

Outline of the Economic Security Promotion Act

(Act on the Promotion of Ensuring National Security through Integrated Implementation of Economic Measures)

Purpose

With the increasing complexity of the global landscape and changes in the world's socio-economic structure, and in light of the growing importance of preventing economic activities that cause harm to the security of the nation and its citizens, the Act stipulates that the government formulates a basic policy and introduces necessary systems as economic measures related to ensuring national security, in order to comprehensively and effectively promote economic measures related to ensuring security.

Outline of the Act

1. General Provisions Including the Formulation of a Basic Policy (Chapter I)

- Formulates basic policies related to the promotion of national security through integrated implementation of economic measures.
- Considering their impact on economic activities, regulatory measures must be taken to the extent reasonably necessary to ensure national security.

2. Systems for Ensuring Stable Supply of Critical Products (Chapter II)

In order to ensure the stable supply of critical products whose supply disruption would cause a significant impact on the survival of the citizens, or on their daily lives or the economic activities, the Act introduces designation of specified critical products, the plan approval and support measures for the business entities, and supplementary government initiatives.

Designation of Specified Critical Products	Plan Approval and Support Measures for the Business Entities	Government Initiatives	Others
·Designating critical products which are vital for the survival of the citizens or on which their daily lives or the economic activities depend, and of which stable supply is particularly necessary.	·Business entities may elaborate and apply a plan for ensuring supply of specified critical products or their raw materials, parts, etc., which is subject to approval by the competent ministers. ·For approved business entities, grant by stable supply support corporations, etc. or support such as "two-step loans", etc. are provided.	·Stockpiling and other necessary measures are taken by the competent ministers when it is necessary to take such supplementary measures	·Surveys of business entities by the competent ministers

3. System for Ensuring Stable Provision of Essential Infrastructure Services (Chapter III)

In order to prevent critical facilities of essential infrastructures from being misused as a means of disrupting the stable provision of services from outside Japan, the government conducts prior screening and makes recommendations or orders related to the installation or the entrustment of maintenance, etc. of critical facilities.

Scope of Screening	Prior Notification and Screening	Recommendations and Orders
·Specified essential infrastructure business : the covered business sectors (e.g. electric power business) are narrowed down by Cabinet Order after the outer boundary is indicated by the Act ·Specified essential infrastructure service providers: the entities conducting specified essential infrastructure business that satisfy the criteria stipulated by Order of the competent ministries, is designated	·Requires prior notification of plans for the installation and entrustment of maintenance, etc. of critical facilities ·Period for screening: 30 days, in principle (may be shortened or extended)	·Based on screening results, the government makes recommendations or orders to the business entities on necessary measures (e.g. change, cancellation, etc. of the plan for installation or entrustment of maintenance, etc. of critical facilities) to prevent disruptive actions

4. System for Enhancing Development of Specified Critical Technologies (Chapter IV)

In order to promote R&D of specified critical technologies (SCTs) and their social implementations, this framework introduces measures such as a funding mechanism; the Public-Private Cooperation Council (the PPCC); and entrustment of surveys and research (research institutions),etc.

Government Support	The Public-Private Cooperation Council (the PPCC)	Entrustment of Surveys and Research (Research Institutions)
·The Act mandates, as appropriate, the government to provide SCTs researchers with necessary information and financial support through designated funds.	·The Act authorizes Ministers to establish the PPCC for each project, with the consent of research representatives. ·Members: The heads of relevant administrative organs, research representatives/workers, etc. ·Confidentiality obligation is imposed on the members with respect to sensitive information shared under mutual consent through the PPCC.	·Conducting technological surveys and research of SCTs can be entrusted to capable research institutions, imposing confidentiality

5. System for Non-Disclosure of Selected Patent Applications (Chapter V)

In order to prevent disclosure or divulgence of inventions that are likely to be detrimental to national security through patent procedures, as well as to ensure rights under the Patent Act without compromising national security, the Act introduces measures to suspend publication of patent applications by security designations, and to restrict filing of such an application in a foreign country, etc.

Review from a Perspective of Technology Fields, etc. (primary review)	Security Review (secondary review)	Security Designation	Foreign Filing Restrictions
·The Japan Patent Office sends patent applications that include inventions in specified technology fields to the Cabinet Office	Review from perspectives of: (1) the risk of detrimental impact to the security of the nation and its citizens; and (2) impact on the industrial development due to non-disclosure of the invention, etc.	·Effect of the designation: prohibition on application withdrawal, requirement of permission to work a patent, prohibition on disclosure, requirement of appropriate management of information, etc.	Compensation

Effective Date

·Within 6 months to within 2 years after promulgation (18 May 2022)(enforced in stages)

Outline of systems for ensuring stable supply of critical products (Economic Security Promotion Act, Chapter II)

Purpose

- It is important to ensure the stable supply of products that have a significant impact on survival of citizens, or on their daily lives or the economic activities.
- It is necessary to develop a system for ensuring the stable supply of critical products.
- The government designates critical products for which stable supply is to be ensured. The competent ministers approve plans for ensuring supply of critical products formulated by business entities and implements support measures. When it is difficult to ensure the stable supply of the critical product through support to the business entities, the competent ministers take supplementary measures.

Outline

1. Formulation of guiding principles on ensuring stable supply of specified critical products

2. Designating specified critical products (designated by Cabinet Order)

Specified critical products	Critical products which are vital for the survival of citizens for which their daily lives or the economic activities depend on, and of which the stable supply is particularly necessary to prevent a situation in which the security of the nation and its citizens is undermined due to actions taken from outside Japan when the critical products or their raw materials, etc. are excessively reliant or are likely to be reliant on outside sources.
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3. Formulation of policies on initiatives for ensuring stable supply (formulated for each specified critical product)

- The competent ministers formulate policies on initiatives to ensure stable supply of specified critical products or their raw materials, etc.

4. Formulation of plans for ensuring supply by business entities and support measures

- Business entities may elaborate plans related to initiatives* for ensuring stable supply of specified critical products or their raw materials, etc. and apply those plans to the competent ministers for their approval. Approved business entities may receive the following support.

* Reinforcement of production base, diversification of supply sources, stockpiling, development of production technologies, development of alternative products, etc.

- (1) Support through subsidies from stable supply support corporations, etc.
 - a. Grants for initiatives by approved business entities
 - b. Interest subsidies to financial institutions providing financing to approved business entities
- (2) Special provisions of the Japan Finance Corporation Act ("two-step loans")
- (3) Special provisions of the Small and Medium-sized Enterprise Investment Business Corporation Act
- (4) Special provisions of the Small and Medium-sized Enterprise Credit Insurance Act

5. Specified critical products for which supplementary measures are necessary, and government initiatives, etc.

- When it is difficult to ensure stable supply of certain product through support measures for business entities as above (4.), the competent ministers designate it as a "specified critical product for which special measures are necessary." The competent ministers may then take necessary measures such as stockpiling.

6. Development of market environment related to specified critical products or their raw materials, etc. (relationship with Japan Fair Trade Commission, Customs Tariff Act)

7. Other

- The competent minsters may conduct a survey on the condition of those producing, importing, and selling each product.

Effective date

- 1st August 2022

Outline of systems for ensuring stable provision of essential infrastructure services (Economic Security Promotion Act, Chapter Ⅲ)

Purpose

- Ensuring the stable provision of essential infrastructure services (electricity, gas, water, etc.) is important for national security.
- There is a risk that critical facilities of essential infrastructure will be misused to disrupt the stable provision of services.
- Installation and entrustment of maintenance, etc. of critical facilities of essential infrastructure are subject to prior screening in order to prevent such facilities from being misused as a means for actions that disrupt the stable provision of services from outside Japan.

Outline

1. Formulation of guiding principles on ensuring the stable provision of specified essential infrastructure services

- Basic items related to designation of specified essential infrastructure service providers (including factors to be considered on the designation from economic and social perspectives)
- Items for consideration (including items to be considered in drafting the Order of the competent ministries specifying critical facilities, etc.)
- Items related to coordination with specified essential infrastructure service providers and other related parties, etc.

2. Scope of screening

(1) Specified essential infrastructure business (covered business sectors are narrowed down by Cabinet Order after the outer boundary is indicated by the Act) ※added on 17 May 2024 (entried into force on 1 April 2025)

Electricity	Gas	Oil	Water	Railway
Truck transport	International maritime cargo	Port and Harbor Transportation ※	Air Transport	Airport
Telecommunications	Broadcasting	Postal Service	Financial Services	Credit Cards

(2) Specified essential infrastructure service providers: Designated by the competent ministers

- Among the entities conducting specified essential infrastructure business, those whose suspension or degradation of functions of critical facilities (details to be designated by the order of competent ministries) could result in disruption of stable provision of service and could pose a large risk to the security of the nation and its citizens according to the criteria set by Order of the competent ministries.

3. Screening (whether or not critical facilities are at high risk of being misused as a means for actions to disrupt stable provision of services from outside Japan)

(1) Prior notification of plan related to installation and entrustment of maintenance, etc. of critical facilities

<Examples of items to be included in the plan>

- (i) For installation, summary of critical facilities, content, timing, suppliers, and components, etc. of critical facilities.
- (ii) For entrustment of maintenance, etc., summary of critical facilities, content, timing, contractors, and subcontractors, etc.

(2) Screening period (in principle, 30 days from receipt of notification)

- May be shortened if screening is not necessary.
- May be extended if necessary for screening or recommendations/orders (up to four months from receipt of notification).

4. Recommendations/orders (measures necessary to prevent disruptive actions)

• If the screening determines that critical facilities pose a high risk of being misused as a means for actions that disrupt the stable provision of services from outside Japan, a recommendation is made for necessary measures to prevent the disruptive actions (changing, cancelling, etc. the contents of plan for installation or entrustment of maintenance of critical facilities, etc.).

• Requires notification within 10 days of recommendation on whether or not it will be accepted.

• Measures related to recommendation are ordered if there is no notification on whether or not the recommendation is accepted or if there is a notification that it is not being accepted (unless there are legitimate grounds).

5. Responsibilities of competent ministers for essential infrastructure businesses

(providing information to specified essential infrastructure service providers that contribute to the prevention of disruptive actions)

Effective date

(1) Screening scope: 1st November 2023

(2) Screening, recommendations, orders: 17th November 2023

(The six months following designation as a specified essential infrastructure service provider is a transition period during which the act will not be applied.)

Outline of systems for enhancing development of designated critical technologies (Economic Security Promotion Act, Chapter IV)

Purpose

- To promote the R&D of advanced critical technologies that have potential usages not only in the private sector but also in the fields such as government infrastructure, counter-terrorism, cyber security and national security, and their appropriate social implementations that are essential for Japan to continue to secure a firm position in the international community over a long term.
- The Act provides for the formulation of guiding principles on R&D of specified critical technologies (SCTs) and introduces measures such as a funding mechanism; the Public-Private Cooperation Council (the PPCC); and entrustment of surveys and research (research institutions).

Outline

1. Guiding principles on research and development of the specified critical technologies (SCTs) and government support

- The Act mandates the government to formulate the guiding principles on the promotion of R&D of SCTs and their social implementation
- Based on the guiding principles, the government provides researchers of the SCTs with necessary information and financial support through designated fund, as appropriate.

Specified critical technologies (SCTs)	Advanced critical technologies that involve a risk of impairing security of the nation and its citizens, if an outside party inappropriately uses such technologies or sensitive information used for R&D activities; or if disruptive action is taken from outside Japan.(Specifically, aerospace, marine, quantum, AI related technologies, etc. are assumed for designation)
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2. The public-private cooperation council (PPCC)

(1) Establishment

- The Act authorizes Ministers granting funds for SCTs research and development projects (“Ministers of Research and Development”) to establish the Public-Private Cooperation Council (the PPCC) for such projects, with the consent of research representatives in concern, in accordance with the guiding principles.
- Ministers of Research and Development can add persons as members of the PPCC with their consent as necessary.
 - *Establishment of the PPCC is mandatory for SCTs research and development projects funded by the designated fund (e.g. K-Program (supplementary budget, FY2021))

(2) Members

- Minister of Research and Development •Heads of relevant national administrative organs
- Research representatives/workers •The research institutions, etc.

(3) Functions

- The government may actively support SCTs research and development projects through the PPCC. Such supports may include:
 - ✓ Sharing with researchers valuable information for R&D activities such as public and private needs and solutions of technologies; and
 - ✓ Encouraging social implementation of solutions by initiating necessary institutional formation or deregulations.
- The Act mandates members of the PPCC to protect sensitive information shared under mutual consent and impose confidentiality obligations on them equivalent to those under National Public Service Act.
 - *Information subject to confidentiality may include: results of past government research; and information on cybersecurity vulnerabilities, etc.
 - *Researchers of DCTs research and development projects can in principle publicly release the results of the projects. The PPCC determines on measures to promote R&D and treatment of results of the projects for respective technologies, with regard to technologies which may cause disruption when used for terrorism or cyberattack in the area of government infrastructures, etc., depending on the progress of R&D and characteristics of the technology.

3. Entrustment of surveys and research (research institution)

- The Act mandates the Prime Minister to conduct ascertainment of SCTs and technological surveys and research needed for R&D of such technologies.
- The Act also authorizes the Prime Minister to entrust such surveys and research to research institutions (Institution for surveys and research of SCTs) with certain competency and imposes confidentiality obligations.

Effective date

•1st August 2022

Outline of system for non-disclosure of selected patent applications

(Economic Security Promotion Act, Chapter V)

Purpose

- To prevent disclosure or divulgence of sensitive technologies through procedures of a patent application that includes inventions that could involve a significant risk of detrimental impact to the security of the nation and its citizens if made known to the public, by suspending procedures such as publication of the patent application and taking necessary measures to protect information during the suspension.
- To ensure the opportunity to submit a patent application for applicants who had to abandon the process for reasons of national security.

Outline

1. Develop guiding principles on non-disclosure of selected patent applications

2. Review conducted from the perspective of technology fields, etc. (primary review)

・When the Japan Patent Office finds a patent application which includes inventions in certain technology fields that are designated as the fields which could contain inventions with a significant risk of detrimental impact to the security of the nation and its citizens if made known to the public*, the Patent Office sends it to the Cabinet Office.

* Technology fields would be narrowed down based on perspectives of 3(1) and (2) below. (e.g. nuclear technologies and advanced weapon technologies, etc.)

- Publication of the patent application and decision to grant the patent will be suspended during the primary and secondary reviewing process and under security designation.

3. Security review (secondary review)

- ・Factors considered for the security review (e.g. reviewing on whether it is appropriate to protect the invention)
 - (1) Risk of detrimental impact to the security of the nation and its citizens
 - (2) Impact on the development of industry due to non-disclosure of the invention, etc.
- The Cabinet Office may seek cooperation of interested government agencies and specialists outside the government conducting the review, and deliberates with interested government agencies
- The Cabinet Office asks the applicant if the person has an intention to maintain the patent application process before conducting security designation

4. Security designation

- ・The Cabinet Office designates selected invention as “invention for security designation”, and notifies it to the patent applicant.
- *Designation period: Within one year; thereafter, decision made each year on the necessity of the extension
- *Effects of designation:
 - Prohibition on application withdrawal
 - Requirement of permission to work (meaning “work” under Article 2, paragraph (3) of the Patent Act (Act No.121 of April 13, 1959)) a patent
 - Prohibition in principle of the disclosure of invention details
 - Obligation to properly manage invention information
 - Requirement of approval for sharing the invention with other businesses
 - Prohibition on filing of applications in foreign countries

5. Restrictions on filing of applications in foreign countries (first-filing requirement)

- ・For inventions in the technology fields mentioned in 2. above made in Japan, the patent application must first be filed in Japan (the applicant may ask the Japan Patent Office in advance to confirm on whether or not this clause applies)

6. Compensation

- ・The government is to compensate for the loss that may occur under ordinary circumstances to one who suffers the loss due to inability to obtain the permission for work, etc.

Effective date

・1st May 2024