

Summary of Economic Security Promotion Act

(Act for 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 on extensively and effectively promoting economic measures in order to ensure security, as well as introduce necessary economic measures for national security.

Summary

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

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

2. Framework for Ensuring Stable Supply of Key Products (Chapter 2)

To ensure the stable supply of key products are vital factors for lives or significant factors for living conditions and economic activities, the act introduces designation of specified key products, plan approval and support for the private sectors, and supplementary government initiatives.

Designation of specified key products

- Designates key products are vital for lives, or on which and economic activities depend, and of which steady supply is particularly necessary.

Plan Certification and Support Measures for the Private Sector

- Private may apply plans to secure supply of specified key products and their producers' goods, and they are approved by the competent minister
- For approved companies, grants are provided through stable supply support corporations, two-step loans, and other such support

Government Initiatives

- Stockpiling and other necessary measures will be taken under the competent minister when it is necessary to take such supplementary measures

Other

- Surveys of companies by the competent minister

3. System on Ensuring the Stable Provision of Essential Infrastructure Services (Chapter 3)

In order to prevent key facilities of essential infrastructures from being misused by foreign entities to disrupt the stable services supply, the government conducts pre-screening and makes recommendations/orders related to installation of key facilities or outsourcing of key maintenance/management of such facilities by the essential infrastructures.

Scope of Application

- Applicable infrastructure businesses: outer boundary of business sectors (e.g., electric power business) are indicated in the Act, and the concrete business sectors to be identified by government ordinances
- Applicable business entities: among entities which conduct applicable businesses, the individual business entities which meet the criteria, stipulated by ordinances of the competent ministries, will be designated

Prior Notification and Screening

- Requires prior notification of plan on installation and outsourcing of maintenance/ management of key facility
- Duration for screening: 30 days, in principle (may be shortened or extended)

Recommendation and Orders

- Based on screening results, the government makes recommendations or orders to the business entities on necessary measures to prevent disruptions (e.g., change, cancellation, etc. of the plan of key facility installation or maintenance/management outsourcing)

4. Framework for Enhancing Development of Advanced Critical Technologies (Chapter 4)

To promote R&D of designated critical technologies (DCTs) and their social implementations, this framework introduces measures such as a funding mechanism; the Public-Private Cooperation Council (the PPCC); and research institution for technological studies.

Government Support

The act mandates, as appropriate, the Government to provide DCTs researchers with useful information and financial support.

The Public-Private Cooperation Council (the PPCC)

The act authorizes Ministers to establish the PPCC for DCTs R&D projects, with an agreement of researchers in concern.

A criminal penalty is to be imposed on those who leak certain classified information provided through the PPCC.

Research Institutions

The act mandates PM to conduct technological studies for development of DCTs, that can be outsourced to capable research institutions.

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

To prevent disclosure or divulgence of inventions that might be detrimental to national security through patent procedures, as well as ensuring rights under patent law without damaging national security, the bill introduces measures to withhold publication of patent applications by security designations, and to restrict filing of application in foreign country, etc.

Review from a perspective of technology fields, etc. (primary review)

- The Patent Office sends patent applications that include inventions in specified technology fields to the Cabinet Office

Security Review (secondary review)

Review from perspectives of:
(1) The risk of detrimental impact to the national security,
(2) Impact on the development of industry if the invention is not disclosed, etc.

Security Designation

- Effects of designation: Prohibition on application withdrawal, requiring a permission for work, prohibition on disclosure, requiring an appropriate information management, etc.

Foreign filing restrictions

Compensation

Effective Date

- **Within 6 months to within 2 years after promulgation (enforced in stages)**

Summary of framework related to ensuring stable supply of key products (Economic Security Promotion Act, Chapter 2)

Purpose

- It is important to ensure the stable supply of products that have a significant impact on lives and economic activities.
- And necessary to develop systems for ensuring the stable supply of key products.
- The government designates key products for which stable supply is to be ensured. The competent minister approves plans for ensuring supply of key products formulated by private-sectors and implements measures. When it is difficult to ensure the stable supply of the key product through support to private-sectors, the competent minister takes supplementary measures.

Summary

1. Formulization of basic guidelines on ensuring stable supply of specified key products

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

Specified key products

Key products which are vital for lives or significant factors of living conditions and economic activities, and of which uninterrupted stable supply is particularly necessary to secure national security and citizens' safety against a possible outside action when the nation or the people excessively depend or have to depend on outside sources for such products or their producers' goods supply.

3. Formulation of policies on initiatives for ensuring stable supply(formulated each specified key products)

- The competent minister formulates policies on initiatives to ensure stable supply of specified key products or their producers' goods.

4. Formulation of plans for ensuring supply by private-sectors

- Private-sectors may apply plans related to initiatives* for ensuring stable supply of specified key products and their producers' goods to the competent minister, and to be approved. Approved companies 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 companies

b. Interest subsidies to financial institutions providing financing to approved companies

(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 key products for which supplementary measures are necessary, and government initiatives, etc.

- When it is difficult to ensure stable supply certain product through support measures as above(4.) for private-sectors, the competent minister designates it as a specified key product for which special measures are necessary. The competent minster may take necessary measures such as stockpiling.

6. Development of market environment related to specified key products (relationship with Japan Fair Trade Commission, Customs Act, etc.)

7. Other

- The competent minster may survey on condition of producing, importing, and selling key products.

Effective date

- Within 9 months after promulgation

Summary of system related to ensuring stable provision of essential infrastructure services (Economic Security Promotion Act, Chapter 3)

Purpose

- Ensuring stable provision of essential infrastructure services (electricity, gas, water, etc.) is important for national security.
- There is a risk that key facilities of essential infrastructure will be misused to disrupt stable service provision.
- To prevent key facilities (of essential infrastructure 削除可?) from being misused from outside the country to disrupt stable service provision, pre-screens the plans on installation of such facilities and outsource of maintenance/management for key facilities.

Summary

1. Formulation of basic guideline on ensuring stable provision of essential infrastructure services

- Basic items related to designation of applicable business entities (including factors to be considered on the designation from economic and social perspectives)
- Items for consideration (including items to be considered in connection with the competent ministries' drafting of the ordinances stipulating key facilities, etc.)
- Items related to coordination with applicable business entities and other related parties; etc.

2. Scope of application

(1) Applicable infrastructure business (Outer boundary of applicable business sectors indicated by law and then narrowed down by government ordinance)

Electricity	Gas	Oil	Water works	Railway
Truck transport	Marine cargo	Aviation	Airports	Telecommunications
Broadcasting	Postal services	Financial services	Credit cards	

(2) Applicable business entities: Designated by the competent ministers

- Business entities conducting applicable businesses whose key facilities (details to be designated by competent ministries' ordinances) functions' suspension or degradation could result in disruption of stable service provision, and could pose a large risk to national security and citizen safety; the criteria is to be set by competent ministry ordinance.

3. Screening

(whether or not key facilities are at high risk of being misused by foreign entities to disrupt stable service provision)

(1) Prior notification of plan related to installation and contracting maintenance/management, etc. for key facilities

<Example of plan contents>

- (1) For installation, summary of key facilities, content, timing, suppliers, and components of key facilities, etc.
- (2) For outsourcing maintenance/management, summary of key facilities, content, timing, contractor, and subcontractors, etc.

(2) Prior 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 harmful actions)

- If the screening determines that key facilities poses a high risk of being misused as a means for actions that impair stable service provision, a recommendation is made for necessary measures to prevent the harmful actions (changing, cancelling, etc. the contents of key facility installation and maintenance/management outsourcing, 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 notification that it is not being accepted (unless there are legitimate grounds)

5. Responsibilities of competent ministers

(provide information to applicable business entities that helps prevention of disruptive actions)

Effective date

- **(1) Screening scope: Within 1 year and 6 months after promulgation; (2) Screening, recommendations, orders: Within 1 year and 9 months after promulgation**

(The six months following designation as an applicable business entity is a transition period during which the act will not be applied.)

Purpose

- Promotion of R&D of advanced critical technologies (ACTs) that have potential public usages in the fields such as government infrastructure, counter-terrorism, cyber security and national security, and their appropriate social implementations is essential for Japan to continuously occupy an honored place in an international society in a longer term.
- The act introduces measures such as a funding mechanism; the Public-Private Cooperation Council (the PPCC); and research institution for technological studies.

Summary

1. Basic Guideline for Research and Development of the Designated Critical Technologies (the Technology Guideline) and Government Support

- The act mandates the Government to enact the Basic Guideline for Research and Development of Designated Critical Technologies (the Technology Guideline) for R&D and social implementation of such technologies
- Based on the Technology Guideline, the Government shall provide researchers of the Designated Critical Technologies (DCTs) with useful information and financial support, as appropriate.

Designated Critical Technologies (DCTs)	Advanced critical technologies (ACTs) that involve a risk of impairing security of the nation or its people, if an outside party inappropriately use such a technology itself or sensitive information used for R&D activities of such technologies; or if the nation depends outside party for products or services built upon such technologies. (Specifically, aerospace, marine, quantum, AI related technologies are assumed for designation)
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2. The Public-Private Cooperation Council (PPCC)

(1) The Establishment

- The act authorizes Ministers granting funds for DCTs R&D projects (“the R&D Ministers”) to establish the Public-Private Cooperation Council (the PPCC) for such projects, with an agreement of principal researchers in concern, in accordance with the Guideline.
- The R&D Ministers can add members of the PPCC by obtaining their agreements.
*Establishment of the PPCC is mandatory for DCTs R&D projects funded by the Designated Fund (i.e. K-Pro (supplementary budget, FY2021))

(2) Members

•The R&D Minister •Heads of relevant government agencies •Researchers •The research institutions, etc.

(3) Functions

- The Government may actively support DCTs R&D projects through the PPCC. Such supports may include:
 - ✓ Sharing researchers with valuable information for R&D activities such as public and private needs of the technology; and
 - ✓ Encouraging social implementation by initiating necessary institutional formation or deregulations.
- The act mandates participants of the PPCC to protect sensitive information as agreed. In addition, a certain criminal penalty (up to one year imprisonment or a fine of up to 500,000 yen, which is equivalent to the Article 109 of the National Public Service Act) is to be imposed on those who leak the certain classified information provided by the government or other institutions through the PPCC.

*Such classified information may include: results of past government classified researches; and cybersecurity vulnerabilities.

*Researchers of DCTs R&D projects can publicly release the results of the projects unless otherwise agreed at the PPCC.

3. Research Institution for Technological Studies

- The act mandates the Prime Minister to conduct technological studies needed for development and implementations of DCTs.
- The act also authorizes PM to outsource such studies to research institutions with certain competency.

Date of Enforcement

• Within 9 months after the day of promulgation

Non-disclosure of selected patent applications (Economic Security Promotion Act, Chapter 5)

Purpose

- Prevent disclosure or divulgence of sensitive technologies through procedures of patent application that includes inventions that could involve a huge risk of detrimental impact to national security if made known to the public, by suspending procedures such as publication of the patent application and taking necessary measures to protect information during that period.
- Ensure to process patent application for applicants who had to abandon the process due to national security.

Summary

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

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

- When the Patent Office finds that a patent application includes inventions in technology fields that could involve a huge detrimental risk to national security 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 or rejection will be suspended during the primary and secondary reviewing process and during security designation.

3. Security review (secondary review)

- Factors considered in security review (i.e. reviewing on whether it is appropriate to protect invention)
 - (1) Risk of detrimental impact to national security
 - (2) Impact on the development of industry if the invention is not disclosed; etc.
- The Cabinet Office cooperates with interested government agencies and specialists outside the government for the review, and deliberates with interested government agencies
- The Cabinet Office would ask the applicant if s/he has an intention to maintain the patent application process before conducting security designation

4. Security designation

- The Cabinet Office designates selected invention as “security selected invention”, and notifies it to the patent applicant.
- *Designation period: Within one year; thereafter, decision made each year on necessity of extension
- *Effects of designation:
 - Prohibition on application withdrawal
 - Requiring a permission for work (Patent Act (Act No.121 of April 13, 1959) article 2(3))
 - Prohibition in principle on disclosure of invention
 - Requiring appropriate invention information management
 - Requiring an approval for sharing the invention with other companies
 - Restriction on filing of applications in foreign country

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

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

6. Compensation

- The government shall 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

- Within 2 years after promulgation