适用法律或者协议约定港澳为仲裁地效力问题的批复》(下称《批复》)明确了“香港投资企业”“澳门投资企业”的定义, 并明确, 当事人一方或者双方为在粤港澳大湾区深圳市、珠海市登记设立的香港、澳门投资企业, 协议选择香港、澳门特别行政区法律为合同适用的法律, 并在诉讼中主张适用该法律, 经法院审查认为不违反国家法律强制性规定且不损害社会公共利益的, 应当予以支持。

The Official Reply of the Supreme People's Court on the Validity of the Agreements by Hong Kong-invested or Macao-invested Enterprises Registered in Mainland Cities of the Guangdong-Hong Kong-Macao Greater Bay Area to Select Hong Kong or Macao Laws as the Governing Law of Their Contracts or to Designate Hong Kong or Macao as the Arbitration Seat (the "Reply") clarifies the definition of "Hong Kong-invested enterprises" and "Macao-invested enterprises", and specifies that where one or both parties are Hong Kong- or Macao-invested enterprises registered in Shenzhen or Zhuhai in the GBA and they agree to select the laws of the Hong Kong Special Administrative Region (SAR) or the Macao SAR as the governing law of their contracts, and assert the application of such law in litigation, the court shall uphold such agreement upon review, provided it does not contravene mandatory provisions of national laws or harm public interests.



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《批复》还规定，当事人一方或者双方为在粤港澳大湾区内地九市登记设立的香港、澳门投资企业，协议约定以香港、澳门特别行政区为仲裁地，当事人以所涉争议不具有涉港澳因素为由申请法院确认仲裁协议无效的，法院不予支持。当事人将争议按照约定提交仲裁，在相关裁决作出后，一方当事人以所涉争议不具有涉港澳因素、仲裁协议无效，主张不应认可执行仲裁裁决的，法院不予支持。

The *Reply* further specifies that where one or both parties are Hong Kong- or Macao-invested enterprises registered in the nine mainland cities of the GBA and have agreed to designate the Hong Kong or Macao SAR as the arbitration seat, and one party applies to the court to invalidate the arbitration agreement on the grounds that the dispute in question does not involve Hong Kong or Macao elements, the court shall not uphold such request. If the parties have filed the dispute for arbitration as agreed, and after the arbitral award is rendered, one party asserts that the award should not be recognized or enforced on the grounds that the dispute does not involve Hong Kong or Macao elements and that the arbitration agreement is invalid, the court shall not uphold such assertion.

(Source: <https://www.chinacourt.org/law/detail/2025/02/id/151438.shtml>)

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