



NEWSLETTER 2020 2ND QUARTER 2020年二季度期刊

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商务部部署应对疫情进一步改革开放做好稳外资工作 MOFCOM Launches Measures for Further Reform and Opening up Aimed at Foreign Investment Stability Amid the COVID-19 Outbreak

近日，商务部下发《关于应对疫情进一步改革开放做好稳外资工作的通知》。

《通知》从五个方面提出24条具体举措：一是全力支持外资企业恢复正常生产生活秩序。二是推动更高水平对外开放。三是进一步推进商务领域“放管服”改革。四是加强外商投资服务和促进工作。五是持续优化外商投资环境。其中，根据《通知》，要落实准入前国民待遇加负面清单制度，进一步扩大鼓励外商投资范围，推进自贸试验区、自由贸易港建设，深入推进服务业扩大开放试点，推动国家级经开区创新提升，推动区域开放发展。《通知》还强调，要深化外商投资管理体制改革，实施外商投资信息报告办法，健全事中事后监管制度，推进国家级经开区体制机制改革，用好外经贸发展专项资金。

同时，商务部办公厅发出《关于推广上海市24条稳外资新措施的函》。该函称，上海市人民政府印发《本市贯彻〈国务院关于进一步做好利用外资工作的意见〉若干措施》（简称《若干措施》），从落实国家扩大开放政策、加强外商投资促进工作、提升投资便利化水平、强化外商投资保护等四个方面，提出24条稳外资措施，有助于对冲疫情影响，持续营造开放、便利的投资环境，进一步吸引和稳定外资。关于强化外商投资保护，《若干措施》明确，要提高涉及外资政策透明度，制定出台涉及外资的行政规范性文件时，加强合法性审核，并事先征求外资企业、相关商协会的意见建议。涉及企业投资和生产经营活动调整的行政规范性文件，合理确定公布到施行之间的时间，给企业预留调整时间。确定公布到施行之间的时间，给企业预留调整时间。

The Ministry of Commerce ("MOFCOM") has recently distributed the Circular on Further Expanding Reform and Opening up to Stabilize Foreign Investment Amid the COVID-19 Epidemic (the "Circular").

The Circular rolls out 24 concrete measures in five aspects, including: 1. fully supporting foreign-invested enterprises in returning to normal the production and life; 2. promoting higher-level opening up; 3. further advancing the reform of "delegating power, streamlining administration and strengthening regulation, and improving services" in the commerce sector; 4. better serving and facilitating foreign investment; and 5. continuously improving the business environment for foreign investment. Among others, the Circular calls for efforts to enforce the pre-establishment national treatment and negative list management systems, further broaden the scope of encouraged foreign investment, forge ahead with the building of pilot free trade zones and free trade ports, deepen the pilot program for wider openness of service industries, foster the innovation and improvement in national-level economic development zones, and boost regional open development. The Circular also underscores the need to deepen the reform of foreign investment management systems, implement the measures for reporting of foreign investment information, optimize the in-process and ex-post regulatory systems, advance the reform of systems and mechanisms for national-level economic development zones, and make effective use of the special funds for foreign economic and trade development.

Meanwhile, the General Office of the Ministry of Commerce ("MOFCOM") has recently issued the Letter on Promoting the 24 New Measures of Shanghai Municipality for Foreign Investment Stabilization. The letter reads that the Several Measures of the Shanghai Municipality for Implementation of the Opinions of the State Council on Further Improving the Use of Foreign Capital (the "Several Measures") promulgated by the Shanghai Municipal People's Government introduce 24 measures intended to stabilize foreign investment, in four aspects, including putting in place the national policies for wider opening up, stepping up efforts to boost foreign investment, improving foreign investment facilitation and strengthening the protection of foreign investment, which are helpful in countering the impacts of the epidemic, sustaining an open and convenient environment for investment, and further attracting and stabilizing foreign investment. As regards efforts to strengthen the protection of foreign investment, the Several Measures highlight the need to improve the transparency of policies related to foreign investment, strengthen reviews of the legality of foreign-investment-related administrative normative documents before they are officially released, and seek opinions and advice from foreign-invested enterprises and relevant chambers of commerce and associations beforehand. As for administrative normative documents that introduce adjustments to investment, production and operational activities of enterprises, a reasonable buffer period should be established between the date of promulgation and the effective date, to set aside time for enterprises to get well-prepared for such adjustments.



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中国将增设跨境电子商务综合试验区，努力稳住外贸外资基本盘 **China to set up new integrated pilot zones for cross-border e-commerce to stabilize foreign trade and investment**

在新冠疫情影响下，中国传统外贸受到较大冲击。对此，4月7日召开的国务院常务会议决定，在已设立59个跨境电商综合试验区基础上，再新设46个跨境电商综合试验区。

会议指出，当前全球疫情大流行加速传播，对世界经济和国际贸易投资带来巨大冲击。近年来我国跨境电商进出口规模持续快速增长，成为外贸发展新亮点。当前传统外贸受到疫情较大冲击，必须更大发挥跨境电商独特优势，以新业态助力外贸克难前行。会议决定，在已设立59个跨境电商综合试验区基础上，再新设46个跨境电商综合试验区。推广促进跨境电商发展的有效做法，同时实行对综试区内跨境电商零售出口货物按规定免征增值税和消费税、企业所得税核定征收等支持政策，研究将具备条件的综试区所在城市纳入跨境电商零售进口试点范围，支持企业共建共享海外仓。

会议指出，加工贸易占我国外贸1/4。要统筹内外贸发展，支持加工贸易企业纾解困难，促进稳外资、稳就业。一要对加工贸易保税料件或制成品内销，年底前暂免征收缓税利息。二要将加工贸易企业内销可选择按进口料件或按成品缴纳关税的试点，扩大到所有综合保税区。三要扩大鼓励外商投资产业范围，缩小加工贸易禁止类商品种类。

同时针对全球疫情蔓延的严峻形势，会议决定，第127届广交会于6月中下旬在网上举办，将邀请海内外客商在线展示产品，运用先进信息技术，提供全天候网上推介、供采对接、在线洽谈等服务，打造优质特色商品的线上外贸平台。

China will set up 46 new integrated pilot zones for cross-border e-commerce, as well as support processing trade with new steps and hold the Canton Fair online to keep foreign trade and investment stable amid the epidemic, according to the State Council's executive meeting on April 7.

The meeting noted the massive impact of the fast-evolving outbreak worldwide on the global economy, trade and investment. The fast growth of cross-border e-commerce in recent years has become a new highlight in the country's foreign trade. It is important to leverage the unique strength of cross-border e-commerce when the traditional sectors in foreign trade are hit hard in the COVID-19 outbreak, in order to drive foreign trade with new business forms in this trying time. The meeting decided to set up another 46 integrated pilot zones for cross-border e-commerce on top of the 59 existing ones. In addition to applying the practices proven effective in boosting the flow of commerce, firms in these zones will enjoy such support policies as exemption of value-added and consumption taxes on retail exports, and assessed levy of the corporate income tax. Integrated pilot zones with proper conditions will be listed into the pilot program on retail imports of cross-border e-commerce. Companies will be supported to jointly build and share overseas warehouses.

Measures to boost processing trade are also discussed at the meeting. With processing trade accounting for one fourth of the country's foreign trade, the meeting stressed the need to coordinate domestic and foreign trade and help companies engaged in processing trade tackle their difficulties, as well as to stabilize foreign investment and employment.

It was decided at the meeting that interests of the deferred tax for the bonded materials or finished products in processing trade sold domestically will be temporarily waived till the end of this year. The pilot program where processing trade companies may pay duty for their domestic sales as either imported materials or finished goods will be extended to all the integrated bonded zones. The category of industries where foreign investment is encouraged will be expanded, and the list of prohibited goods in processing trade will be shortened.

It was also decided that given the serious outbreak situation globally, the 127th China Import and Export Fair, also known as Canton Fair, will be hosted online in mid- to late June. Companies from home and abroad will be widely invited to exhibit their products online. Powered by advanced information technology, the Fair will provide around-the-clock services for online product promotion, matchmaking and business negotiations. It will be an Internet-enabled foreign trade platform of quality and specialty products where Chinese and foreign businesses may place orders and cut deals without the hassle of travel.



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商务部就《外商投资企业投诉工作办法》征求意见

MOFCOM Invites Opinions on Measures for Work on Complaints from Foreign-invested Enterprises

商务部发布《外商投资企业投诉工作办法（征求意见稿）》，面向社会征求意见。

根据《征求意见稿》，商务部会同国务院有关部门建立外商投资企业投诉工作部际联席会议制度，协调、推动中央层面的外商投资企业投诉工作，指导和监督地方的外商投资企业投诉工作。商务部设立全国外商投资企业投诉中心，负责处理“涉及国务院有关部门、省级政府及其工作人员行政行为”等投诉事项。

同时，《征求意见稿》指出，投诉人提出投诉事项，应提交书面投诉材料。投诉具有“投诉主体不属于外商投资企业或者其投资者的”等六类情形之一的，投诉工作机构不予受理。《征求意见稿》还明确，根据投诉事项不同情况，投诉工作机构可以采取“推动投诉人和被投诉人达成谅解”等方式进行处理。

The Ministry of Commerce ("MOFCOM") has recently issued the Measures for Work on Complaints from Foreign-invested Enterprises (Draft for Comment) (the "Draft for Comment") for public consultation by April 22, 2020.

According to the Draft for Comment, the MOFCOM in concert with relevant departments of the State Council will establish the interministerial joint conference mechanism for work on complaints lodged by foreign-invested enterprises, to coordinate and promote central-level work on complaints from foreign-invested enterprises and guide and supervise local work on complaints of this type. The MOFCOM will establish the national foreign-invested enterprises' complaint center that is tasked with dealing with complaints about administrative acts of relevant departments of the State Council, provincial governments and their functionaries, among others.

Meanwhile, the Draft for Comment proposes that to lodge a complaint, the complainant shall submit written documents about its complaint. Under any of six circumstances, including "where the subject making the complaint is not a foreign-invested enterprise or not the investor of a foreign-invested enterprise", the complaint will be dismissed by the complaint handling department. Additionally, the Draft for Comment clarifies that in response to a complaint, the complaint handling department may prompt the complainant and the respondent to reach an understanding or address it by other means, as appropriate.

市场监管总局拟规范企业名称登记管理，压缩企业开办时间

SAMR to Regulate Enterprise Name Registration and Shorten the Timeframe for Starting New Businesses

近日，国家市场监督管理总局修订发布《企业名称登记管理实施办法（征求意见稿）》（下称《征求意见稿》）。

《征求意见稿》共三十五条，从体例和结构上对原办法进行了全面修改。《征求意见稿》修订的主要内容包含以下七个方面：一、确立企业名称自主申报制度；二、加强企业名称登记管理系统建设；三、规范完善企业名称申报程序；四、规范细化企业名称构成要素；五、关于集团名称及分支机构名称的规定；六、建立完善涉及名称的授权和转让制度；七、完善企业名称争议裁决机制。其中，《征求意见稿》确立了企业名称自主申报制度，减少了企业登记环节，进一步压缩企业开办时间。

The State Administration for Market Regulation ("SAMR") has recently revised and issued the Measures for the Implementation of the Administration of Enterprise Name Registration (Draft for Comment) (the "Draft for Comment") for public consultation.

The Draft for Comment, containing 35 articles, comes into being after the previous edition of the measures is stylistically and structurally overhauled. The Draft for Comment proposes major revisions in seven aspects: 1. instituting the enterprise name self-declaration mechanism; 2. strengthening the development of the management system for enterprise name registration; 3. standardizing and improving the procedures for enterprise name declaration; 4. standardizing and detailing the composition of an enterprise name; 5. introducing the provisions with respect to names of groups and of branches; 6. establishing and improving the name-related authorization and transfer systems; and 7. refining the mechanism of resolution of disputes over enterprise names. Among others, the Draft for Comment incorporates the enterprise name self-declaration mechanism, under which enterprise registration processes will be reduced and the timeframe required for starting a new enterprise will be further shortened.



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中国于疫情期间对中外航空运输企业实施资金支持

Monetary Support Announced to Chinese and Foreign Air Carriers Amid the COVID-19 Epidemic

财政部、中国民用航空局发出《关于对民航运输企业在疫情防控期间稳定和提升国际货运能力实施资金支持政策的通知》（下称《通知》），政策执行期限为2020年4月1日至6月30日。

《通知》规定，在疫情防控期间，对按照经中国民航适航审定部门批准的设计方案实施的航空器客舱内装货改装项目（客舱内装货改装项目），以及对中外航空公司从2020年4月1日起使用客运航权执飞往返我国国内航点（不含港澳台地区）与国外航点间的不载客国际货运航班（不载客国际货运航班）给予资金支持。《通知》明确，对客舱内装货改装项目，补助标准按照改造成本的80%予以补助，按飞机类型分成两档：单通道飞机每架最高补助80万元，双通道飞机每架最高补助145万元。同时，对不载客国际货运航班，奖励标准按航班飞行里程和最大起飞全重分为八档。

The Ministry of Finance ("MOF") and the Civil Aviation Administration of China ("CAAC") have recently issued the Circular on Implementing the Monetary Support Policy for Stabilizing and Enhancing the International Air Freight Capacity by Civil Aviation Carriers during the Epidemic Prevention and Control Period (the "Circular"), stating that the policy is effective from April 1, 2020 till June 30, 2020.

The Circular reads that during the ongoing epidemic prevention and control, monetary support will be provided to aircraft cabin modification schemes for cargo transport (the "cabin modification schemes") that are executed according to the design plans approved by the China's civil aviation airworthiness certification authority, and to international cargo flights without passengers between the domestic airports in China (excluding Hong Kong, Macao and Taiwan region) and foreign airports that use the air passenger transport authorization as of April 1, 2020 (the "international cargo flights without passengers"). The Circular further clarifies that for each cabin modification scheme, the subsidy will be offered to cover 80% of the costs of modification, specifically at two different rates according to the aircraft type: a maximum of CNY 800,000 for single-aisle aircraft each and a maximum of CNY1.45 million for double-aisle aircraft each. Meanwhile, for international cargo flights without passengers, the incentive scheme is designed at eight levels according to the flight distance and the maximum take-off weight.

中国民航局调整国际客运航班，6月8日起实施航班奖励和熔断措施

CAAC Issued New Notice on Adjustments to International Passenger Flights

中国民航局于6月8日发布了《民航局关于调整国际客运航班的通知》。依据该通知，自2020年6月8日起，以入境航班落地后旅客核酸检测结果为依据，对航班实施熔断和奖励措施。

航空公司同一航线航班，入境后核酸检测结果为阳性的旅客人数连续3周为零的，可在航线经营许可规定的航班量范围内增加每周1班，最多达到每周2班。航空公司同一航线航班，入境后核酸检测结果为阳性的旅客人数达到5个的，暂停该公司该航线运行1周；达到10个的，暂停该公司该航线运行4周。“熔断”的航班量不得调整用于其他航线。“熔断”期结束后，航空公司方可恢复每周1班航班计划。

Civil Aviation Administration of China ("CAAC") issued an notice on June 4, 2020. Starting from June 8, 2020, incentives and circuit breaker measures for flights will be implemented for flights based on the results of nucleic acid tests for inbound flight passengers after their arrival.

If no arriving passenger flying on the same flight and same route operated by an airline is found positive in his/her nucleic acid test after arrival for three consecutive weeks, the airline could add one weekly flight by referring to the weekly number of flights allowed in the route operating permit, and shall cap their weekly flights at two. If 5 to 9 arriving passengers flying the same flight and same route operated by an airline are found positive in their nucleic acid tests after arrival, the airline's operation on that specific route shall be suspended for 1 week; if 10 or over 10 passengers test positive after arrival, the airline's operation on the route shall be suspended for 4 weeks. No adjustment is allowed to be made to the quota of the flight involved in a "circuit breaker" to transfer it to other routes. After the end of the "circuit breaker" period, the airline could resume its one weekly flight schedule.



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海关总署全面推广跨境电子商务出口商品退货监管措施

GAC to Fully Promote Regulatory Measures over the Return of Cross-border E-commerce Exports

海关总署发布2020年第44号、第45号公告，明确全面推广跨境电子商务出口商品退货监管措施有关事宜以及跨境电子商务零售进口商品退货有关监管事宜，均自发布之日起实施。

第44号公告规定，跨境电子商务出口企业、特殊区域内跨境电子商务相关企业或其委托的报关企业可向海关申请开展跨境电子商务零售出口、跨境电子商务特殊区域出口、跨境电子商务出口海外仓商品的退货业务。第44号公告指出，申请开展退货业务的跨境电子商务出口企业、特殊区域内跨境电子商务相关企业应当建立退货商品流程监控体系，应保证退货商品为原出口商品，并承担相关法律责任。第44号公告还明确，退货企业可以对原《海关出口货物报关单》等所列全部或部分商品申请退货。跨境电子商务出口退货商品可单独运回也可批量运回，退货商品应在出口放行之日起1年内退运进境。

The General Administration of Customs ("GAC") has recently issued the Announcement [2020] No.44 and Announcement [2020] No.45 to provide clarity on matters concerning fully promoting regulatory measures over the return of cross-border e-commerce exports and regulatory measures over the return of cross-border e-commerce retail imports, both of which shall enter into force immediately from the date of issuance.

The Announcement No.44 states that cross-border e-commerce exporters, enterprises related to cross-border e-commerce in special region, or the customs declaration enterprises they entrust, may submit to the customs applications for the eligibility for the return of cross-border e-commerce retail exports, exports from special regions for cross-border e-commerce, and goods from overseas warehouses of cross-border e-commerce exports. The Announcement No.44 also notes that to apply for the eligibility for return business, cross-border e-commerce exporters, and enterprises related to cross-border e-commerce in special regions shall have in place the monitoring system for merchandise return procedures, ensure the returned products are exactly the exported ones, and bear relevant legal liability. Moreover, the Announcement No.44 clarifies that the enterprise claiming a return of goods may apply for a return of all or part of goods listed on the Customs Declaration for Exports. Crossborder e-commerce exports to be returned may be shipped back either individually or in batches, and shall be returned and transported to the territory within one year from the date when they were released for export.

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