

# **Act on the Promotion of Ensuring National Security Through Integrated Implementation of Economic Measures**

(Act No. 43 of May 18, 2022)

## **Table of Contents**

Chapter I General Provisions (Articles 1 through 5)
Chapter II Ensuring Stable Supply of Specified Critical Products
Section 1 Basic Guidelines for Ensuring Stable Supply (Articles 6 through 8)
Section 2 Ensuring Supply Plans (Articles 9 through 12)
Section 3 Special Provisions for the Japan Finance Corporation Act (Articles 13 through 25)
Section 4 Special Provisions for the Small and Medium-Sized Enterprise Investment and Consultation Corporation Act and the Small and Medium-Sized Enterprise Credit Insurance Act (Articles 26 through 28)
Section 5 Development of Market Environment Related to Specified Critical Products (Articles 29 and 30)
Section 6 Support by Ensuring Stable Supply Support Corporations (Articles 31 through 41)
Section 7 Support by Ensuring Stable Supply Support Incorporated Administrative Agencies (Articles 42 and 43)
Section 8 Specified Critical Products for Which Special Measures are Required (Articles 44 and 45)
Section 9 Miscellaneous Provisions (Articles 46 through 48)
Chapter III Ensuring the Stable Provision of Specified Essential Infrastructure Services (Articles 49 through 59)
Chapter IV Support for Development of Specified Critical Technologies (Articles 60 through 64)
Chapter V Non-Disclosure of Patent Applications (Articles 65 through 85)
Chapter VI Miscellaneous Provisions (Articles 86 through 91)
Chapter VII Penal Provisions (Articles 92 through 99)
Supplementary Provisions

## **Chapter I General Provisions**

(Purpose)

Article 1 The purpose of this Act is to comprehensively and effectively promote economic measures related to ensuring national security through the formulation of a basic policy on the promotion of ensuring security through

integrated implementation of economic measures, and the establishment of systems regarding the stable supply of specified critical products and the stable provision of specified essential infrastructure services, and systems regarding support for development of specified critical technologies and non-disclosure of patent applications, as economic measures related to ensuring national security, in view of the increasing importance of preventing acts committed with regard to economic activity that harm the security of the State and its citizens to ensure national security in view of the increasingly complex international situation, the changing socio-economic structures etc.

(Basic Policy)

Article 2 (1) The Government must provide a basic policy on the promotion of ensuring security through integrated implementation of economic measures (hereinafter referred to as the "basic policy").

(2) The basic policy is to provide the following matters:

- (i) basic matters on the promotion of ensuring security through integrated implementation of economic measures;
- (ii) basic matters on integrated implementation of economic measures related to ensuring the stable supply of specified critical products (meaning specified critical products provided in Article 7; the same applies in Article 6), ensuring the stable provision of specified essential infrastructure services (meaning specified essential infrastructure services provided in Article 50, paragraph (1); the same applies in Article 49), support for development of specified critical technologies (meaning specified critical technologies provided in Article 61; the same applies in Article 60), and non-disclosure of patent applications (meaning non-disclosure of patent applications provided in Article 65, paragraph (1));
- (iii) basic matters on economic measures that should be promoted comprehensively and effectively regarding ensuring security (excluding what is stated in the preceding item); and
- (iv) beyond what is stated in the preceding three items, matters necessary for the promotion of ensuring security through integrated implementation of economic measures.

(3) The Prime Minister must prepare a draft of the basic policy and seek a cabinet decision.

(4) When the cabinet decision under the provisions of the preceding paragraph has been made, the Prime Minister must publicize the basic policy without delay.

(5) The provisions of the preceding two paragraphs apply mutatis mutandis to modifications to the basic policy.

(Recommendations of the Prime Minister)

Article 3 (1) The Prime Minister may seek the provision of necessary materials or information, explanations, statements of opinion, or other necessary cooperation from the head of a relevant administrative organ if the Prime Minister finds it necessary to do so for the comprehensive and effective promotion of economic measures related to ensuring national security.

(2) If the Prime Minister finds it particularly necessary for the comprehensive and effective promotion of economic measures related to ensuring national security, the Prime Minister may issue necessary recommendations to the head of a relevant administrative organ or seek reports on the measures taken as a result of such recommendation.

(3) If the Prime Minister finds it necessary for the comprehensive and effective promotion of economic measures related to ensuring national security, the Prime Minister may provide the head of a relevant administrative organ with information that contributes to developing economic measures related to ensuring national security.

(Responsibilities of the State)

Article 4 (1) The State has a responsibility to comprehensively and effectively promote economic measures related to ensuring national security in line with the basic policy.

(2) The relevant national administrative organs must mutually cooperate on implementation of economic measures related to ensuring national security.

(3) The State is to endeavor to ensure necessary funding and take other measures to promote the comprehensive and effective promotion of economic measures related to ensuring national security.

(Points of Attention in the Implementation of Control Measures Under the Provisions of This Act)

Article 5 Control measures under the provisions of this Act must be taken in consideration of the impact on economic activity and to the extent found to be reasonably necessary to ensure national security.

## **Chapter II Ensuring Stable Supply of Specified Critical Products**

### **Section 1 Basic Guidelines for Ensuring Stable Supply**

(Basic Guidelines for Ensuring Stable Supply Support)

Article 6 (1) Pursuant to the basic policy, the government is to provide basic guidelines for ensuring stable supply of specified critical products (hereinafter referred to as "basic guidelines for ensuring stable supply" in this Chapter) to prevent a situation in which the security of the State and its citizens is

undermined due to action taken from the outside.

(2) The basic guidelines for ensuring stable supply are to provide the following matters:

- (i) matters regarding the basic directions on ensuring stable supply of specified critical products;
- (ii) matters regarding measures implemented by the State related to ensuring stable supply of specified critical products;
- (iii) matters regarding designation of specified critical products;
- (iv) matters that should be regarded as criteria for preparing the policies on initiatives for ensuring stable supply provided in Article 8, paragraph (1);
- (v) matters regarding the basic direction to facilitate the procurement of funds necessary for initiatives to ensure stable supply of specified critical products (including matters that should be used as criteria for preparing the basic guidelines for implementation of operations to facilitate promotion of ensuring supply provided in Article 13, paragraph (1));
- (vi) basic matters regarding the roles to be played by an ensuring stable supply support corporation (meaning an ensuring stable supply support corporation provided in Article 31, paragraph (1); the same applies in Article 8, paragraph (2), item (iv) and Article 9, paragraph (6)) and an ensuring stable supply support incorporated administrative agency (meaning an ensuring stable supply support incorporated administrative agency provided in Article 42, paragraph (2); the same applies in Article 8, paragraph (2), item (iv) and Article 9, paragraph (6)) regarding an ensuring stable supply support operation (meaning an ensuring stable supply support operation provided in Article 31, paragraph (1); the same applies in Article 8, paragraph (2) item (iv) and Article 9, paragraph (6)), and, an ensuring stable supply support corporations fund (meaning an ensuring stable supply support corporation fund provided in Article 34, paragraph (1); the same applies in Article 8, paragraph (2), item (iv) and Article 33, paragraph (2), item (v)) and an ensuring stable supply support incorporated administrative agency fund (meaning an ensuring stable supply support incorporated administrative agency fund provided in Article 43, paragraph (1); the same applies in Article 8, paragraph (2), item (iv));
- (vii) basic matters regarding designations under the provisions of Article 44, paragraph (1);
- (viii) basic matters to be considered in ensuring stable supply of specified critical products; and
- (ix) beyond what is stated in the preceding items, matters necessary for ensuring stable supply of specified critical products.

(3) The Prime Minister must prepare a draft on basic guidelines for ensuring stable supply and seek a cabinet decision.

- (4) When preparing a draft on basic guidelines for ensuring stable supply under the provisions of the preceding paragraph, the Prime Minister must seek the opinions of persons with knowledge of economic measures related to ensuring national security and industrial structure, and other knowledge of ensuring stable supply of specified critical products in advance.
- (5) When a cabinet decision has been made under the provisions of paragraph (3), the Prime Minister must, without delay, publicize the basic guidelines for ensuring stable supply.
- (6) The provisions of the preceding three paragraphs apply mutatis mutandis to modifications to the basic guidelines for ensuring stable supply.

(Designation of Specified Critical Products)

Article 7 When critical products (including programs; the same applies hereinafter) which are vital for the survival of citizens or for which their daily lives or the economic activities depend widely on, or raw materials, parts, facilities, equipment, devices or programs (hereinafter referred to as "raw materials, etc.") necessary for their production are or likely to be reliant excessively on the outside and ensuring the stable supply of the relevant products or raw materials, etc. necessary for their production (hereinafter referred to as "products, etc." in this Article), through the improvement of the development base, diversification of supply sources, stockpiling, introduction of production technology and development or improvement of the relevant products, etc. or other initiatives to enhance resilience of the supply chain of the relevant products, etc. or the rationalization of usage of products, etc., development of alternative products or other initiatives to reduce reliance on the relevant products, etc., is found particularly necessary to prevent a situation in which the security of the State and its citizens is undermined due to action taken from the outside, the relevant products are to be designated as specified critical products by Cabinet Order

(Policies on Initiatives for Ensuring Stable Supply)

- Article 8 (1) The competent minister is to provide, regarding the specified critical products designated under the provisions of the preceding Article which relate to businesses under its jurisdiction, policies on initiatives for ensuring stable supply related to the relevant specified critical products or raw materials, etc. necessary for their production (hereinafter referred to as "specified critical products, etc." in this Chapter and Article 86, paragraph (1), item (ii)) (hereinafter referred to as "policies on initiatives for ensuring stable supply" in this Chapter) for each specified critical product pursuant to the basic guidelines for ensuring stable supply,.
- (2) Policies on initiatives for ensuring stable supply are to provide the following

matters:

- (i) matters on the basic direction of initiatives to ensure stable supply of covered individual specified critical product, etc. (hereinafter referred to as "individual specified critical products, etc." in this Chapter);
  - (ii) matters on measures to be implemented by the competent minister regarding initiatives to ensure stable supply of individual specified critical products, etc.;
  - (iii) matters on the content of the initiative to ensure stable supply of individual specified critical products, etc., and the period or time limit to conduct the initiative for each relevant initiative;
  - (iv) matters on the roles to be played by ensuring stable supply support corporations and ensuring stable supply support incorporated administrative agencies regarding the ensuring stable supply support operations and ensuring stable supply support corporation funds or ensuring stable supply support incorporated administrative agencies funds to ensure stable supply of individual specified critical products, etc.;
  - (v) matters on designations under the provisions of Article 44, paragraph (1) related to covered individual specified critical products;
  - (vi) matters to be considered in ensuring stable supply of individual specified critical products, etc.; and
  - (vii) beyond what is stated in the preceding items, matters necessary for ensuring stable supply of individual specified critical products, etc.
- (3) If the competent minister makes a designation under the provisions of Article 44, paragraph (1) for a covered individual specified critical products, the competent minister is to provide matters on the measures under the provision of paragraph (6) of the same Article related to the covered individual specified critical products, in addition to the matters stated in the items of the preceding paragraph, in the policies on initiatives for ensuring stable supply.
- (4) When preparing the policies on initiatives for ensuring stable supply, the competent minister must, in advance, consult with the Prime Minister, the Minister of Finance, and the heads of other relevant administrative organs.
- (5) When the competent minister has provided the policies on initiatives for ensuring stable supply, the minister must publicize them without delay.
- (6) The provisions of the preceding two paragraphs apply mutatis mutandis to modifications to the policies on initiatives for ensuring stable supply.

## **Section 2 Ensuring Supply Plans**

(Approval of Ensuring Supply Plans)

Article 9 (1) A person that intends to ensure stable supply of specified critical products, etc. may prepare a plan for an initiative to ensure stable supply of

specified critical products, etc. which the person intends to implement (hereinafter referred to as "initiative" in this Article) (hereinafter referred to as "ensuring supply plan" in this Section and Article 29) and, as provided by competent Ministerial Order, submit it to the competent minister and obtain its approval.

(2) When two or more persons intend to jointly undertake initiatives, the relevant two or more persons may jointly prepare an ensuring supply plan and obtain approval under the preceding paragraph.

(3) An ensuring supply plan must contain the matters listed as follows:

- (i) item of specified critical products, etc. intended for ensuring stable supply;
- (ii) objectives of the initiatives;
- (iii) details and implementation period of the initiatives;
- (iv) implementation framework for the initiatives;
- (v) amount of funding required for the initiatives and its procurement method;
- (vi) measures to ensure smooth and reliable implementation of the initiatives;
- (vii) framework to manage information on the initiatives;
- (viii) current status of procurement and supply or usage of the relevant specified critical products, etc. of the preparer of the ensuring supply plan; and
- (ix) beyond what is stated in the preceding items, matters provided by competent Ministerial Order.

(4) When there has been an application for the approval under paragraph (1), the competent minister is to give an approval if the minister finds that the ensuring supply plan relative to the relevant application meets all of the following items:

- (i) the details of the initiatives are appropriate in light of the policies on initiatives for ensuring stable supply;
- (ii) it is deemed that the initiatives will be implemented for a period longer than or within the time limit provided in the policies on initiatives for ensuring stable supply;
- (iii) the implementation framework for the initiatives, and the amount of funding required for the initiatives and its procurement method are appropriate for smooth and reliable implementation of the ensuring supply plan;
- (iv) it is deemed that measures to be taken in case of supply and demand crisis relative to the specified critical products, etc., investments to help maintain or strengthen the supply capacity of the specified critical products, etc., measures to help mitigate reliance, or other measures, provided by competent Ministerial Order as measures for smooth and reliable implementation of the initiatives, are likely to be taken;
- (v) a framework has been established to appropriately manage information

- regarding the initiatives; and
- (vi) if two or more persons engaged in businesses that fall within the same industry have jointly applied for the approval of paragraph (1) with regard to a jointly prepared ensuring supply plan, the ensuring supply plan meets the following:
    - (a) in light of domestic and external market conditions, proper competition is ensured between the business entities that have filed the relevant application and other business entities that engage in businesses that fall within the same industry; and
    - (b) it is not likely to cause unjust damage to the interest of general consumers and related business entities.
  - (5) When granting the approval in paragraph (1), the competent minister must, in advance, consult with the Prime Minister and the heads of other relevant administrative organs.
  - (6) When having granted the approval in paragraph (1), the competent minister is to give notice to that effect to the ensuring stable supply support corporation or ensuring stable supply support incorporated administrative agencies conducting ensuring stable supply support operations of the specified critical products related to the relevant approval.

#### (Modification of Ensuring Supply Plans)

- Article 10 (1) When a person that has obtained the approval of paragraph (1) of the preceding Article (hereinafter referred to as an "approved ensuring supply business entity" in this Chapter) modifies the ensuring supply plan related to the relevant approval, the person must, in advance, obtain an approval of the competent minister as provided by competent Ministerial Order; provided, however, that this does not apply to minor modifications as provided by competent Ministerial Order.
- (2) When having made minor modifications as provided by competent Ministerial Order in the proviso to the preceding paragraph, an approved ensuring supply business entity must make notification to that effect to the competent minister.
  - (3) The provisions of paragraphs (4) through (6) of the preceding Article apply mutatis mutandis to approvals of modifications under the provisions of paragraph (1).

#### (Rescission of Approval of Ensuring Supply Plan)

- Article 11 (1) When the competent minister finds that an approved ensuring supply business entity is not undertaking initiatives to ensure stable supply of specified critical products, etc. in accordance with the approved ensuring supply plan (in the case where an approval of modifications has been granted under the provisions of paragraph (1) of the preceding Article or a notification



- of a modification has been made under the provisions of paragraph (2) of the preceding Article, the modified plan; hereinafter referred to as the "approved ensuring supply plan" in this Chapter), the minister may rescind the approval.
- (2) When the competent minister finds that an approved ensuring supply plan no longer meets any of the items of Article 9, paragraph (4), the minister may instruct the approved ensuring supply business entity to modify the approved ensuring supply plan or rescind the approval.
- (3) The provisions of Article 9, paragraph (6) apply *mutatis mutandis* to rescissions of approvals under the provisions of the preceding two paragraphs.

(Scheduled Reporting)

Article 12 An approved ensuring supply business entity must, each fiscal year, report to the competent minister the implementation status of the approved ensuring supply plan as provided by competent Ministerial Order.

### **Section 3 Special Provisions for the Japan Finance Corporation Act**

(Basic Guidelines for Implementation of Operations to Facilitate Promotion of Ensuring Supply)

Article 13 (1) Pursuant to the basic guidelines for ensuring stable supply, the competent minister is to provide basic guidelines for the implementation of operations, listed as follows, of the Japan Finance Corporation (hereinafter referred to as "JFC" in this Section and Article 98) and a person that has been designated under the provisions of Article 16, paragraph (1) (hereinafter referred to as "designated financial institution" in this Section and Article 48, paragraph (5)) (hereinafter referred to as the "basic guidelines for implementation of operations to facilitate promotion of ensuring supply" in this Section):

- (i) operations for JFC to lend a designated financial institution funds necessary to lend funds necessary for approved ensuring supply business entities to conduct approved ensuring supply business (meaning business regarding initiatives to ensure stable supply of specified critical products, etc. undertaken in accordance with an approved ensuring supply plan; hereinafter the same applies in this Chapter) and operations incidental to them (hereinafter referred to as "operations to facilitate promotion of ensuring supply" in this Section); and
- (ii) operations for a designated financial institution to lend an approved ensuring supply business entity funds necessary to conduct approved ensuring supply business for which the funds necessary for the relevant lending are lent by JFC (hereinafter referred to as "operations to promote ensuring supply" in this Chapter and Article 96, item (ii)).

- (2) The basic guidelines for implementation of operations to facilitate promotion of ensuring supply, etc. are to provide the following matters:
- (i) matters on the basic direction of operations to facilitate promotion of ensuring supply and operations to promote ensuring supply;
  - (ii) matters on the roles to be played by JFC and designated financial institutions with regard to facilitating the procurement of funds necessary for an approved ensuring supply business entity to conduct approved ensuring supply business;
  - (iii) matters on the contents of operations to facilitate promotion of ensuring supply to be conducted by JFC and on their implementation framework;
  - (iv) matters on the contents of operations to promote ensuring supply to be conducted by designated financial institutions and on their implementation framework; and
  - (v) beyond what is stated in the preceding items, matters necessary for the implementation of operations to facilitate promotion of ensuring supply and operations to promote ensuring supply.
- (3) When preparing the basic guidelines for implementation of operations to facilitate promotion of ensuring supply, the competent minister must consult with the heads of the relevant administrative organs in advance.
- (4) When the basic guidelines for implementation of operations to facilitate promotion of ensuring supply have been provided, the competent minister must publicize them without delay.
- (5) The provisions of the preceding two paragraphs apply mutatis mutandis to modifications to the basic guidelines for implementation of operations to facilitate promotion of ensuring supply.

(Operations to Facilitate Promotion of Ensuring Supply to be Conducted by JFC)

Article 14 Notwithstanding the provisions of Articles 1 and 11 of the Japan Finance Corporation Act (Act No. 57 of 2007), JFC may conduct operations to facilitate promotion of ensuring supply.

(Implementation Policy for Operations to Facilitate Promotion of Ensuring Supply)

Article 15 (1) JFC must provide a policy on the implementation method and implementation conditions for operations to facilitate promotion of ensuring supply and other matters necessary for implementation of operations to facilitate promotion of ensuring supply (hereinafter referred to as the "implementation policy for operations to facilitate promotion of ensuring supply") as provided by competent Ministerial Order, pursuant to the basic guidelines for implementation of operations to facilitate promotion of ensuring

supply.

- (2) When providing the implementation policy for operations to facilitate promotion of ensuring supply, JFC must obtain authorization of the competent minister in advance. The same applies to any modification to it.
- (3) After having obtained the authorization of the preceding paragraph, JFC must publicize the implementation policy for operations to facilitate promotion of ensuring supply without delay.
- (4) JFC must conduct operations to facilitate promotion of ensuring supply in accordance with the implementation policy for operations to facilitate promotion of ensuring supply.

(Designation of Designated Financial Institutions)

Article 16 (1) As provided by competent Ministerial Order, the competent minister may designate a person found to meet all of the following items as a person conducting operations to promote ensuring supply upon the person's application regarding the operations to promote ensuring supply:

- (i) the person is a bank or other financial institution as provided by Cabinet Order;
  - (ii) the person's implementation framework for operations to promote ensuring supply and regulations on operation to promote ensuring supply stated in the following paragraph are in conformity with laws and regulations, the basic guidelines for implementation of operations to facilitate promotion of ensuring supply, and the implementation policy for operations to facilitate promotion of ensuring supply, and are sufficient to implement operations to promote ensuring supply properly and reliably; and
  - (iii) in light of the person's personnel structure, the person has knowledge and experience that afford to properly and reliably implement operations to promote ensuring supply.
- (2) A person that intends to obtain the designation under the provisions of the preceding paragraph (hereinafter referred to as "designation" in this section) must provide regulations on operations to promote ensuring supply pursuant to the basic guidelines for implementation of operations to facilitate promotion of ensuring supply and the implementation policy for operations to facilitate promotion of ensuring supply, as provided by competent Ministerial Order, and submit these documents to the competent minister accompanied with a designation application and other documents as provided by competent Ministerial Order.
  - (3) In the regulations on operations to promote ensuring supply, matters on the implementation framework and implementation method of operations to promote ensuring supply and other matters as provided by competent Ministerial Order must be provided.

- (4) A person that falls under any of the following items may not obtain designation:
- (i) a person that has violated this Act, the Banking Act (Act No. 59 of 1981), or other laws as provided by Cabinet Order, or an order thereof or disposition based on either of these and been sentenced to a fine or severer punishment, and for whom five years have not lapsed since the day the person completing the sentence or ceased to be subject to the sentence;
  - (ii) a person whose designation has been rescinded under the provisions of Article 23, paragraph (1) or (2), and for whom five years have not lapsed since the day of the rescission; or
  - (iii) a corporation that has a person among officers conducting the operation who falls under any of the following:
    - (a) a person as provided by competent Ministerial Order as being unable to properly perform their duties due to mental or physical condition or has received an order for the commencement of bankruptcy proceedings and has not had their rights restored; or
    - (b) when a designated financial institution's designation has been rescinded under the provisions of Article 23, paragraph (1) or (2), a person that was an officer of that designated financial institution within sixty days prior to the public notification of the date and location of hearings pertaining to the relevant rescission of designation, and for whom five years have not lapsed since the day of the relevant rescission of designation.

(Public Notification of Designation of Designated Financial Institutions)

- Article 17 (1) When the competent minister has made a designation, the minister is to make a public notification of the trade name or the name, address, and location of the business office or office that conducts the operations to promote ensuring supply.
- (2) When changing the trade name or the name, address, or location of the business office or office that conducts the operations to promote ensuring supply, a designated financial institution must notify the competent minister to that effect in advance.
- (3) When there has been a notification under the provisions of the preceding paragraph, the competent minister is to make a public notification to that effect.

(Authorization of Modifications to Regulations on Operations to Promote Ensuring Supply)

- Article 18 (1) When modifying the regulations on operations to promote ensuring supply, a designated financial institution must obtain the authorization of the competent minister in advance.

- (2) When the competent minister finds that a designated financial institution's regulations on operations to promote ensuring supply have become inappropriate to properly and reliably implement the operations to promote ensuring supply, the competent minister may order the regulations on operations to promote ensuring supply to be modified.

(Agreements)

Article 19 (1) JFC is to conclude agreements with designated financial institutions that include matters listed as follows, and conduct its operations in accordance with the agreement regarding the operations to facilitate promotion of ensuring supply:

- (i) matters on criteria for lending conditions related to operations to promote ensuring supply conducted by designated financial institutions;
  - (ii) that designated financial institutions prepare and submit to JFC reports on their financial status and the implementation status of operations to promote ensuring supply; and
  - (iii) beyond what is stated in the preceding two items, details, implementation method, and other matters as provided by competent Ministerial Order of the operations to promote ensuring supply conducted by designated financial institutions and operations to facilitate promotion of ensuring supply conducted by JFC.
- (2) When concluding an agreement of the preceding paragraph, JFC must, in advance, obtain the authorization of the competent minister. The same applies to any modification to it.

(Bookkeeping)

Article 20 As provided by competent Ministerial Order, a designated financial institution must prepare books, enter in the books matters to be provided by competent Ministerial Order, and keep the books, regarding the operations to promote ensuring supply.

(Supervision Orders)

Article 21 If the competent minister finds it necessary for enforcing the provisions of this Section, the minister may issue a necessary supervision order to a designated financial institution regarding an operation to promote ensuring supply.

(Suspension or Discontinuation of Operations to Promote Ensuring Supply)

Article 22 (1) When suspending or discontinuing operations to promote ensuring supply in whole or in part, a designated financial institution must make a notification to that effect to the competent minister as provided by competent

Ministerial Order in advance.

- (2) When there has been a notification under the provisions of the preceding paragraph, the competent minister is to make public notification to that effect.
- (3) When a designated financial institution has discontinued the whole operations to promote ensuring supply, the designation of the relevant designated financial institution ceases to be effective.

(Rescission of Designations of Designated Financial Institutions)

- Article 23 (1) When a designated financial institution has come to fall under Article 16, paragraph (4), item (i) or (iii), the competent minister is to rescind its designation.
- (2) When a designated financial institution falls under any of the following items, the competent minister may rescind its designation:
    - (i) when the designated financial institution is found to be unable to properly and reliably implement the operations to promote ensuring supply;
    - (ii) when the designated financial institution has committed a wrongful act in connection with the designation; or
    - (iii) when the designated financial institution has violated this Act, or an order based on this Act or a disposition based on either of these.
  - (3) When the competent minister has rescinded a designation under the provisions of paragraph (2), the minister is to make a public notification to that effect.

(Completion of Operations Due to Rescission of Designation of Designated Financial Institutions)

Article 24 If the designation of a designated financial institution has ceased to be effective under the provisions of Article 22, paragraph (3), or has been rescinded under the provisions of paragraph (1) or (2) of the preceding Article, the person that was the designated financial institution or its general successor is deemed to be the designated financial institution within the scope of the purpose of completing transactions based on the agreement on the designated financial institution's operations to promote ensuring supply.

(Application of the Japan Finance Corporation Act)

Article 25 (1) Regarding finance and accounting of JFC and the competent minister, when operations to facilitate promotion of ensuring supply are conducted, these operations are deemed to be operations to facilitate promotion of specified business under the provisions of Article 6 of the Act on the Promotion of Business Developing and Manufacturing Energy-Environment Friendly Products (Act No. 38 of 2010), and the provisions of the Japan Finance Corporation Act apply with terms replaced pursuant to Article 17 of

the Act on the Promotion of Business Developing and Manufacturing Energy-Environment Friendly Products (excluding portions pertaining to the row of Article 11, paragraph (1), item (v), Article 58, Article 59, paragraph (1), Article 71, Article 73, item (i), Article 73, item (iii), Article 73, item (vii), and Supplementary Provisions Article 47, paragraph (1) in the table in Article 17 of the Act on the Promotion of Business Developing and Manufacturing Energy-Environment Friendly Products). In this case, "Minister of Economy, Trade and Industry" in the row of Article 64, paragraph (1) in the table is deemed to be replaced with "Prime Minister".

- (2) Beyond what is stated in the preceding paragraph, regarding the application of provisions of the Japan Finance Corporation Act when operations to facilitate promotion of ensuring supply are conducted, the terms and phrases stated in the middle column of the following table in the provisions of the Act stated in the left-hand column of the table are deemed to be replaced with the terms and phrases stated respectively in the right-hand column of the table. In this case, any necessary technical replacement of terms is provided by Cabinet Order.

Article 11, paragraph (1), item (v)	operations conducted by JFC	operations conducted by JFC (excluding operations to facilitate promotion of ensuring supply under the provisions of Article 13, paragraph (1), item (i) of the Act on the Promotion of Ensuring National Security Through Integrated Implementation of Economic Measures (Act No. 43 of 2022) (hereinafter referred to as "operations to facilitate promotion of ensuring supply"))
Article 58 and Article 59, paragraph (1)	this Act	this Act and the Act on the Promotion of Ensuring National Security Through Integrated Implementation of Economic Measures
Article 71	Article 59, paragraph (1)	Article 59, paragraph (1) as applied following the replacement of terms pursuant to the provisions of Article 25, paragraph (2) of the Act on the Promotion of Ensuring National Security Through Integrated Implementation of Economic Measures
Article 73, item (i)	this Act	this Act (including the case as applied following the replacement of terms pursuant to the provisions of Article 25, paragraph (2) of the Act on the Promotion of Ensuring National Security Through Integrated Implementation of Economic Measures)

Article 73, item (iii)	Article 11	Article 11 and Article 13, paragraph (1), item (i) of the Act on the Promotion of Ensuring National Security Through Integrated Implementation of Economic Measures
Article 73, item (vii)	Article 58, paragraph (2)	Article 58, paragraph (2) as applied following the replacement of terms pursuant to the provisions of Article 25, paragraph (2) of the Act on the Promotion of Ensuring National Security Through Integrated Implementation of Economic Measures
Supplemental Provisions Article 47, paragraph (1)	JFC operations	JFC operations (excluding operations to facilitate promotion of ensuring supply)

#### **Section 4 Special Provisions for the Small and Medium-Sized Enterprise Investment and Consultation Corporation Act and the Small and Medium-Sized Enterprise Credit Insurance Act**

(Definition of Small and Medium-Sized Enterprises)

Article 26 In this Section, "small and medium-sized enterprise" means a person that falls under any of the following items:

- (i) any company whose amount of stated capital or the total amount of capital contribution is 300,000,000 yen or less and any corporation or individual whose number of regularly hired employees is 300 or less, which mainly engage in the business classified under the manufacturing industry, construction, transportation or other business categories (excluding business categories provided in the following item through item (iv) and business categories as provided by Cabinet Order in item (v));
- (ii) any company whose amount of stated capital or the total amount of capital contribution is 100,000,000 yen or less and any corporation or individual whose number of regularly hired employees is 100 or less, which mainly engages in the business classified under wholesale business (excluding business categories as provided by Cabinet Order in item (v));
- (iii) any company whose amount of stated capital or the total amount of capital contribution is 50,000,000 yen or less and any corporation or individual whose number of regularly hired employees is 100 or less, which mainly engages in business classified under the service industry (excluding business categories as provided by Cabinet Order in item (v));
- (iv) any company whose amount of stated capital or the total amount of contributions is not more than 50,000,000 yen, or a company or an individual whose number of regularly hired employees is 50 or less, which mainly



- engages in business classified under the retail industry (excluding business categories as provided by Cabinet Order in the following item);
- (v) any company whose amount of stated capital or the total amount of contributions is not more than the amount provided by Cabinet Order for each business category as provided by Cabinet Order and any company or individual whose number of regularly hired employees is not more than the number provided by Cabinet Order for each business category which mainly engages in business in that business category;
- (vi) enterprise cooperatives;
- (vii) cooperative partnerships;
- (viii) business cooperatives, federations of cooperatives, or other partnerships or their federations established by a special law, as provided by Cabinet Order; or
- (ix) any corporation which mainly engages in medical practice whose number of regularly hired employees is 300 or less (excluding what is stated in the preceding items).

(Special Provisions for the Small and Medium-Sized Enterprise Investment and Consultation Corporation Act)

Article 27 (1) A small and medium-sized enterprise investment and consultation corporation may undertake businesses listed as follows beyond the businesses listed in the items of Article 5, paragraph (1) of the Small and Medium-Sized Enterprise Investment and Consultation Corporation Act (Act No. 101 of 1963):

- (i) subscription for shares issued by a small and medium-sized enterprise at the time of the incorporation of a stock company with an amount of stated capital exceeding 300,000,000 yen for the purpose of conducting an approved ensuring supply business, and the holding of shares related to the relevant subscription; and
  - (ii) subscription for shares, share options (excluding those attached to bonds with share options), or bonds with share options, etc. (meaning bonds with share options, etc. as provided in Article 5, paragraph (1), item (ii) of the Small and Medium-Sized Enterprise Investment and Consultation Corporation Act; hereinafter the same applies in this item) issued by a small and medium-sized enterprise which is a stock company with an amount of stated capital exceeding 300,000,000 yen to raise funds necessary to conduct approved ensuring supply business, and the holding of shares, share options (including shares issued or transferred due to their exercise), or bonds with share options, etc. (including shares issued or transferred due to the exercise of the share options attached to the bonds with share options, etc.) pertaining to the relevant subscription.
- (2) Regarding the application of the Small and Medium-Sized Enterprise

Investment and Consultation Corporation Act, the businesses listed in the items of the preceding paragraph are respectively deemed to be businesses under Article 5, paragraph (1), items (i) and (ii) of the Small and Medium-Sized Enterprise Investment and Consultation Corporation Act.

(Special Provisions for the Small and Medium-Sized Enterprise Credit Insurance Act)

Article 28 (1) Regarding the application of the provisions of the Small and Medium-Sized Enterprise Credit Insurance Act (Act No. 264 of 1950) that are listed in the left-hand column of the following table related to insurance relationships of ordinary insurance provided in Article 3, paragraph (1) of the Small and Medium-Sized Enterprise Credit Insurance Act (referred to as "ordinary insurance" in paragraphs (4) and (5)), unsecured insurance provided in Article 3-2, paragraph (1) of the Small and Medium-Sized Enterprise Credit Insurance Act (referred to as "unsecured insurance" in paragraph (5)), or special petty insurance provided in Article 3-3, paragraph (1) of the Small and Medium-Sized Enterprise Credit Insurance Act (referred to as "special petty insurance" in paragraph (5)) for which small and medium-sized businesses have received a guarantee related to ensuring supply (meaning guarantees of obligations provided in Article 3, paragraph (1), Article 3-2, paragraph (1), or Article 3-3, paragraph (1) of the Small and Medium-Sized Enterprise Credit Insurance Act pertaining to funds necessary for approved ensuring supply business; hereinafter the same applies in this Article), each term and phrase listed in the middle column of the same table is deemed to be replaced with the corresponding term and phrase listed in the right-hand column of the same table.

Article 3, paragraph (1)	the total insurance value	the total insurance value of insurance relationships with regard to the guarantee related to ensuring supply under the provisions of Article 28, paragraph (1) of the Act on the Promotion of Ensuring National Security Through Integrated Implementation of Economic Measures (Act No. 43 of 2022) (hereinafter referred to as "guarantee related to ensuring supply") and the total insurance value of other insurance relationships, respectively,
Article 3-2, paragraph (1) and Article 3-3, paragraph (1)	the total insurance value	the total insurance value of insurance relationships with regard to guarantees related to ensuring supply and the total insurance value of other insurance relationships, respectively

Article 3-2, paragraph (3) and Article 3-3, paragraph (2)	out of the amount of the relevant borrowings	out of the amount of the relevant borrowings for each guarantee related to ensuring supply and other guarantee
	the debtor	the debtor for each guarantee related to ensuring supply and other guarantee

- (2) Regarding the application of the provisions of Article 3-7, paragraphs (1) and (2) of the Small and Medium-Sized Enterprise Credit Insurance Act to insurance relationships in overseas investment-related insurance under the provisions of Article 3-7, paragraph (1) of the Small and Medium-Sized Enterprise Credit Insurance Act which related to small and medium-sized enterprises that have received a guarantee related to ensuring supply, the term "200,000,000 yen" in Article 3-7, paragraph (1) of the Small and Medium-Sized Enterprise Credit Insurance Act is deemed to be replaced with "300,000,000 yen (200,000,000 yen for insurance relationships related to guarantees of obligations related to funds other than funds necessary for approved ensuring supply business under the provisions of Article 13, paragraph (1), item (i) of the Act on the Promotion of Ensuring National Security through Integrated Implementation of Economic Measures (Act No. 43 of 2022) (hereinafter referred to as "ensuring supply business fund"))", and the term "400,000,000 yen" is deemed to be replaced with "600,000,000 yen (400,000,000 yen for insurance relationships related to guarantee of obligations related to funds other than ensuring supply business fund), and the term "200,000,000" in Article 3-7, paragraph (2) is deemed to be replaced with "300,000,000 yen (200,000,000 yen for insurance relationships related to guarantee of obligations related to funds other than ensuring supply business fund)".
- (3) Regarding the application of the provisions of Article 3-8, paragraphs (1) and (2) of the Small and Medium-Sized Enterprise Credit Insurance Act to insurance relationships for new business development insurance under the provisions of Article 3-8, paragraph (1) of the Small and Medium-Sized Enterprise Credit Insurance Act related to a small or medium-sized business that has been guaranteed related to ensuring supply, the term "200,000,000 yen" in Article 3-8, paragraph (1) of the Small and Medium-Sized Enterprise Credit Insurance Act is deemed to be replaced with "300,000,000 yen (200,000,000 yen for insurance relationships related to guarantee of obligations related to funds other than funds necessary for approved ensuring supply business under the provisions of Article 13, paragraph (1), item (i) of the Act on the Promotion of Ensuring National Security Through Integrated Implementation of Economic Measures (Act No. 43 of 2022) (hereinafter referred to as "ensuring supply business fund"))", the term "400,000,000 yen" is

deemed to be replaced with "600,000,000 yen (400,000,000 yen for insurance relationships related to guarantees of obligations related to funds other than ensuring supply business fund)", and the term "200,000,000 yen" in Article 8, paragraph (2) is deemed to be replaced with "300,000,000 yen (200,000,000 yen for insurance relationships related to guarantee of obligations related to funds other than ensuring supply business fund)".

- (4) Regarding the application of the provisions of Article 3, paragraph (2) and Article 5 of the Small and Medium-Sized Enterprise Credit Insurance Act to ordinary insurance relationship related to guaranteeing with regard to ensuring supply, the terms "70 percent" in Article 3, paragraph (2) of the Small and Medium-Sized Enterprise Credit Insurance Act and "70 percent (80 percent for unsecured insurance, special petty insurance, current assets insurance, pollution prevention insurance, energy conservation insurance, overseas investment-related insurance, new business development insurance, business reconstruction insurance, and specific corporate bond insurance)" in Article 5 of the Small and Medium-Sized Enterprise Credit Insurance Act are deemed to be replaced with "80 percent".
- (5) The amount of insurance premiums in an ordinary insurance, unsecured insurance, or special petty insurance relationship related to a guarantee related to ensuring supply is the number arrived at by multiplying the insurance amount by the rate provided by Cabinet Order that is set within two percent per annum, notwithstanding the provisions of Article 4 of the Small and Medium-Sized Enterprise Credit Insurance Act.

## **Section 5 Development of Market Environment Related to Specified Critical Products**

(Relationship with Japan Fair Trade Commission Related to Specified Critical Products)

- Article 29 (1) When intending to grant an approval of Article 9, paragraph (1) (including approvals of modifications under the provisions of Article 10, paragraph (1); the same applies in the following paragraph) to a ensuring supply plan related to an application by two or more persons engaged in businesses that are in the same industry, and when finding it to be necessary, the Minister may seek the opinion of the Japan Fair Trade Commission on the ensuring supply plan related to the relevant application.
- (2) When finding it to be necessary, the Japan Fair Trade Commission may state an opinion on a ensuring supply plan for which an opinion has been sought under the provisions of the preceding paragraph that the competent minister has granted an approval of Article 9, paragraph (1).

(Relationship with the Customs Tariff Act Related to Specified Critical Products)

- Article 30 (1) If the competent minister considers that, with respect to industries under its administrative jurisdiction that are related to specified critical products, etc., there is sufficient evidence with regard to the fact of the import of products to which subsidies (meaning the subsidies under Article 7, paragraph (2) of the Customs Tariff Act (Act No. 54 of 1910); hereinafter the same applies in this paragraph) are granted, directly or indirectly, to production or export in any foreign country and the fact that the import causes or threatens to cause material injury to the domestic industry (limited to the industry which produces like products of such products to which the subsidies are granted; hereinafter the same applies in this paragraph) or materially prevents the establishment of domestic industry, and if the minister finds it necessary to prevent a situation in which the security of the State and its citizens is undermined due to actions taken from the outside, the minister may request the minister with jurisdiction over affairs concerning investigation under paragraph (6) of that Article as provided by Cabinet Order.
- (2) If the competent minister considers that, with respect to industries under its administrative jurisdiction that are related to specified critical products, etc., there is sufficient evidence with regard to the fact of the import of dumped products (dumping meaning the dumping under Article 8, paragraph (1) of the Customs Tariff Act; hereinafter the same applies in this paragraph) and the fact that the import causes or threatens to cause material injury to the domestic industry (limited to the industry which produces the like products of the dumped product, hereinafter the same applies in this paragraph) or materially prevents the establishment of domestic industry, and if the competent minister finds it necessary to prevent a situation in which the security of the State and its citizens is undermined due to actions taken from the outside, the minister may request the minister with jurisdiction over affairs concerning investigation under paragraph (5) of that Article to initiate the investigation as provided by Cabinet Order.
- (3) If the competent minister considers that, with respect to industries under its administrative jurisdiction that are related to specified critical products, etc., there is sufficient evidence with regard to the fact of an increase in imports of specified type of products (including an increase in the ratio of the imports to the total domestic production) as a result of a decline in the price in a foreign country or other unforeseen developments of circumstances and the fact that import of products causes or threatens to cause serious injury to the domestic industry which produces the like product or other products whose usage compete directly, and when the minister finds it necessary to prevent a situation in which the security of the State and its citizens is undermined due

to actions taken from the outside, the minister may request the minister with jurisdiction over affairs concerning investigation under Article 9, paragraph (6) of the Customs Tariff Act to initiate the investigation, as provided by Cabinet Order.

- (4) If the competent minister has made a request for investigation under the provisions of the preceding three paragraphs, and when a decision to initiate the investigation has been made, the minister is to publicize the outline of the fact regarding the request.

## **Section 6 Support by Ensuring Stable Supply Support Corporations**

(Designation and Operations of Ensuring Stable Supply Support Corporations)

Article 31 (1) The competent minister may designate for each specified critical product a general incorporated association, general incorporated foundation, or any other corporation provided by competent Ministerial Order, that is found to be in conformity to all the following items regarding operations provided in paragraph (3) (hereinafter referred to as "ensuring stable supply support operations" in this Chapter and Article 96, item (iii)) as an ensuring stable supply support corporation by its application, pursuant to the basic guidelines for ensuring stable supply and policies on initiatives for ensuring stable supply and as provided by competent Ministerial Order.

- (i) the corporation has the financial base and technical capability sufficient to properly and reliably implement the ensuring stable supply support operations;
  - (ii) the corporation's implementation framework for ensuring stable supply support operations is appropriate in light of the basic guidelines for ensuring stable supply;
  - (iii) if the corporation conducts operations other than ensuring stable supply support operations, conducting those operations is not likely to impede the proper and reliable implementation of the ensuring stable supply support operations; and
  - (iv) beyond what is stated in the preceding three items, the corporation conforms to the criteria provided by competent Ministerial Order to be able to properly and reliably implement the ensuring stable supply support operations.
- (2) A person that falls under any of the following items may not receive the designation under the provisions of the preceding paragraph (hereinafter referred to as "designation" in this Section):
- (i) a person that has violated this Act and was sentenced to punishment and for whom two years have not lapsed since the day the person completed the sentence or ceased to be subject to the sentence;

- (ii) a person whose designation was rescinded under the provisions of Article 41, paragraph (1) or (2), and two years have not lapsed since the day of the rescission; or
  - (iii) a corporation that has an officer that falls under item (i).
- (3) An ensuring stable supply support corporation is to conduct the following operations as provided by competent Ministerial Order:
- (i) providing subsidies to be allocated to a fund necessary for an approved ensuring supply business entity to conduct approved ensuring supply business;
  - (ii) granting compensation for interest to a financial institution that lends funds necessary for an approved ensuring supply business entity to conduct approved ensuring supply business (hereinafter referred to as "loan financial institutions" in Article 33, paragraph (2) item (iv));
  - (iii) collecting information on ensuring stable supply of specified critical products, etc. covered under the ensuring stable supply support operations;
  - (iv) responding to inquiries and requests for consultation regarding matters necessary for ensuring stable supply of specified critical products, etc. covered under the ensuring stable supply support operations from a person intending ensuring stable supply of the relevant specified critical products, etc.; and
  - (v) conducting operations incidental to the operations listed in the preceding items.
- (4) In making a designation, the competent minister is to provide criteria to be followed when the relevant ensuring stable supply support corporation implements ensuring stable supply support operations (hereinafter referred to as "implementation criteria for ensuring supply support" in this Section), as provided by the competent Ministerial Order.
- (5) When providing the implementation criteria for ensuring supply support, the competent minister must consult with the Minister of Finance and the heads of other relevant administrative organs in advance.
- (6) When having provided the implementation criteria for ensuring supply support, the competent minister must publicize the criteria.
- (7) The provisions of the preceding two paragraphs apply mutatis mutandis to modifications to the implementation criteria for ensuring supply support.

(Public Notice of Designation of Ensuring Stable Supply Support Corporations)

Article 32 (1) When the competent minister has made a designation, the minister is to make a public notification of the name, address of the ensuring stable supply support corporation related to the relevant designation, and the location of the business office or office where it conducts the ensuring stable supply support operations, and the specified critical products related to the

designation.

- (2) When an ensuring stable supply support corporation changes its name or address, or the location of the business office or office where it conducts an ensuring stable supply support operation, the corporation must notify the competent minister to that effect in advance.
- (3) When there has been a notification under the provisions of the preceding paragraph, the competent minister is to make a public notification to that effect.

(Regulations on Ensuring Stable Supply Support Operations)

Article 33 (1) When conducting an ensuring stable supply support operation, an ensuring stable supply support corporation must provide regulations related to ensuring stable supply support operations (hereinafter referred to as "regulations on ensuring stable supply support operations" in this Article) prior to commencing the relevant ensuring stable supply support operation and obtain the authorization of the competent minister as provided by competent Ministerial Order. The same applies when intending to make modifications to it.

- (2) Matters to be provided in the regulations on ensuring stable supply support operations are as follows:
  - (i) specified critical products related to the designation;
  - (ii) matters on an approved ensuring supply business covered by the ensuring stable supply support operations;
  - (iii) the following matters on operations listed in Article 31, paragraph (3), item (i):
    - (a) matters on requirements for providing subsidies to approved ensuring supply business entity;
    - (b) matters to be stated in the application for issuance of subsidies by approved ensuring supply support business entity;
    - (c) matters on conditions to be attached to decisions on the issuance of subsidies to approved ensuring supply business entity; and
    - (d) beyond what is stated in (a) through (c), matters to be provided by competent Ministerial Order as matters necessary for issuance of subsidies;
  - (iv) the following matters on operations listed in Article 31, paragraph (3), item (ii):
    - (a) matters on requirements for granting compensation for interest to loan financial institutions;
    - (b) matters to be stated in the application to grant compensation for interest by a loan financial institution
    - (c) matters on conditions to be attached to decisions to grant compensation



- for interest to a loan financial institution; and
  - (d) beyond what is stated in (a) through (c), matters to be provided by competent Ministerial Order as matters necessary for granting compensation for interest;
  - (v) when establishing an ensuring stable supply support corporation fund, matters on management of the relevant ensuring stable supply support corporation fund; and
  - (vi) beyond what is stated in the preceding items, matters to be provided by competent Ministerial Order as matters necessary for an ensuring stable supply support operation.
- (3) When the competent minister finds that the application for authorization of paragraph (1) is in conformity with the basic guidelines for ensuring stable supply, policies on initiatives for ensuring stable supply, and the implementation criteria for ensuring supply support, and that it is sufficient to properly and reliably implement ensuring stable supply support operations, the minister is to grant the authorization.
- (4) When granting the authorization of paragraph (1), the competent minister must consult with the Minister of Finance and other heads of relevant administrative organs in advance.
- (5) When an ensuring stable supply support corporation has obtained the authorization of paragraph (1), it must publicize its regulations on ensuring stable supply support operations without delay.
- (6) When the competent minister finds that an ensuring stable supply support corporation's regulations on ensuring stable supply support operations are no longer in conformity with basic guidelines for ensuring stable supply, policies on initiatives for ensuring stable supply, or the implementation criteria for ensuring supply support, the minister may order that the regulations on ensuring stable supply support operations should be modified.

#### (Ensuring Stable Supply Support Corporation Funds)

- Article 34 (1) When the competent minister has provided matters on operations that fall under both of the following items and on operations incidental to these as an ensuring stable supply support operation conducted by an ensuring stable supply support corporation under the implementation criteria for ensuring supply support, the relevant ensuring stable supply support corporation is to establish a fund to be allocated to the costs required for those operations (hereinafter referred to as "ensuring stable supply support corporation fund" in this Section and Article 99) and allocate subsidies that have been received under the provisions of the following paragraph to the fund:
- (i) an operation which is an operation related to initiatives to ensure stable supply of specified critical products, etc. implemented to prevent a situation

- in which the security of the State and its citizens is undermined due to actions taken from the outside, and is urgent to ensure stable supply of specified critical products, etc.; and
- (ii) an operation which extends over multiple fiscal years for which it is found necessary to secure a source of funds for those fiscal years in advance for its stable and efficient implementation, due to the difficulty to forecast the amount needed in each fiscal year and the need to make flexible expenditures or other special circumstances.
- (2) The State may subsidize funds to an ensuring stable supply support corporation within the scope of the budget to be allocated to an ensuring stable supply support corporation fund.
  - (3) Interest and other income arising from the management of an ensuring stable supply support corporation fund are to be allocated to the relevant ensuring stable supply support corporation fund.
  - (4) An ensuring stable supply support corporation must not invest surplus funds from its operations related to the management of an ensuring stable supply support corporation fund using any methods other than the following methods:
    - (i) acquisition of Japanese Government Bonds or other negotiable instruments of value as provided by the competent minister;
    - (ii) deposit to a bank or other financial institution as provided by the competent minister; or
    - (iii) money trust with a financial institution engaged in the trust business (meaning a financial institution authorized under Article 1, paragraph (1) of the Act on Engagement in Trust Business by Financial Institutions (Act No. 43 of 1943)) with a contract agreement on compensation of principal.
  - (5) When providing a negotiable instrument of value under the provisions of item (i) of the preceding paragraph or a financial institution under the provisions of item (ii) of the paragraph, the competent minister must consult with the Minister of Finance in advance. The same applies to any modifications to them.
  - (6) When the competent minister has made a notification under the provisions of Article 10, paragraph (3) or Article 9, paragraph (6), as applied *mutatis mutandis* pursuant to Article 11, paragraph (3), and finds it necessary, the minister is to order the ensuring stable supply support corporation that received the relevant notification (limited to an ensuring stable supply support corporation that has received subsidies under the provisions of paragraph (2)) to pay to the national treasury an amount equivalent to all or part of the subsidies received under the provisions of paragraph (2).
  - (7) Procedures for making payments under the provisions of preceding paragraph, its relevant accounting, and other necessary matters regarding payments to the national treasury are provided by Cabinet Order.
  - (8) When an ensuring stable supply support corporation has established an

ensuring stable supply support corporation fund, the corporation must prepare a report on operations related to the relevant fund and submit it to the competent minister each business year no later than six months after the end of each business year.

- (9) When the competent minister has received a submission of a report under the preceding paragraph, the minister must report to the Diet, attaching its opinions.

#### (Business Plans)

Article 35 (1) An ensuring stable supply support corporation must prepare a business plan and budget for revenue and expenditure regarding the ensuring stable supply support operations and obtain the authorization of the competent minister each business year as provided by competent Ministerial Order. The same applies when intending to make modifications to them.

- (2) When an ensuring stable supply support corporation has obtained the authorization of the preceding paragraph, the corporation must publicize the business plan and budget for revenue and expenditure without delay.
- (3) An ensuring stable supply support corporation must prepare a business report and a statement of account regarding the ensuring stable supply support operations, submit them to the competent minister, and publicize them no later than three months after the end of each business year, as provided by competent Ministerial Order.

#### (Separate Accounting)

Article 36 An ensuring stable supply support corporation must separate the accounting for each of the following operations as provided by competent Ministerial Order; provided, however, that accounting related to operations listed in item (ii) is to be separated, limited to cases when the ensuring stable supply support corporation has established an ensuring stable supply support corporation fund under the provisions of Article 34, paragraph (1):

- (i) an ensuring stable supply support operation (excluding an operation listed in the following item);
- (ii) an operation related to an ensuring stable supply support corporation fund;
- or
- (iii) other operations.

#### (Duty of Confidentiality)

Article 37 An officer or an employee of an ensuring stable supply support corporation, or a person who was formerly in that position, must not divulge or misappropriate any secret learned in the course of the ensuring stable supply support operation to any person without justifiable grounds.

(Bookkeeping)

Article 38 As provided by competent Ministerial Order, an ensuring stable supply support corporation must prepare books, enter in the books matters to be provided by the Ministerial Order, and keep the books.

(Supervision Orders)

Article 39 When the competent minister finds it necessary for enforcing the provisions of this section, the minister may issue to an ensuring stable supply support corporation a necessary supervision order regarding an ensuring stable supply support operation.

(Suspension or Discontinuation of Ensuring Stable Supply Support Operations)

Article 40 (1) An ensuring stable supply support corporation must not suspend or discontinue all or a part of ensuring stable supply support operations without permission of the competent minister as provided by competent Ministerial Order.

- (2) When the competent minister has permitted discontinuing all of ensuring stable supply support operations, the designation of the relevant ensuring stable supply support corporation ceases to be effective.
- (3) When the competent minister has granted the permission of paragraph (1), the minister is to make a public notification to that effect.

(Rescission of Designations of Ensuring Stable Supply Support Corporations)

Article 41 (1) When an ensuring stable supply support corporation has come to fall under Article 31, paragraph (2), item (i) or item (iii), the minister is to rescind its designation.

- (2) When an ensuring stable supply support corporation falls under any of the following items, the competent minister may rescind its designation:
  - (i) when the ensuring stable supply support corporation is found to be unable to properly and reliably implement an ensuring stable supply support operation;
  - (ii) when the ensuring stable supply support corporation has committed a wrongful act in connection with the designation; or
  - (iii) when the ensuring stable supply support corporation has violated this Act, an order pursuant to this Act, or a disposition based on either of these.
- (3) Beyond what is stated in the preceding two paragraphs, when the competent minister has come to find it unnecessary for an ensuring stable supply support corporation to conduct an ensuring stable supply support operation, the minister may rescind its designation.
- (4) When the competent minister rescinds a designation pursuant to the

provisions of any of the preceding three paragraphs, the minister is to make a public notification to that effect.

- (5) When the designation of an ensuring stable supply support corporation is rescinded pursuant to the provisions of paragraph (1) or (2), the corporation must transfer all of its ensuring stable supply support operations to an ensuring stable supply support corporation selected by the competent minister as one that is to assume all of the relevant ensuring stable supply support operations.
- (6) Beyond what is stated in the preceding paragraph, the transfer of an ensuring stable supply support operation and other necessary matters when a designation is rescinded pursuant to the provisions of paragraph (1) or (2) are provided by competent Ministerial Order.

### **Section 7 Support by Ensuring Stable Supply Support Incorporated Administrative Agencies**

(Designation and Operations of Ensuring Stable Supply Support Incorporated Administrative Agencies)

- Article 42 (1) When an incorporated administrative agency listed in the appended table (meaning an incorporated administrative agency under the provisions of Article 2, paragraph (1) of the Act on General Rules for Incorporated Administrative Agencies (Act No 103 of 1999); the same applies in the following paragraph and Article 86, paragraph (1), item (iv)) has received a designation as an ensuring stable supply support incorporated administrative agency under the provisions of the following paragraph, the incorporated administrative agency may conduct an ensuring stable supply support operation (limited to an operation stated in Article 31, paragraph (3), items (i) and (ii) and operations incidental to them; the same applies in paragraph (1) of the following Article) related to the relevant designation to achieve the purpose of this Act, strictly for the purpose provided in the relevant individual laws under the provisions of Article 5 of the Act on General Rules for Incorporated Administrative Agencies as provided by the relevant individual laws under the provisions of Article 1, paragraph (1) of the Act on General Rules for Incorporated Administrative Agencies (hereinafter referred to as the "relevant individual laws" in this paragraph and paragraph (1) of the following Article).
- (2) Pursuant to the policies on initiatives for ensuring stable supply, the competent minister may designate for each specified critical product an incorporated administrative agency under the jurisdiction of the minister related to a specified critical product related to the business under the jurisdiction of the minister as an ensuring stable supply support incorporated administrative agency.

- (3) The provisions of Article 32 apply mutatis mutandis to an ensuring stable supply support incorporated administrative agency.

(Ensuring Stable Supply Support Incorporated Administrative Agency Funds Established in Ensuring Stable Supply Support Incorporated Administrative Agencies)

Article 43 (1) As provided by the relevant individual Act, an ensuring stable supply support incorporated administrative agency may establish a fund to be allocated to expenses required for ensuring stable supply support operations related to the designation under the provisions of paragraph (2) of the preceding Article that fall under both of the following items and operations incidental to them (hereinafter referred to as a "ensuring stable supply support incorporated administrative agency fund" in this Article and Article 99):

- (i) an operation related to initiatives to ensure stable supply of specified critical products, etc. implemented to prevent a situation in which the security of the State and its citizens is undermined due to actions taken from the outside, and is urgent to ensure stable supply of specified critical products, etc.; and
  - (ii) an operation which extends over multiple fiscal years for which it is found necessary to secure a source of funds for those fiscal years in advance for its stable and efficient implementation, due to the difficulty to forecast the amount needed in each fiscal year and the need to make flexible expenditures or other special circumstances.
- (2) The provisions of Article 34, paragraphs (3), (8), and (9) apply mutatis mutandis to an ensuring stable supply support incorporated administrative agency fund established by an ensuring stable supply support incorporated administrative agency.
- (3) The provisions of Articles 47 and 67 of the Act on General Rules for Incorporated Administrative Agencies (limited to portions related to item (vii)) apply mutatis mutandis to the management of an ensuring stable supply support incorporated administrative agency fund established by an ensuring stable supply support incorporated administrative agency under the provisions of paragraph (1). In this case, the term "money trust" under Article 47, item (iii) of the Act on General Rules for Incorporated Administrative Agencies is deemed to be replaced with "money trust with a principal compensation agreement".

## **Section 8 Specified Critical Products for Which Special Measures Are Required**

(Designation of Specified Critical Products for Which Special Measures Are

Required)

- Article 44 (1) If the competent minister finds it is difficult to ensure stable supply of a specified critical product under the jurisdiction of the minister with the measures under the provisions of Section 3 through the preceding Section, the minister may designate the product as the specified critical product for which special measures are required to ensure stable supply, pursuant to the basic guidelines for ensuring stable supply and policies on initiatives for ensuring stable supply.
- (2) When making a designation under the provisions of the preceding paragraph, the competent minister must consult with the Prime Minister, Minister of Finance, and the heads of other relevant administrative organs in advance.
  - (3) When the competent minister has made a designation under the provisions of paragraph (1), the minister is to make a public notification of the specified critical product related to the relevant designation.
  - (4) When the competent minister finds that the reason for the designation under the provisions of paragraph (1) has ceased to exist, the minister is to cancel the designation under the provisions of paragraph (1).
  - (5) The provisions of paragraphs (2) and (3) apply *mutatis mutandis* to a cancellation under the provisions of the preceding paragraph.
  - (6) The competent minister is to engage in stockpiling and take other measures necessary for ensuring stable supply of a specified critical product designated under the provisions of paragraph (1) or the raw materials, etc. necessary for its production.
  - (7) The stockpiling under the provisions of the preceding paragraph may serve as stockpiling pursuant to Article 10 of the Act on Special Measures Against Novel Influenza (Act No. 31 of 2012), or the provisions of other Acts as provided by Cabinet Order, and vice versa.
  - (8) If there is or is likely to be a supply shortage of specified critical products designated under the provisions of paragraph (1) (limited to those provided by Cabinet Order as vital for the survival of citizens; hereinafter the same applies in this paragraph) or the raw materials, etc. necessary for their production due to actions taken from the outside, and a significant increase in their price is highly likely to cause a situation that undermines the security of the State and its citizens, and when the competent minister finds it especially necessary to deal with the relevant situation, the minister is able to transfer, lend, or allow the use of the relevant specified critical products or raw materials, etc. necessary for their production held pursuant to paragraph (6) at a price lower than the market price and which is provided by Cabinet Order as a standard price before its significant increase by specifying necessary conditions, as provided by Cabinet Order.
  - (9) When the competent minister implements the measures under the provisions

of the preceding paragraph, the minister must consult with the Prime Minister, Minister of Finance, and the heads of other relevant administrative organs in advance.

(Entrusted Facility Managers)

Article 45 (1) When the competent minister finds it is necessary to effectively implement the measures under the provisions of paragraph (6) of the preceding Article, the minister may entrust the management of facilities (including their sites) necessary for measures under the provisions of paragraph (6) of the preceding Article to a corporation designated by the minister (hereinafter referred to as "entrusted facility manager" in this Article and Article 48, paragraph (7)), as provided by Cabinet Order.

(2) Cabinet Order of the preceding paragraph is to provide the procedures for designating an entrusted facility manager, procedures for entrusting management, and other necessary matters.

(3) As provided by competent Ministerial Order, an entrusted facility manager must provide regulations (hereinafter referred to as "regulations on entrusted facility management operations" in paragraph (5) and paragraph (6)) on operations of management related to the designation under the provisions of paragraph (1) (hereinafter referred to as "entrusted facility management operations" in this Article and Article 48, paragraph (7)) and obtain the authorization of the competent minister. The same applies when intending to make modifications to it.

(4) When granting the authorization under the provisions of the preceding paragraph, the competent minister must consult with the Prime Minister, the Minister of Finance, and the heads of other relevant administrative organs in advance.

(5) The regulations on entrusted facility management operations must provide the method of implementation of the entrusted facility management operations and other matters as provided by competent Ministerial Order.

(6) When the competent minister finds that the regulations on entrusted facility management operations authorized under the provisions of paragraph (3) have become inappropriate for the proper and reliable implementation of entrusted facility management operations, the minister may order an entrusted facility manager to modify it.

(7) As provided by competent Ministerial Order, an entrusted facility manager must prepare a business report and a statement of account regarding the entrusted facility management operations and submit them to the competent minister no later than three months after the end of each business year.

(8) As provided by competent Ministerial Order, an entrusted facility manager must separate the accounting for entrusted facility management operations



and that for other operations.

- (9) When the competent minister finds it necessary for enforcing the provisions of this Section, the minister may issue a necessary supervision order to an entrusted facility manager regarding an entrusted facility management operation.
- (10) When an entrusted facility manager has violated an order under the preceding paragraph or the competent minister finds that the entrusted facility manager is unable to properly and reliably implement management, the minister may rescind its designation or order the entrusted facility manager to suspend, in whole or in part, the entrusted facility management operations specifying the suspension period.

## **Section 9 Miscellaneous Provisions**

(Request for Submission of Materials)

Article 46 When the competent minister finds it necessary for enforcing the provisions of this Chapter, the minister may seek from the Prime Minister, heads of relevant administrative organs or other relevant persons the provision of materials or information, explanations, statements of opinions, or other necessary cooperation.

(Securing of Funds)

Article 47 The State is to endeavor to secure the necessary funding for approved ensuring supply business entity to conduct approved ensuring supply business.

(Collection of Reports and On-Site Inspections)

Article 48 (1) To the extent necessary for enforcement of the provisions of this Chapter, the competent minister may seek from individuals, corporations, or other organizations that engage in the business of producing, importing, or selling a product related to business under the minister's administrative jurisdiction necessary reports or the submission of materials regarding the status of production, import, sale, procurement, or storage of the relevant product or raw materials, etc. necessary for its production.

(2) To the extent necessary for the enforcement of Article 30, paragraphs (1) through (3), the competent minister may seek from individuals, corporations, or other organizations engaged in the business of producing, importing, or selling the specified critical products, etc. related to businesses under its administrative jurisdiction reports or the submission of materials on matters necessary to request for investigation under these provisions.

(3) A person requested to report or submit materials pursuant to the provisions of the preceding two paragraphs must endeavor to comply with the request.

- (4) To the extent necessary for enforcement of the provisions of this Chapter, the competent minister may seek from an approved ensuring supply business entity reports or the submission of materials on the implementation status of the ensuring supply plan or other necessary matters.
- (5) To the extent necessary for enforcement of the provisions of this Chapter, the competent minister may seek from a designated financial institution necessary reports or the submission of materials on operations to promote ensuring supply, or have an employee of the minister enter the sales office, business office, or other necessary places of the designated financial institution and ask questions on operations to promote ensuring supply or inspect books, documents, and other articles.
- (6) To the extent necessary for enforcement of the provisions of this Chapter, the competent minister may seek from an ensuring stable supply support corporation necessary reports or the submission of materials on ensuring stable supply support operations, or have an employee of the minister enter the sales office, business office or other necessary places of the ensuring stable supply support corporation and ask questions on ensuring stable supply support operations or inspect books, documents, and other articles.
- (7) To the extent necessary for enforcement of the provisions of this Chapter, the competent minister may seek from an entrusted facility manager necessary reports or the submission of materials on entrusted facility management operations, or have employees of the minister enter the sales office, business office, or other necessary places of the entrusted facility manager and ask questions on entrusted facility management operations or inspect books, documents, and other articles.
- (8) The employee who conducts the on-site inspection under the provisions of the preceding three paragraphs must carry an identification card and present it when requested by the persons concerned.
- (9) The authority for the on-site inspections under the provisions of paragraphs (5) through (7) must not be construed as having been granted for criminal investigation.

### **Chapter III Ensuring the Stable Provision of Specified Essential Infrastructure Services**

(Basic Guidelines for Specified Essential Infrastructure Services)

Article 49 (1) Pursuant to the basic policy, the government is to provide basic guidelines on ensuring the stable provision of specified essential infrastructure services by preventing the specified interference actions (meaning specified interference actions provided in Article 52, paragraph (2), item (ii), (c); the same applies in the next paragraph) (hereinafter referred to as the "basic

- guidelines on specified essential infrastructure services" in this Article).
- (2) The basic guidelines on specified essential infrastructure services are to provide the following matters:
- (i) matters regarding the basic direction to ensure stable provision of specified essential infrastructure services by preventing specified interference actions (including matters regarding details of specified interference actions);
  - (ii) basic matters regarding designation of specified essential infrastructure service providers (meaning specified essential infrastructure service providers provided in paragraph (1) of the following Article; the same applies in the next item and item (v)) (including matters of attention regarding the relevant designation from an economic and social perspective);
  - (iii) basic matters regarding recommendations and orders to specified essential infrastructure service providers;
  - (iv) matters to be considered in ensuring the stable provision of specified essential infrastructure services by preventing specified interference actions (including matters to be considered in the drafting of competent Ministerial Order to provide specified critical facilities provided in paragraph (1) of the following Article and critical maintenance and management, etc. provided in Article 52, paragraph (1));
  - (v) matters regarding necessary coordination with specified essential infrastructure service providers or any other relevant persons regarding ensuring stable provision of specified essential infrastructure services by preventing specified interference actions; and
  - (vi) beyond what is stated in the preceding items, matters necessary to ensure stable provision of specified essential infrastructure services by preventing specified interference actions.
- (3) The Prime Minister must prepare a draft on basic guidelines on specified essential infrastructure services and seek a cabinet decision.
- (4) When the Prime Minister prepares a draft on basic guidelines on specified essential infrastructure services under the provisions of the preceding paragraph, the Prime Minister must, in advance, seek the opinions of persons with knowledge of economic measures related to ensuring national security, information and communications technology, and any other matters on ensuring the stable provision of specified essential infrastructure services, and give consideration to the impact on economic activity regarding specified essential infrastructure services.
- (5) When the cabinet decision under the provisions of paragraph (3) has been made, the Prime Minister must publicize the basic guidelines on specified essential infrastructure services without delay.
- (6) The provisions of the preceding three paragraphs apply *mutatis mutandis* to modifications to the basic guidelines on specified essential infrastructure

services.

(Designation of Specified Essential Infrastructure Service Providers)

Article 50 (1) The competent minister may designate, as a specified essential infrastructure service provider, a person who falls under the criteria provided by competent Ministerial Order as a person who engages in a specified essential infrastructure business (meaning, among following business, a business that is provided by Cabinet Order as a business that provides specified essential infrastructure services (meaning services that form the basis for the lives of the citizenry or economic activity, and for which disruption that arises to their stable provision is likely to cause a situation that undermines the security of the State and its citizens; hereinafter the same applies in this paragraph and Article 52); hereinafter the same applies in this Chapter and Article 86, paragraph (2)) for which suspension or degradation of the function of the specified critical facilities in use (meaning facilities, devices, equipment, or programs provided by competent Ministerial Order that are critical for the stable provision of specified essential infrastructure services and are likely to be used as a means for actions taken from outside Japan to interfere with the stable provision of specified essential infrastructure services; hereinafter the same applies in this Chapter and Article 92, paragraph (1)) are highly likely to cause a situation that undermines the security of the State and its citizens:

- (i) electricity business provided in Article 2, paragraph (1), item (xvi) in the Electricity Business Act (Act No. 170 of 1964);
- (ii) gas business provided in Article 2, paragraph (11) in the Gas Business Act (Act No. 51 of 1954);
- (iii) oil refinery provided in Article 2, paragraph (5) and petroleum gas import business provided in Article 2, paragraph (9) of the Oil Stockpiling Act (Act No. 96 of 1975);
- (iv) water supply service provided in Article 3, paragraph (2) and wholesale water supply service provided in Article 3, paragraph (4) of the Water Supply Act (Act No. 177 of 1957);
- (v) Type I railway business provided in Article 2, paragraph (2) of the Railway Business Act (Act No. 92 of 1986);
- (vi) general motor truck transportation business provided in Article 2, paragraph (2) of the Motor Truck Transportation Business Act (Act No. 83 of 1989);
- (vii) cargo liner service business provided in Article 2, paragraph (4) and irregular route business, which mainly transports between Japanese ports and ports in regions outside of Japan, provided in Article 2, paragraph (6) of the Marine Transportation Act (Act No. 187 of 1949);

- (viii) international air transport services business provided in Article 2, paragraph (19) and domestic scheduled air transport services business provided in Article 2, paragraph (20) of the Aviation Act (Act No. 231 of 1952);
- (ix) Business to establish and manage airports (meaning airports provided in Article 2 of the Airport Act (Act No. 80 of 1956); hereinafter the same applies in this item) and a public facility, etc. operating project provided in Article 2, paragraph (6) of the Act on Promotion of Private Finance Initiative (Act No. 117 of 1999) related to airports.
- (x) telecommunications business provided in Article 2, item (iv) of the Telecommunications Business Act (Act No. 86 of 1984);
- (xi) broadcasting business that conducts basic broadcasting provided in Article 2, item (ii) of the Broadcasting Act (Act No. 132 of 1950);
- (xii) postal business;
- (xiii) businesses related to finance stated as follows:
  - (a) businesses that engage in actions listed in any items of Article 2, paragraph (2) of the Banking Act;
  - (b) insurance business provided in Article 2, paragraph (1) of the Insurance Business Act (Act No. 105 of 1995);
  - (c) business to operate a financial instruments exchange market provided in Article 2, paragraph (17), financial instruments obligation assumption services provided in Article 2, paragraph (28), and type-I financial instruments business provided in Article 28, paragraph (1) of the Financial Instruments and Exchange Act (Act No. 25 of 1948);
  - (d) trust business provided in Article 2, paragraph (1) of the Trust Business Act (Act No. 154 of 2004);
  - (e) clearing services for interbank funds transfer provided in Article 2, paragraph (20), and business of issuing prepaid payment instruments for third-party business provided in Article 3, paragraph (5) (excluding items listed in Article 4) of the Payment Services Act (Act No. 59 of 2009);
  - (f) business to conduct services provided in Article 34 of the Deposit Insurance Act (Act No. 34 of 1971) and business to conduct services provided in Article 34 of the Agricultural and Fishery Cooperatives Savings Insurance Act (Act No. 53 of 1973);
  - (g) book-entry transfer business provided in Article 3, paragraph (1) of the Act on Book-Entry Transfer of Corporate Bonds and Shares (Act No. 75 of 2001); and
  - (h) electronic monetary claims recording business provided in Article 51, paragraph (1) of the Electronically Recorded Monetary Claims Act (Act No. 102 of 2007); and
- (xiv) business to conduct intermediation services of comprehensive credit

purchases provided in Article 2, paragraph (3) of the Installment Sales Act (Act No. 159 of 1961).

- (2) When the competent minister has designated a specified essential infrastructure service provider, the minister must notify the relevant designated person of the designation and give public notice of the relevant designated person's name, address, type of specified essential infrastructure business related to the designation, and the date on which the designation was made. The same applies when there are changes to these matters.
- (3) When a specified essential infrastructure service provider makes a change in its name or address, it must notify the competent minister to the effect no later than two weeks prior to the date of the change.

#### (Cancellation of Designation)

Article 51 When the competent minister finds that a specified essential infrastructure service provider no longer falls under the criteria provided by competent Ministerial Order in paragraph (1) of the preceding Article, the minister is to cancel the designation under paragraph (1). In this case, the provisions of paragraph (2) of the preceding Article apply *mutatis mutandis*.

#### (Introduction of Specified Critical Facilities)

Article 52 (1) When a specified essential infrastructure service provider introduces specified critical facilities from another enterprise (excluding cases when introducing specified critical facilities supplied by a person found to be substantially identical to the relevant specified essential infrastructure service provider or any other person provided by Cabinet Order (excluding cases when specified critical facilities supplied by a person other than the relevant person provided by the relevant Cabinet Order are incorporated into the relevant specified critical facilities)) or entrusts another enterprise to maintain, manage, or operate specified critical facilities (limited to those provided by competent Ministerial Order as critical for maintaining the function of the relevant specified critical facilities or the stable provision of specified essential infrastructure services related to the specified critical facilities, and through which the relevant specified critical facilities are likely to be used as a means for actions taken from outside Japan to interfere with the stable provision of specified essential infrastructure services; hereinafter referred to as "critical maintenance and management, etc." in this Chapter and Article 92, paragraph (1)), in accordance with competent Ministerial Order, the specified essential infrastructure service provider must, in advance, prepare a plan regarding the introduction of, or the entrustment of critical maintenance and management, etc. of, the relevant specified critical facilities (hereinafter referred to as "plan of introduction, etc." in this Chapter) and notify the competent minister of

them accompanied by documents provided by competent Ministerial Order; provided, however, that this does not apply when provided by competent Ministerial Order when introducing specified critical facilities from another enterprise or entrusting another enterprise to conduct critical maintenance and management, etc. of specified critical facilities in the case of urgent necessity.

- (2) The plan of introduction, etc. must contain the following matters:
- (i) an outline of specified critical facilities;
  - (ii) the following matters when introducing specified critical facilities:
    - (a) details and timing of the introduction;
    - (b) matters provided by competent Ministerial Order as matters regarding the supplier of specified critical facilities; and
    - (c) matters provided by competent Ministerial Order as matters regarding facilities, equipment, devices, or programs that comprise part of the specified critical facilities that are likely to be used as a means for specified interference actions (meaning actions taken from outside Japan to interfere with the stable provision of specified essential infrastructure services regarding the introduction or entrustment of critical maintenance and management, etc. of specified critical facilities; hereinafter the same applies in this Chapter);
  - (iii) when entrusting another person with critical maintenance and management, etc. of specified critical facilities, the following matters:
    - (a) details and timing or period of the entrustment of critical maintenance and management, etc.;
    - (b) matters provided by of competent Ministerial Order as matters regarding the other party to the entrustment of critical maintenance and management, etc.; and
    - (c) when the other party to the entrustment of critical maintenance and management, etc. further entrusts critical maintenance and management, etc. to another enterprise, matters provided by competent Ministerial Order as matters regarding the relevant further entrustment; and
  - (iv) beyond the matters listed in the preceding three items, matters provided by competent Ministerial Order as matters regarding the introduction or entrustment of critical maintenance and management, etc. of specified critical facilities.
- (3) A specified essential infrastructure service provider that has made notification of the plan of introduction, etc. under paragraph (1) must not introduce or entrust the critical maintenance and management, etc. of the specified critical facilities related to the relevant plan of introduction, etc. until 30 days have passed from the day on which the competent minister receives the relevant notification. Provided, however, that its period may be shortened

when the minister finds that a screening under the next paragraph is not necessary in light of the scale, nature, etc. of the relevant introduction or entrustment of critical maintenance and management, etc. or, as a result of a screening under the following paragraph, that the relevant specified critical facilities is not highly likely to be used as a means for specified interference actions before the period ends.

- (4) When there has been a notification of a plan of introduction, etc. under the provisions of paragraph (1), and if the competent minister finds that it is necessary to conduct a screening of whether or not it is highly likely that the specified critical facilities related to the relevant plan of introduction, etc. will be used as a means for specified interference actions, or to issue a recommendation under the provisions of paragraph (6) or an order under the provisions of paragraph (10), the minister may extend the period during which the specified critical facilities related to the relevant plan of introduction, etc. is introduced or their critical maintenance and management, etc. must not be entrusted, for a maximum of four months from the day on which the minister receives the relevant notification,
- (5) If the competent minister has extended the period during which the specified critical facilities must not be introduced or their critical maintenance and management, etc. not be entrusted under the provisions of the preceding paragraph, and before the final day of the relevant extended period, as a result of the screening under the provisions of the preceding paragraph, the minister finds that the specified critical facilities cannot be regarded to be highly likely to be used as a means of specified interference actions, the minister may shorten the relevant extended period.
- (6) If the competent minister finds, as a result of the screening under paragraph (4), that the specified critical facilities related to the plan of introduction, etc. are highly likely to be used as a means of specified interference actions, the minister may recommend that the specified essential infrastructure service provider introduce or entrust critical maintenance and management, etc. of the specified critical facilities related to the relevant plan of introduction, etc. after changing the details of the relevant plan of introduction, etc. or having taken other measures necessary to prevent specified interference actions, or that those activities should be suspended; provided, however, that the period when the relevant recommendation may be made is to be until the day when 30 days have passed from the day on which the relevant notification has been received (when an extension has been made under the provisions of paragraph (4), the final day of the relevant extended period).
- (7) A specified essential infrastructure service provider that has received a recommendation under the provisions of the preceding paragraph must notify the competent minister of whether or not to accept the recommendation within



10 days from the day on which the person is issued the recommendation and, if not accepting, its reasons.

- (8) A specified essential infrastructure service provider that has given notice of the acceptance of the recommendation under the provisions of the preceding paragraph must introduce or entrust critical maintenance and management, etc. of the specified critical facilities pursuant to the relevant plan of introduction, etc. after having notified the competent minister of a plan of introduction, etc. that has been amended pertaining to the relevant recommendation, or suspend introduction of or entrustment of critical maintenance and management, etc. of the specified critical facilities related to the plan of introduction, etc. related to the relevant recommendation.
- (9) Notwithstanding the provisions of paragraph (3) or (4), a specified essential infrastructure service provider that has given notice of acceptance of the recommendation under the provisions of paragraph (7) may introduce or entrust critical maintenance and management, etc. of the specified critical facilities pursuant to the plan of introduction, etc. notified under the provisions of the preceding paragraph before 30 days have passed from the day on which the plan of introduction, etc. was notified under the provisions of paragraph (1) (when an extension has been made under the provisions of paragraph (4), the final day of the relevant extended period).
- (10) If a specified essential infrastructure service provider that has received a recommendation under the provisions of paragraph (6) has not given notice under the provisions of paragraph (7) or has given notice of the refusal of the recommendation, and no justifiable grounds are found for refusing the relevant recommendation, the competent minister may, as provided by competent Ministerial Order, order the specified essential infrastructure service provider that received the relevant recommendation to introduce or entrust critical maintenance and management, etc. of the specified critical facilities pursuant to the relevant plan of introduction, etc. after having notified the minister of a plan of introduction, etc. that has been amended related to the relevant recommendation, or to suspend the introduction or entrustment of critical maintenance and management, etc. of the specified critical facilities related to the plan of introduction, etc. pertaining to the relevant recommendation; provided, however, that the period during which the minister may order the introduction or entrustment of critical maintenance and management, etc. of specified critical facilities pursuant to the plan of introduction, etc. to which the relevant modifications have been made, or to suspend the introduction or entrustment of critical maintenance and management, etc. of specified critical facilities related to the plan of introduction, etc. related to the relevant recommendation is to be until 30 days have passed from receiving the plan of introduction, etc. under the provisions of paragraph (1) (when an extension has

been made under the provisions of paragraph (4), the final day of the relevant extended period).

- (11) If a specified essential infrastructure service provider has introduced or entrusted critical maintenance and management. of specified critical facilities in the case prescribed in the proviso to paragraph (1), the specified essential infrastructure service provider must submit without delay and as provided by competent Ministerial Order to the competent minister a written notice (hereinafter referred to as "urgent notice of introduction, etc." in Article 54, paragraph (5) and Article 55, paragraph (2)) including the matters listed in the items of paragraph (2) accompanied by documents provided by competent Ministerial Order under paragraph (1).

(Transitional Measures on Introduction of Specified Critical Facilities)

- Article 53 (1) The provisions of paragraph (1) of the preceding Article do not apply to a person who has received designation under the provisions of Article 50, paragraph (1) for six months from the day of the designation only with respect to the introduction or entrustment of critical maintenance and management, etc. of specified critical facilities used for a specified essential infrastructure business related to the relevant designation.
- (2) The provisions of paragraph (1) of the preceding Article do not apply to facilities, equipment, a device, or a program that newly became a specified critical facility due to amendment to competent Ministerial Order that provides specified critical facilities under Article 50, paragraph (1) for six months from the day on which the relevant facilities, equipment, device, or program became specified critical facilities.
- (3) The provisions of paragraph (1) of the preceding Article do not apply to critical maintenance and management, etc. that newly became critical maintenance and management, etc. due to amendment to competent Ministerial Order under paragraph (1) for six months from the day on which the relevant maintenance and management or operation became critical maintenance and management, etc.

(Modifications to Plan of Introduction)

- Article 54 (1) When a specified essential infrastructure service provider makes material modifications as provided by competent Ministerial Order to matters listed in Article 52, paragraph (2) prior to introducing or entrusting another person with critical maintenance and management, etc. of, or before the end of the period of entrusting another person with critical maintenance and management, etc. of, specified critical facilities related to a plan of introduction, etc. notified under the provisions of Article 52, paragraph (1) (in case of modifications made under the provisions of this Act, the modified plan of

- introduction, etc.; hereinafter the same applies in this Article and paragraph (1) of the following Article), the specified essential infrastructure service provider must prepare draft modifications to the relevant plan of introduction, etc. and notify the competent minister of it accompanied by documents provided by competent Ministerial Order in advance; provided, however, that this does not apply when provided by competent Ministerial Order as cases when making the relevant modifications is of urgent necessity.
- (2) The provisions of Article 52, paragraphs (2) through (10) apply *mutatis mutandis* to notification of draft modifications under the provisions of the preceding paragraph.
- (3) When a specified essential infrastructure service provider has made modifications under the provisions of paragraph (1) under the provisions of the proviso to the paragraph, as provided by competent Ministerial Order, the specified essential infrastructure service provider must notify the competent minister of a plan of introduction, etc. specifying the details of the relevant modifications, accompanied by documents provided by competent Ministerial Order in the paragraph.
- (4) When a specified essential infrastructure service provider makes modifications to matters listed in the items of Article 52, paragraph (2) (except for modifications under the provisions of paragraph (1) and minor modifications as provided by competent Ministerial Order) prior to introducing or entrusting another person with critical maintenance and management, etc. of, or before the end of the period of entrusting another person with critical maintenance and management, etc. of, specified critical facilities related to a plan of introduction, etc. notified under the provisions of Article 52, paragraph (1), or modifications provided by competent Ministerial Order as items listed in Article 52, paragraph (2), item (c) after the relevant introduction, the specified essential infrastructure service provider must report the details of the relevant modifications without delay to the competent minister as provided by competent Ministerial Order.
- (5) The provisions of the preceding paragraphs apply *mutatis mutandis* to a specified essential infrastructure service provider related to an urgent notice of introduction, etc. notified under the provisions of Article 52, paragraph (11) (in case of modifications made under the provisions of this Act, the modified urgent notice of introduction, etc.; the same applies in paragraph (2) of the following Article). In this case, the term "prior to introducing or entrusting another person with critical maintenance and management, etc. of, or before the end of the period of entrusting another person with critical maintenance and management, etc." in paragraph (1) and the preceding paragraph is deemed to be replaced with "before the end of the period of entrusting another person with critical maintenance and management, etc."

(Recommendations and Orders After Introduction of Specified Critical Facilities)

Article 55 (1) After a specified essential infrastructure service provider that has made notification of a plan of introduction, etc. under the provisions of Article 52, paragraph (1) has become able to introduce specified critical facilities or entrust critical maintenance and management, etc. or has introduced or entrusted critical maintenance and management, etc. of specified critical facilities related to the relevant plan of introduction, etc. under the provisions of the preceding three articles, if the specified critical facilities related to the relevant plan of introduction, etc. are used, or the competent minister has come to find that these specified critical facilities are highly likely to be used, as a means for specified interference actions due to a shift in the international situation or other changes in circumstances, the minister may recommend that the specified essential infrastructure service provider that made the relevant notification implement an inspection or maintenance check, change the other party to the entrustment of critical maintenance and management, etc. of the relevant specified critical facilities, or take other necessary measures to prevent specified interference actions.

(2) After a specified essential infrastructure service provider that has notified an urgent notice of introduction, etc. under the provisions of Article 52, paragraph (11) has become able to introduce or entrust or has introduced or entrusted critical maintenance and management, etc. of specified critical facilities related to the relevant urgent notice of introduction, etc. under the provisions of the preceding three Articles, if the specified critical facilities related to the relevant urgent notice of introduction, etc. are used, or the competent minister has come to find that these specified critical facilities are highly likely to be used, as a means of engaging in specified interference actions, the minister may recommend that the specified essential infrastructure service provider that made the relevant notification implement an inspection or maintenance check, change the other party to the entrustment of critical maintenance and management, etc. of the relevant specified critical facilities, or take other necessary measures to prevent specified interference actions.

(3) The provisions of Article 52, paragraphs (7), (8), and (10) (excluding the proviso) apply *mutatis mutandis* to the recommendations under the provisions of the preceding two paragraphs.

(Procedures for Recommendations and Orders)

Article 56 (1) When making a recommendation under the provisions of Article 52, paragraph (6) (including as applied *mutatis mutandis* pursuant to Article 54, paragraph (2) (including as applied *mutatis mutandis* pursuant to Article 54,

paragraph (5); hereinafter the same applies in this Article); the same applies in the following paragraph and Article 58, paragraph (2)) or paragraph (1) or (2) of the preceding Article, or making an order under the provisions of Article 52, paragraph (10) (including cases when applied mutatis mutandis to Article 54, paragraph (2) and paragraph (3) of the preceding Article; hereinafter the same applies in this Chapter and Article 88), the competent minister must consult in advance with the Prime Minister and other heads of relevant administrative organs.

- (2) Beyond what is stated in Article 52, paragraphs (6) through (10), the preceding Article, and the preceding paragraph, the procedures and other necessary matters for extensions under the provisions of Article 52, paragraph (4) (including as applied mutatis mutandis pursuant to Article 54, paragraph (2); the same applies in Article 88), shortening under the provisions of Article 52, paragraph (5) (including as applied mutatis mutandis pursuant to Article 54, paragraph (2)), recommendations under the provisions of Article 52, paragraph (6) and paragraphs (1) and (2) of the preceding Article, and orders under the provisions of Article 52, paragraph (10) are provided by Cabinet Order.

(Responsibilities of the Competent Minister)

Article 57 The competent minister is to endeavor to provide information that contributes to preventing specified interference actions to specified essential infrastructure service providers.

(Collection of Reports and On-Site Inspections)

Article 58 (1) To the extent necessary for designation under the provisions of Article 50, paragraph (1), the competent minister may seek necessary reports or the submission of materials regarding a specified essential infrastructure business from a person engaged in the relevant specified essential infrastructure business.

- (2) To the extent necessary to execute the provisions of Article 51, Article 52, paragraphs (6) and (10), and Article 55, paragraphs (1) and (2), the competent minister may seek from a specified essential infrastructure service provider necessary reports or the submission of materials regarding the specified essential infrastructure business conducted by it, or have an employee of the minister enter the specified essential infrastructure service provider's office or other necessary place, ask questions regarding the specified essential infrastructure business, or inspect books, documents, or other objects.
- (3) The employee who conducts the on-site inspection under the provisions of the preceding paragraph must carry an identification card and present it when requested by the people concerned.

- (4) The authority for the on-site inspections under the provisions of paragraph (2) must not be construed as having been granted for criminal investigation.

(Request of Document Submission)

Article 59 When the competent minister finds it necessary to enforce the provisions of this Chapter, the minister may seek the provision of materials and information, explanations, statements of opinions, and other necessary cooperation from the Prime Minister, heads of relevant administrative organs, and other relevant persons.

## **Chapter IV Support for Development of Specified Critical Technologies**

(Basic Guidelines on Research and Development of Specified Critical Technologies)

Article 60 (1) Pursuant to the basic policy, the government is to provide basic guidelines on promotion of research and development of specified critical technologies and the appropriate utilization of their results (hereinafter referred to as "basic guidelines on research and development of specified critical technologies" in this Chapter).

- (2) The basic guidelines on research and development of specified critical technologies is to provide the following matters:
- (i) matters on the basic direction regarding promotion of research and development of specified critical technologies and the appropriate utilization of their results;
  - (ii) basic matters on the organization of councils provided in Article 62, paragraph (1));
  - (iii) basic matters on the designation of designated funds provided in Article 63, paragraph (1);
  - (iv) basic matters on the implementation of research and study provided in Article 64, paragraph (1));
  - (v) matters to be considered in promotion of research and development of specified critical technologies and the appropriate utilization of their results; and
  - (vi) beyond what is stated in the preceding items, matters necessary for promotion of research and development of specified critical technologies and the appropriate utilization of their results.
- (3) The Prime Minister must prepare a draft on basic guidelines on research and development of the specified critical technologies and seek a cabinet decision.
- (4) When preparing a draft on basic guidelines on research and development of specified critical technologies pursuant to the provision of the preceding paragraph, the Prime Minister must seek the opinions of persons with

knowledge of economic measures related to ensuring national security, domestic and external trends in socioeconomic conditions and research and development, and other knowledge of support for development of specified critical technologies in advance.

- (5) When there has been a cabinet decision under the provisions of paragraph (3), the Prime Minister must publicize the basic guidelines on research and development of specified critical technologies without delay.
- (6) The provisions of the preceding three paragraphs apply mutatis mutandis to modifications to the basic guidelines on research and development of specified critical technologies.

#### (Policies of the State)

Article 61 Pursuant to the basic guidelines on research and development of specified critical technologies, the State is to endeavor to provide necessary information, secure funding, develop human resources and improve their quality, and take other measures for the promotion of research and development of specified critical technologies (meaning advanced technology that could become critical to maintaining the future lives of the citizens and economic activity (referred to as "advanced technology" in Article 64, paragraph (2), items (i) and (ii)) for which a situation is likely to arise in which the security of the State and its citizens is undermined if the relevant technology or the information used in its research and development is wrongfully used externally, or if the products or services using the technology are dependent on the outside and the stable use of these products or services is no longer possible due to actions taken from the outside; hereinafter the same applies in this Chapter) and the appropriate utilization of their results.

#### (Council)

Article 62 (1) For the promotion of research and development of specified critical technologies conducted via the relevant research and development, etc. and the appropriate utilization of their results, the ministers who grant funds regarding research and development, etc. conducted with the State funding under the provisions of Article 12, paragraph (1) of the Act on Vitalizing the Creation of Science, Technology, and Innovation (Act No. 63 of 2008; referred to as the "Vitalization Act" in paragraphs (1) and (2) of the following Article) (hereinafter referred to as "research and development, etc." in this Article and paragraph (4) of the following Article) (hereinafter referred to as "ministers of research and development" in this Article and Article 87, paragraph (1)) may organize, pursuant to the basic guidelines on research and development of the specified critical technologies and after obtaining the consent of a person engaged in research and development, etc. on the relevant specified critical

technologies who is a person found to be reasonable to represent the relevant research and development, etc., a council comprised of the relevant persons and the relevant ministers of research and development (hereinafter referred to as the "council" in this Article).

- (2) When organizing a council, the ministers of research and development must consult the Prime Minister in advance.
- (3) When finding it to be necessary, the ministers of research and development who organize a council pursuant to the provisions of paragraph (1) may add as members of the council the heads of relevant national administrative organs, persons engaged in research and development, etc. of the relevant specified critical technology, the institution for research and study of specified critical technology (meaning the institution for research and study of specified critical technology provided in Article 64, paragraph (3); the same applies in paragraph (6)), and other persons found to be necessary by the ministers of research and development, after obtaining their consent.
- (4) The council is to consult on the following matters to achieve the objective of paragraph (1):
  - (i) matters on collecting, organizing, and analyzing useful data for research and development of relevant specified critical technology;
  - (ii) matters on means to effectively promote research and development of relevant specified critical technology;
  - (iii) matters on the details and treatment of the results of research and development of relevant specified critical technology;
  - (iv) matters on measures necessary to properly manage information on research and development of the relevant specified critical technology;
  - (v) beyond what is stated in the preceding items, matters necessary for promotion of research and development of the relevant specified critical technology and the appropriate utilization of their results.
- (5) Pursuant to the results of the consultation in the preceding paragraph, council members are to properly manage information on research and development of specified critical technologies and undertake other necessary initiatives.
- (6) If finding it to be necessary to conduct the consultation under paragraph (4), the council may seek from its members or the institution for research and study of specified critical technology (excluding those that are members of the relevant council; hereinafter the same applies in this paragraph) the provision of materials, explanations, statements of opinion, or other cooperation which are necessary regarding the promotion of research and development of specified critical technologies and the appropriate utilization of their results. In this case, the relevant members and relevant institution for research and study of specified critical technology are to endeavor to respond to the request.



- (7) A person who is or has been engaged in the administrative processes of a council must not divulge or misappropriate any secret learned in the course of the relevant administrative processes without justifiable grounds.
- (8) Beyond what is stated in the preceding paragraphs, the council is to provide matters necessary for the council's organization and operation.

#### (Designated Funds)

- Article 63 (1) Pursuant to the basic guidelines on research and development of the specified critical technologies, the Prime Minister may designate as designated funds those funds under the provisions of Article 27-2, paragraph (1) of the Vitalization Act with the objective of the promotion of research and development of specified critical technologies and the appropriate utilization of their results.
- (2) When making a designation under the preceding paragraph, in advance, the Prime Minister must consult the Minister of Finance, the minister who has jurisdiction over the fund distribution institution related to the relevant designated fund (meaning fund distribution institution under the provisions of Article 27-2, paragraph (1) of the Vitalization Act) (referred to as "minister with jurisdiction over the designated fund" in paragraph (4) and Article 87, paragraph (1)), and the heads of other relevant administrative organs.
  - (3) The State may subsidize the funds allocated to a designated fund within the limits of the budget.
  - (4) Jointly with the Prime Minister, the minister with jurisdiction over a designated fund is to organize a council comprised of persons engaged in research and development, etc. of specified critical technologies conducted with the relevant designated fund who is found to be reasonable as a person to represent the relevant research and development, etc., the relevant minister with jurisdiction over the designated fund, and the Prime Minister (referred to as a "council for a designated fund" in the next paragraph) to ensure the relevant designated fund's promotion of research and development of specified critical technologies and the appropriate utilization of their results.
  - (5) The provisions of paragraphs (3) through (8) of the preceding Article apply mutatis mutandis to a council for a designated fund. In this case, the term "paragraph (1)" in paragraphs (3) and (4) of the preceding Article is deemed to be replaced with "paragraph (4) of the next Article", and the term "ministers of research and development" is deemed to be replaced with "minister with jurisdiction over a designated fund and the Prime Minister".

#### (Research and Study)

- Article 64 (1) Pursuant to the basic guidelines on research and development of the specified critical technologies, the Prime Minister is to engage in research

and study necessary for promotion of research and development of specified critical technologies and the appropriate utilization of their results (referred to as "research and study" in the following paragraph and paragraph (3)).

- (2) The Prime Minister may entrust research and study, in whole or in part, to a person (limited to a corporation) that is in conformity with the following criteria as a person that can appropriately implement the research and study:
- (i) the person has the capability to conduct specialized research and study on domestic and external socioeconomic conditions and trends in research and development regarding advanced technology;
  - (ii) the person has the capability to collect, organize, and store domestic and external information on advanced technology;
  - (iii) the person has the capability to collaborate with domestic and external institutions that conduct research and study into science and technology, institutions that engage in research and development on science and technology, and other relevant domestic and external institutions; and
  - (iv) the person has the sufficient capability to properly implement measures for information security management.
- (3) The head of a relevant administrative organ may provide information and materials necessary to conduct the research and study related to the relevant entrustment, in response to a request from a person entrusted under the provisions of the preceding paragraph (referred to as "institution for research and study of specified critical technology" in the next paragraph).
- (4) An officer or employee of an institution for research and study of specified critical technology, or a person who was formerly in that position, must not divulge or misappropriate any secret learned in the course of their duties without justifiable grounds.

## **Chapter V Non-Disclosure of Patent Applications**

(Basic Guidelines on Non-Disclosure of Patent Applications)

Article 65 (1) Pursuant to the basic policy, the government is to provide basic guidelines on measures regarding exceptions to publication of applications under the Patent Act (Act No. 121 of 1959), the proper management of information related to inventions stated in a description, claims, or drawings (hereinafter referred to as "description, etc." in this Chapter) related to patent applications under the provisions of Article 36, paragraph (1) of the Patent Act, and other measures to prevent the flowing out of information related to inventions that, if made known to the public, would be highly likely to create a situation that undermines the security of the State and its citizens through actions taken from the outside (hereinafter referred to as "non-disclosure of patent applications" in this Article) (hereinafter referred to as "basic guidelines

on non-disclosure of patent applications").

- (2) The basic guidelines on non-disclosure of patent applications is to provide the following matters:
  - (i) matters on the basic direction of non-disclosure of patent applications;
  - (ii) basic matters on technology fields to be provided by Cabinet Order pursuant to the provisions of paragraph (1) of the following Article;
  - (iii) matters on procedures regarding security designations (meaning security designations under the provisions of Article 70, paragraph (2); the same applies in paragraph (1) of the following Article and Article 67); and
  - (iv) beyond what is stated in the preceding three items, necessary matters concerning non-disclosure of patent applications.
- (3) The Prime Minister must prepare a draft on basic guidelines on non-disclosure of patent applications and seek a cabinet decision.
- (4) When preparing a draft on basic guidelines on non-disclosure of patent applications under the provisions of the preceding paragraph, the Prime Minister must seek the opinions of persons with knowledge of economic measures related to ensuring national security, industrial technology, and other knowledge regarding non-disclosure of patent applications, and consider impacts on industrial activity in advance.
- (5) When there has been a cabinet decision under the provisions of paragraph (3), the Prime Minister must publicize the basic guidelines on non-disclosure of patent applications without delay.
- (6) The provisions of the preceding three paragraphs apply mutatis mutandis to modifications to the basic guidelines on non-disclosure of patent applications.

(Sending to the Prime Minister)

Article 66 (1) When the Commissioner of the Japan Patent Office has received a patent application, and the description, etc. list an invention belonging to a technology field provided by Cabinet Order in accordance with an international patent classification (meaning international patent classification under the provisions of Article 1 of the Strasbourg Agreement Concerning the International Patent Classification of March 24, 1971) or a classification divided in accordance to it that could include an invention that would be highly likely to create a situation that undermines the security of the State and its citizens through actions taken from the outside if made known to the public (hereinafter referred to as "specified technology field" in this paragraph)(in cases when the invention belongs to a specific technology field provided by Cabinet Order as a technology field that is found to have a significant impact on the development of industry if a security designation is made, limited to inventions that fall under the requirements provided by Cabinet Order), the Commissioner of the Japan Patent Office is to send to the Prime Minister

documents related to the relevant patent application as provided by Cabinet Office Order and Order of the Ministry of Economy, Trade and Industry by the day on which the period provided by Cabinet Order not exceeding three months from the day of the relevant patent application has lapsed; provided, however, that when it is found to be obviously unnecessary to proceed with a security review (meaning a security review under the provisions of paragraph (1) of the following Article; hereinafter the same applies in the following paragraph) in light of the relevant invention's technology level, characteristics, or disclosure status, the Commissioner of the Japan Patent Office may choose not to send the documents.

- (2) The preceding paragraph also applies when the patent applicant has made a request along with the patent application seeking a security review as provided by Cabinet Office Order and Order of the Ministry of Economy, Trade and Industry, on the ground that the invention stated in the description, etc. would be highly likely to create a situation that undermines the security of the State and its citizens, if made known to the public. The preceding paragraph also applies when it has been found that a person that underwent a security review based on the request and received a notification under the provisions of paragraph (9) of the following Article in the past or a person who is a successor to the right to the grant of a patent from that person has filed a patent application stating an invention related to the relevant notification in the description, etc.
- (3) When the Commissioner of the Japan Patent Office has sent the documents under the provisions of the main clause of paragraph (1) or the preceding paragraph, the Commissioner is to notify the patent applicant that the documents have been sent.
- (4) Regarding the application of the provisions of paragraph (1) when a patent application under the provisions of paragraph (1) is a patent application listed in the left-hand column of the following table, the term "day of the relevant patent application" in paragraph (1) is deemed to be replaced with the day listed in the right-hand column of the table respectively corresponding to the categories in the left-hand column of the table (when the relevant patent application falls under two or more categories in the left-hand column of the table, the latest day provided in the right-hand column of the table related to the relevant categories).

application written in a foreign language under the provisions of Article 36-2, paragraph (2) of the Patent Act	the day on which the translation related to the relevant patent application under the provisions of Article 36-2, paragraph (2) of the Patent Act has been submitted (when the relevant translation has been submitted under the provisions of Article 36-2, paragraph (4) or (6) of the Patent Act, notwithstanding the provisions of Article 36-2, paragraph (7) of the Patent Act, the day on which the relevant translation was actually submitted)
patent application filed using the method under the provisions of Article 38-3, paragraph (1) of the Patent Act	the day on which the description and drawings under the provisions of Article 38-3, paragraph (3) of the Patent Act related to the patent application, and a document with regard to the earlier patent application were submitted
patent application supplemented under Article 38-4, paragraph (2) of the Patent Act in the case of the proviso to Article 38-4, paragraph (4) of the Patent Act (excluding cases under the provisions of Article 38-4, paragraph (5) of the Patent Act)	The day on which the written supplement of the description, etc. related to the relevant patent application under the provisions of Article 38-4, paragraph (3) of the Patent Act was submitted
new patent application under the provisions of Article 44, paragraph (1) of the Patent Act	the day of the division of the patent application related to the patent application under the provisions of Article 44, paragraph (1) of the Patent Act
patent application pertaining related to the conversion of the application under the provisions of Article 46, paragraph (1) of the Patent Act	the day of the conversion of the application related to the patent application under the provisions of Article 46, paragraph (1) of the Patent Act

- (5) The main clause of paragraph (1) or paragraph (2) does not apply to international applications deemed to be patent applications under the provisions of Article 184-3, paragraph (1) of the Patent Act.
- (6) When the Commissioner of the Japan Patent Office determines it necessary in order to determine whether or not to send documents under the provisions of the main clause of paragraph (1) or paragraph (2), the Commissioner may request the submission of materials and explanations from the patent applicant.
- (7) Until the Commissioner of the Japan Patent Office determines that an application does not fall under cases to send documents under the provisions of

the main clause of paragraph (1) or paragraph (2), or until the period provided in the main clause of paragraph (1) has lapsed without the relevant documents having been sent, or until the Prime Minister has made a notification under the provisions of Article 71 or Article 77, paragraph (2), the provisions of Article 49, Article 51, and Article 64, paragraph (1) of the Patent Act do not apply.

- (8) If there has been a waiver or withdrawal of a patent application after the sending of the documents under the provisions of the main clause of paragraph (1) or paragraph (2) and before a notification has been received under the provisions of Article 70, paragraph (1) or Article 71, the Commissioner of the Japan Patent Office must notify the Prime Minister to that effect. The same applies when there has been a notification of succession under the provisions of Article 34, paragraph (4) or paragraph (5) of the Patent Act after the sending of the documents under the provisions of the main clause of paragraph (1) or paragraph (2) and before a notification has been received under the provisions of Article 71 or Article 77, paragraph (2).
- (9) If the Commissioner of the Japan Patent Office dismisses a patent application after the sending of the documents under the provisions of the main clause of paragraph (1) or paragraph (2) and before a notification has been received under the provisions of Article 70, paragraph (1) or Article 71, the Commissioner is to notify the Prime Minister to that effect in advance.
- (10) If the Commissioner of the Japan Patent Office has determined that sending documents under the provisions of the main clause of paragraph (1) or paragraph (2) does not apply, and a patent applicant has made a request as provided by Cabinet Office Order and Order of the Ministry of Economy, Trade and Industry, the Commissioner must notify the patent applicant to the effect that the determination was made not to send documents under these provisions.
- (11) The provisions of paragraph (1) do not apply to patent applications that state in the descriptions, etc. an invention that newly falls under the invention under the provisions of the main clause of paragraph (1) due to amendments to Cabinet Order pursuant to the provisions of paragraph (1) and that is pending before the Japan Patent Office at the time of the amendments.

(Security Review by the Prime Minister)

Article 67 (1) When the Prime Minister has received documents related to a patent application under the provisions of the main clause of paragraph (1) or paragraph (2) of the preceding Article, as provided by Cabinet Office Order, the Prime Minister is to conduct a review to determine whether or not the description, etc. related to the relevant patent application include an invention that would be highly likely to create a situation that undermines the security of the State and its citizens through actions taken from the outside if made

known to the public, and whether it is appropriate to protect information related to the relevant invention (meaning measures to prevent outflow of the relevant information to the outside; the same applies in Article 70, paragraph (1)) in consideration of the extent of its likelihood, the impact on industrial development if a security designation is made, and other circumstances (hereinafter referred to as a "security review" in this Chapter).

- (2) If the Prime Minister determines it necessary for a security review, the Prime Minister may seek the submission of materials and explanations from the patent applicant and other related persons.
- (3) In conducting a security review, the Prime Minister may seek from national government organs that have the necessary expert knowledge the submission of materials and explanations necessary for the security review and other necessary cooperation.
- (4) If the Prime Minister is unable to obtain sufficient materials or information under the provisions of the preceding paragraph, the Prime Minister may seek from persons other than national government organs that have expert knowledge the submission of necessary materials or information, and explanations and other necessary cooperation. In this case, the Prime Minister must give consideration to the selection of the relevant persons with expert knowledge so that disclosing the details of inventions to the relevant persons with expert knowledge does not damage the interests of the patent applicant.
- (5) If the Prime Minister determines it necessary when seeking from a person other than national government organs that has expert knowledge the submission of necessary materials or information, and explanations and other necessary cooperation under the provisions of the preceding paragraph, the Prime Minister may disclose the details of the invention stated in the description, etc. to that person (if a request is made to use an assistant, that person and its assistant; hereinafter the same applies in this paragraph). In this case, the Prime Minister must obtain in advance that person's consent to receive the disclosure after having explained that the person will be subject to the provisions of paragraph (8).
- (6) When the Prime Minister determines it necessary in determining whether or not to make a security designation, the Prime Minister may consult in advance with the heads of relevant administrative organs.
- (7) The provisions of paragraphs (4) and (5) apply mutatis mutandis to the heads of relevant administrative organs who have been consulted under the provisions of the preceding paragraph. In this case, the term "is unable to obtain sufficient materials or information under the provisions of the preceding paragraph" in paragraph (4) is deemed to be replaced with "does not have sufficient materials or information to respond to a consultation under the provisions of paragraph (6)".

- (8) An employee of a national government organ involved in a security review and a person who has received disclosure of the details of an invention under the provisions of paragraph (5) (including as applied *mutatis mutandis* pursuant to the preceding paragraph) must not divulge or misappropriate any secret pertaining to the details of the relevant invention without justifiable grounds.
- (9) When the Prime Minister intends to make a security designation, the Prime Minister must notify the patent applicant of the details of the invention that could be an invention for security designation under the provisions of Article 70, paragraph (1) as provided by Cabinet Office Order, and seek the submission of documents stating matters listed in the following items if the patent applicant will maintain the application:
- (i) status of information management related to the invention with regard to the relevant notification;
  - (ii) if a business entity other than the patent applicant has been permitted to handle information related to the invention with regard to the relevant notification, the relevant business entity ; and
  - (iii) beyond what is stated in the two preceding items, matters to be provided by Cabinet Office Order.
- (10) If maintaining a patent application, a patent applicant must submit to the Prime Minister documents provided under the preceding paragraph within fourteen days of receiving the notification under the provisions of the preceding paragraph, as provided by Cabinet Office Order.
- (11) If the Prime Minister determines that the written contents of the documents submitted under the provisions of the preceding paragraph are inappropriate, the Prime Minister may seek their corrections from the patent applicant, specifying a reasonable period of time.

(Prohibition of Publication of Invention During Security Review)

Article 68 If a patent applicant has received a notification under the provisions of paragraph (9) of the preceding Article, the applicant must not publish the details of the invention related to the relevant notification until receiving a notification under the provisions of Article 70, paragraph (1) or Article 71; provided, however, that this does not apply if the applicant has waived or withdrawn the application or the application has been dismissed.

(Discontinuation of Security Review)

Article 69 (1) The Prime Minister may discontinue a security review if a patent applicant has not submitted documents under the provisions of Article 67, paragraph (9) within the period of time provided under Article 67, paragraph (10), or has not made corrections under the provisions of Article 67, paragraph



- (11) within the period of time provided under Article 67, paragraph (11), the Prime Minister determines the patent applicant has violated the provisions of the preceding Article, or the Prime Minister determines that a patent applicant has made a request under the provisions of the first sentence of Article 66, paragraph (2) for unjust purposes and without due cause.
- (2) When discontinuing a security review under the provisions of the preceding paragraph, the Prime Minister must notify the patent applicant in advance of the reasons of discontinuation and give the applicant the opportunity to submit a document stating an explanation, specifying a reasonable period of time.
- (3) When the Prime Minister has discontinued a security review under the provisions of paragraph (1), the Prime Minister is to notify the Commissioner of the Japan Patent Office to that effect.
- (4) The Commissioner of the Japan Patent Office is to dismiss the patent application after having received the notification under the provisions of the preceding paragraph.

(Security Designations)

- Article 70 (1) As a result of a security review, if the Prime Minister finds that an invention that would be highly likely to create a situation that undermines the security of the State and its citizens through actions taken from the outside if made known to the public has been stated in the description, etc. under the provisions of Article 67, paragraph (1), and that it is appropriate to protect information related to the relevant invention in consideration of the extent of its likelihood, the impact on industrial development if a security designation is made, and other circumstances, the Prime Minister is to designate the relevant invention as an invention for security designation and notify the patent applicant and the Commissioner of the Japan Patent Office, as provided by Cabinet Office Order.
- (2) When making a designation under the provisions of the preceding paragraph (hereinafter referred to as "security designation" in this Chapter and Article 88), the Prime Minister is to provide a period of time for the security designation not exceeding one year from the day of the relevant security designation.
- (3) The Prime Minister must determine whether or not it is necessary to continue a security designation before the day the security designation period (if the security designation period has been extended under the provisions of this paragraph, the extended period; hereinafter the same applies in this Chapter) expires. In this case, if the Prime Minister determines it is necessary to continue, the Prime Minister may extend the security designation period for no more than one year.
- (4) The provisions of Article 67, paragraphs (2) through (8) apply mutatis

mutandis to cases of the judgment under the provisions of the first sentence of the preceding paragraph. In this case, the term "invention" in Article 67, paragraphs (4), and the term "invention stated in the description, etc." in Article 67, paragraph (5) are deemed to be replaced with "invention for security designation under the provisions of Article 70, paragraph (1)", the term "invention under the provisions" in Article 67, paragraph (8) is deemed to be replaced with "invention for security designation under the provisions of Article 70, paragraph (1), and the term "relevant invention" in Article 67 paragraph (8) is deemed to be replaced with "relevant invention for security designation".

- (5) When the Prime Minister has made an extension under the provisions of the second sentence of paragraph (3), the Prime Minister is to notify to that effect the patent applicant who received the notification under the provisions of paragraph (1) (if there has been a transfer of the right to the grant of the patent after the notification, the successor; hereinafter referred to as the "designated patent applicant" in this Chapter) and the Commissioner of the Japan Patent Office.

(Notifications in Case of Non-Security Designation)

Article 71 When the Prime Minister determines that there is no need to make a security designation as a result of a security review, the Prime Minister is to notify the patent applicant and the Commissioner of the Japan Patent Office to that effect.

(Restrictions on Withdrawal of Patent Applications)

Article 72 (1) A designated patent applicant may not waive or withdraw a patent application until receiving the notification under the provisions of Article 77, paragraph (2).

- (2) Notwithstanding the provisions of Article 10, paragraph (1) of the Utility Model Act (Act No. 123 of 1959) and Article 13, paragraph (1) of the Design Act (Act No. 125 of 1959), a designated patent applicant may not convert the patent application into an application for a utility model registration or an application for design registration until receiving the notification under the provisions of Article 77, paragraph (2).

(Restrictions on Working Inventions for Security Designation)

Article 73 (1) A designated patent applicant and a person to whom a patent applicant has disclosed the details of an invention for security designation or other person who has acquired knowledge of the details of an invention for security designation in the course of duties and knows that the relevant invention for security designation has received a security designation must not

work the relevant invention for security designation (meaning work under the provisions of Article 2, paragraph (3) of the Patent Act; hereinafter the same applies in this Chapter and Article 92, paragraph (1), item (vi)); provided, however, that this is not to apply when the designated patent applicant has received permission from the Prime Minister for the relevant work.

- (2) A designated patent applicant who intends to obtain the authorization under the provisions of the proviso to the preceding paragraph must submit to the Prime Minister an application document stating the details of the work for which the designated patent applicant intends to receive authorization and other matters to be provided by Cabinet Office Order.
- (3) If the Prime Minister determines that the work related to the application for authorization under the provisions of the proviso to paragraph (1) is not likely to cause a person other than those provided under the main clause of paragraph (1) to know the details of an invention for security designation and otherwise determines it is appropriate from the perspective of preventing leakage of information related to an invention for security designation, the Prime Minister is to give the authorization under the provisions of the proviso to paragraph (1).
- (4) Conditions necessary to prevent leakage of information related to an invention for security designation may be attached to the authorization under the provisions of the proviso to paragraph (1).
- (5) The provisions of Article 67, paragraphs (2) through (5) and paragraph (8) apply mutatis mutandis to the case to determine whether or not to give authorization under the provisions of the proviso to paragraph (1). In such a case, the term "invention" in Article 67, paragraphs (4) and (8), and the term "invention stated in the description, etc." in Article 67, paragraph (5) are deemed to be replaced with "invention for security designation under the provisions of Article 70, paragraph (1)."
- (6) If the Prime Minister determines that a designated patent applicant has worked an invention for security designation in violation of the provisions of paragraph (1) or conditions attached to authorization under the provisions of paragraph (4) and that it is appropriate for the patent application to be dismissed, the Prime Minister is to notify the Commissioner of the Japan Patent Office and the designated patent applicant to that effect. The same applies if a person other than the designated patent applicant has worked an invention for security designation in violation of the provisions of paragraph (1) or conditions attached to authorization under the provisions of paragraph (4) due to the designated patent applicant not having taken sufficient measures under the provisions of Article 75, paragraph (1).
- (7) When making the notification under the provisions of the preceding paragraph, the Prime Minister must notify the designated patent applicant in

advance of their reasons and give the applicant the opportunity to submit a document stating an explanation, specifying a reasonable period of time.

- (8) If the Commissioner of the Japan Patent Office has received a notification under the provisions of paragraph (6), the Commissioner is to dismiss the patent application after receiving the notification under the provisions of Article 77, paragraph (2).

(Prohibition of Publication of Inventions for Security Designation)

Article 74 (1) A designated patent applicant and a person to whom a patent applicant has disclosed the details of an invention for security designation or other person who has acquired knowledge of the details of an invention for security designation in the course of duties and knows that the relevant invention for security designation has received a security designation must not disclose the details of the invention for security designation, excluding when there are justifiable grounds.

- (2) When the Prime Minister determines that a designated patent applicant has disclosed the details of an invention for security designation in violation of the provisions of the preceding paragraph and that it is appropriate to dismiss the patent application, the Prime Minister is to notify the Commissioner of the Japan Patent Office and the designated patent applicant to that effect. The same applies when a person other than the designated patent applicant has disclosed the details of an invention for security designation in violation of the provisions of the preceding paragraph due to the designated patent applicant not having taken sufficient measures under the provisions of paragraph (1) of the following Article.

- (3) The provisions of paragraphs (7) and (8) of the preceding Article apply *mutatis mutandis* to the notification under the provisions of the preceding paragraph.

(Measures for Proper Management of Inventions for Security Designation)

Article 75 (1) A designated patent applicant must properly manage a person who handles information related to an invention for security designation and take other measures provided by Cabinet Office Order as necessary and appropriate measures to prevent leakage of information related to an invention for security designation, and must have a business entity permitted to handle information related to an invention for security designation (hereinafter referred to as "invention sharing business entity" in this Chapter) take the measures.

- (2) An invention sharing business entity must take the measures under the provisions of the preceding paragraph in accordance with the designated patent applicant's instructions.

(Modifications of Invention Sharing Business Entities)

- Article 76 (1) When a designated patent applicant permits a business entity other than the business entity provided under Article 67, paragraph (9), item (ii) in the document under the provisions of Article 67, paragraph (9) to newly handle information related to an invention for security designation, the designated patent applicant must obtain the approval of the Prime Minister in advance as provided by Cabinet Office Order.
- (2) When a designated patent applicant has ceased to permit an invention sharing business entity to handle information related to an invention for security designation or if other modifications arise regarding an invention sharing business entity, excluding the case referred to in the preceding paragraph, the designated patent applicant must notify the Prime Minister without delay of the details of the modification as provided by Cabinet Office Order.

(Cancellation of Security Designations)

- Article 77 (1) When the Prime Minister has determined that it is not necessary to continue a security designation, the Prime Minister is to cancel the security designation.
- (2) When the Prime Minister has cancelled a security designation under the provisions of the preceding paragraph, or when a security designation period has expired, the Prime Minister is to notify the designated patent applicant and the Commissioner of the Japan Patent Office to that effect.
- (3) The provisions of Article 67, paragraphs (2) through (8) apply mutatis mutandis to cases when a security designation is cancelled under the provisions of paragraph (1). In this case, the term "invention" in Article 67, paragraphs (4) and the term "invention stated in the description, etc." in Article 67, paragraph (5) are deemed to be replaced with "invention for security designation under the provisions of Article 70, paragraph (1)", the term "invention under the provisions" in Article 67 paragraph (8) is deemed to be replaced with "invention for security designation under the provisions of Article 70, paragraph (1) under the provisions", and the term "relevant invention" in Article 67 paragraph (8) is deemed to be replaced with "relevant invention for security designation".

(Prohibition of Foreign Applications)

- Article 78 (1) When an invention made in Japan that has not been made public is the invention under the provisions of the main clause of Article 66, paragraph (1), no person may file a foreign application (meaning a patent application filed in foreign countries and an international application pursuant to the Patent Cooperation Treaty Done at Washington on June 19, 1970,

excluding those provided by Cabinet Order; hereinafter the same applies in this Chapter and Article 94, paragraph (1)) stating the relevant invention, excluding cases when the person has received under the provisions of paragraph (4) of the following Article a response that it is obvious that making the invention public will not impact the security of the State and its citizens due to actions taken from the outside; provided, however, that this is not to apply to the relevant invention stated in the description, etc. related to a patent application, if the patent application has been filed in Japan and when the period provided by Cabinet Order not exceeding ten months has lapsed from the day of the relevant patent application (excluding when a notification under the provisions of Article 70, paragraph (1) has been received, or the relevant patent application has been dismissed, waived, or withdrawn before the relevant period has lapsed), the notification under the provisions of Article 66, paragraph (3) has not been made within the period provided in the main clause of Article 66, paragraph (1) (excluding when the relevant patent application has been dismissed, waived, or withdrawn before the relevant period has lapsed), or the notification under the provisions of Article 66, paragraph (10), Article 71, or paragraph (2) of the preceding Article has been received.

- (2) Regarding application of the provisions of the preceding paragraph to designated patent applicants, the term in the paragraph "invention under the provisions of the main clause of Article 66, paragraph (1)" is deemed to be replaced with "invention under the provisions of the main clause of Article 66, paragraph (1) (for an invention stated in the description, etc. of a patent application for which a notification has been received under the provisions of Article 70, paragraph (1), invention for security designation)".
- (3) Regarding the application of the provisions of the proviso to paragraph (1) when a patent application under the provisions of the proviso to paragraph (1) is a patent application listed in the left-hand column of the following table, the term "the day of the relevant patent application" in the proviso is deemed to be replaced with the day stated in the right-hand column of the same table corresponding to the category stated in the left-hand column of the same table (when the relevant patent application falls under two or more of the categories stated in the left-hand column of the same table, the latest day among days provided in the right-hand column of the same table related to the relevant category).

application written in a foreign language under the provisions of Article 36-2, paragraph (2) of the Patent Act	the day on which the translation under the provisions of Article 36-2, paragraph (2) of the Patent Act related to the patent application was submitted (if the translation has been submitted under the provisions of Article 36-2, paragraph (4) or (6) of the Patent Act, the day on which the relevant translation was actually submitted, notwithstanding the provisions of Article 36-2, paragraph (7) of the Patent Act)
patent application filed using the method provided in Article 38-3, paragraph (1) of the Patent Act	tThe day on which the description, drawings, and a document with regard to the earlier patent application under the provisions of Article 38-3, paragraph (3) of the Patent Act were submitted.
patent application that has been supplemented under Article 38-4, paragraph (2) of the Patent Act in the case under the proviso to Article 38-4, paragraph (4) of the Act (excluding the case under the provisions of Article 38-4, paragraph (5))	the day on which the written supplement of the descriptions, etc. under the provisions of Article 38-4, paragraph (3) of the Patent Act related to the relevant patent application was submitted
epatent application under the provisions of Article 46, paragraph (1) of the Patent Act related to the relevant patent application	the day of the conversion of the application under the provisions of Article 46, paragraph (1) of the Patent Act related to the relevant patent application

- (4) When the Commissioner of the Japan Patent Office has received an international application deemed to be a patent application under the provisions of Article 184-3, paragraph (1) of the Patent Act, and an invention under the provisions of the main clause of Article 66, paragraph (1) is stated in the description, etc. related to the relevant patent application, the Commissioner is to notify the Prime Minister to that effect.
- (5) When the Prime Minister determines that a patent applicant whom the Commissioner of the Japan Patent Office has notified under the provisions of Article 66, paragraph (3) (when there has been a transfer of the right to grant of the patent after the notification, including its successor) has filed a foreign application in violation of the provisions of paragraph (1) or an international application related to the notification under the provisions of the preceding paragraph violates the provisions of paragraph (1), and that it is appropriate for the patent application to be dismissed, the Prime Minister is to notify the

Commissioner and the patent applicant to that effect.

- (6) The provisions of Article 73, paragraph (7) apply *mutatis mutandis* to the notification under the provisions of the preceding paragraph.
- (7) When the Commissioner of the Japan Patent Office has received the notification under the provisions of paragraph (5), the Commissioner is to dismiss the patent application; provided, however, that when the patent application has received a security designation, the Commissioner is to dismiss the application after receiving the notification under the provisions of paragraph (2) of the preceding Article.

(Prior Confirmation Regarding Prohibition of Foreign Applications)

- Article 79 (1) A person who intends to file a foreign application stating an invention that could fall under the invention under the provisions of the main clause of Article 66, paragraph (1) may seek confirmation from the Commissioner of the Japan Patent Office, only if the person has not filed a patent application in Japan that states the relevant invention in a description, etc., as to whether or not the foreign application is prohibited under the provisions of paragraph (1) of the preceding Article, as provided by Cabinet Office Order and Order of the Ministry of Economy, Trade and Industry.
- (2) When the Commissioner of the Japan Patent Office has received a request under the provisions of the preceding paragraph and the invention related to the relevant request does not fall under the invention under the provisions of the main clause of Article 66, paragraph (1), the Commissioner is to respond to the person who made the relevant request to that effect without delay.
  - (3) When the Commissioner of the Japan Patent Office has received a request under the provisions of paragraph (1) and the invention related to the relevant request falls under the invention under the provisions of the main clause of Article 66, paragraph (1), the Commissioner is to seek confirmation from the Prime Minister without delay as to whether it is obvious that making the invention public will not impact the security of the State and its citizens due to actions taken from the outside. In this case, the Prime Minister who has been requested to make the relevant confirmation is to respond to the Commissioner without delay.
  - (4) When the Commissioner of the Japan Patent Office has received the response under the provisions of the preceding paragraph, the Commissioner of the Japan Patent Office is to respond, without delay, to the person who made the request under the provisions of paragraph (1) that the invention related to the relevant request falls under the invention under the provisions of the main clause of Article 66, paragraph (1) and the details of the relevant response.
  - (5) A person who intends to seek confirmation under the provisions of paragraph (1) must pay the State a fee provided by Cabinet Order not exceeding 25,000



yen per case.

- (6) The payment of fees under the provisions of the preceding paragraph must be made with revenue stamps, as provided by Cabinet Office Order and Order of the Ministry of Economy, Trade and Industry; provided, however, that when provided by Cabinet Office Order and Order of the Ministry of Economy, Trade and Industry, payment may be made in cash as provided by Cabinet Office Order and Order of the Ministry of Economy, Trade and Industry.
- (7) Regarding whether to apply the provisions of paragraph (1) of the preceding Article, the provisions of Article 7 of the Act on Strengthening Industrial Competitiveness (Act No. 98 of 2013) do not apply.

#### (Compensation for Losses)

- Article 80 (1) The State compensates for losses that would ordinarily arise for persons having incurred losses due to having not received authorization under the provisions of the proviso to Article 73, paragraph (1), due to having conditions attached to authorization under Article 73, paragraph (4), or otherwise due to having received a security designation with respect to an invention for security designation (including those for which security designation has been cancelled or the security designation period has expired).
- (2) A person who intends to receive the compensation under the provisions of the preceding paragraph must make a request to the Prime Minister as provided by Cabinet Office Order.
  - (3) When there has been a request under the provisions of the previous paragraph, the Prime Minister must decide the amount to be compensated and notify the requesting person of it.
  - (4) The provisions of Article 67, paragraphs (2) through (4) and the first sentence of paragraph (5) (when during a security designation period, beyond these provisions, the provisions of the second sentence of paragraph (5) and paragraph (8)) apply mutatis mutandis to cases when the Prime Minister makes a decision under the provisions of the preceding paragraph. In this case, the term "invention" in Article 67, paragraphs (4) and (8), and the term "invention stated in the description, etc." in Article 67, paragraph (5) are deemed to be replaced with "invention for security designation under the provisions of Article 70, paragraph (1) (including those for which security designation has been cancelled or the security designation period has expired).
  - (5) A person who disagrees with a decision under the provisions of paragraph (3) may request an increase in the amount to be compensated by filing an action no later than six months from the day on which the notification was received.
  - (6) In the action stated in the preceding paragraph, the State is the defendant.

#### (Non-Exclusive Licenses for Later Applicant)

- Article 81 (1) A designated patent applicant who is engaged in or is preparing to engage in business in Japan that involves the working of an invention related to the designated patent applicant's own patent application, for which the designated patent applicant does not know it cannot be patented under the provisions of Article 29-2 of the Patent Act because another patent application has received a security designation and the publication of the relevant other application was not made under the provisions of Article 66, paragraph (7), prior to the day of the publication of the relevant other application, has a non-exclusive license under the patent right or the existing exclusive license for the relevant other patent application when the examiner's decision or trial or appeal decision to reject the patent application has become final and binding, but only within the extent of the invention that the person has been working or preparing to work and within the purview of that business purpose.
- (2) A person who has a patent right or an exclusive license related to the other patent application under the provisions of the preceding paragraph has the right to receive reasonable compensation from a person who holds a non-exclusive license under the provisions of the preceding paragraph.

(Special Provisions on the Patent Act)

- Article 82 (1) Regarding patent applications containing a priority claim under the provisions of Article 41, paragraph (1) of the Patent Act, if the Commissioner of the Japan Patent Office has dismissed a patent application on which the priority claim is based under the provisions of Article 69, paragraph (4), Article 73, paragraph (8) (including as applied mutatis mutandis pursuant to Article 74, paragraph (3)) or Article 78, paragraph (7), the relevant priority claim is to cease to be effective.
- (2) Regarding the application of the provisions of Article 42, paragraph (1) of the Patent Act when a patent application contains a priority claim under the provisions of Article 41, paragraph (1) of the Patent Act based on a patent application that has received a security designation, the term "when the period provided by Order of the Ministry of Economy, Trade and Industry from the filing date of the earlier application has lapsed" in Article 42, paragraph (1) of the Patent Act is deemed to be replaced with "when the period provided by Order of the Ministry of Economy, Trade and Industry from the filing date of the earlier application has lapsed or when a notification under the provisions of Article 77, paragraph (2) of the Act on the Promotion of Ensuring National Security Through Integrated Implementation of Economic Measures (Act No. 43 of 2022) was received regarding the relevant earlier application, whichever is later".
- (3) Regarding the application of the provisions of Article 48-3, paragraph (1) of the Patent Act if a security designation has been made, the term "within three

years from the filing date thereof" in Article 48-3, paragraph (1) of the Patent Act is deemed to be replaced with "within three years from the filing date thereof, or the date on which three months have passed since the date of receipt of a notification under the provisions of Article 77, paragraph (2) of the Act on the Promotion of Ensuring National Security Through Integrated Implementation of Economic Measures (Act No. 43 of 2022), whichever is later".

(4) Regarding the application of the provisions of Article 67, paragraph (3) of the Patent Act if a security designation has been made, the term "the period listed in the following items" in Article 67, paragraph (3) of the Patent Act is deemed to be replaced with "the period listed in the following items and the period from the date of receipt of a notification under the provisions of Article 70, paragraph (1) of the Act on the Promotion of Ensuring National Security Through Integrated Implementation of Economic Measures (Act No. 43 of 2022) through the day of receipt of a notification under Article 77, paragraph (2) of the Act".

(5) When the Commissioner of the Japan Patent Office has received an application for utility model registration under the provisions of Article 5, paragraph (1) of the Utility Model Act and the description, scope of claims for the utility model registration, or drawings related to the relevant application for utility model registration state an invention for security designation, notwithstanding the provisions of Article 14, paragraph (2) of the Utility Model Act, the Commissioner must not make a registration of establishment of utility model under the provisions of Article 14, paragraph (2) of the Utility Model Act until the security designation has been cancelled or the security designation period has been expired.

#### (Recommendations and Improvement Orders)

Article 83 (1) If the Prime Minister determines it to be necessary in order to prevent the leakage of information related to an invention for security designation when a designated patent applicant or invention sharing business entity has violated the provisions of Article 75, the Prime Minister may recommend that the relevant person take the measures under the provisions of Article 75, paragraph (1).

(2) When a person who has received a recommendation under the provisions of the preceding paragraph has not taken the measures related to the recommendation without justifiable grounds, the Prime Minister may order the relevant person to take the measures pertaining to the recommendation.

(3) Notwithstanding the provisions of the preceding two paragraphs, if the Prime Minister determines that the likelihood of leakage of an invention for security designation is imminent when a designated patent applicant or invention sharing business entity has violated the provisions of Article 75, the Prime

Minister may order the relevant person to take the measures provided under Article 75, paragraph (1).

(Collection of Reports and On-Site Inspections)

- Article 84 (1) To the extent necessary for the enforcement of the provisions of this Chapter, the Prime Minister may seek from a designated patent applicant and an invention sharing business entity the submission of necessary reports or materials regarding the handling of inventions for security designation, or have an employee of the Prime minister enter the relevant person's office or other necessary place, ask questions regarding the handling of inventions for security designation, or inspect books, documents, or other items.
- (2) The employee who conducts an on-site inspection under the provisions of the preceding paragraph must carry an identification card and present it when requested by the people concerned.
- (3) The authority for the on-site inspections under the provisions of paragraph (1) must not be construed as having been granted for criminal investigation.

(Service)

- Article 85 (1) Documents to be served regarding procedures provided in this Chapter is provided by Cabinet Office Order and Order of the Ministry of Economy, Trade and Industry.
- (2) The provisions of Articles 190 through 192 of the Patent Act apply *mutatis mutandis* to the service under the preceding paragraph.

## **Chapter VI Miscellaneous Provisions**

(Competent Ministers)

- Article 86 (1) The competent minister in Chapter 2 is the minister who has jurisdiction over the production, import, or sale of specified critical products; provided, however, that the minister in the provisions of the following items is the minister provided in the relevant item:
- (i) provisions of Chapter II, Section 3 and Article 48, paragraph (5): the Prime Minister and the Minister of Finance;
- (ii) provisions of Article 30 and Article 48, paragraph (2): the minister who has jurisdiction over the production, import, or sale of specified critical products, etc.;
- (iii) provisions of Chapter II, Section 6 (excluding Article 34, paragraph (6)) and Article 48, paragraph (6): the Prime Minister and the minister who has jurisdiction over the production, import, or sale of specified critical products;
- (iv) provisions of Chapter II, Section 7: the ministers who have jurisdiction over the incorporated administrative agencies listed in the appended table

- (limited to the minister who have jurisdiction over the production, import, or sale of specified critical products); and
- (v) provisions of Article 46 and Article 48, paragraph (1): the minister who has jurisdiction over the production, import, or sale of materials.
- (2) The competent minister in Chapter III is the minister who has jurisdiction over a specified essential infrastructure business.
- (3) The competent Ministerial Orders in Chapters II and III are orders issued by the competent ministers provided in the preceding two paragraphs.

(Delegation of Authority)

- Article 87 (1) Pursuant to Cabinet Order, a portion of the authority of the competent ministers, ministers of research and development, and minister with jurisdiction over the designated funds under the provisions of this Act may be delegated to the head of a local branch office or other bureau or organ as provided by Cabinet Order.
- (2) The Prime Minister delegates authority under the provisions of this Act to the Commissioner of the Financial Services Agency (limited to matters related to the Financial Services Agency's jurisdiction, excluding those provided by Cabinet Order).
- (3) The Commissioner of the Financial Services Agency may delegate a portion of the authority delegated under the provisions of the preceding paragraph to the head of a local finance bureau or a local finance branch bureau pursuant to Cabinet Order.

(Exclusion from Application of the Administrative Procedure Act)

Article 88 The provisions of Chapters II and III of the Administrative Procedure Act (Act No. 88 of 1993) do not apply to extension under the provisions of Article 52, paragraph (4), order under the provisions of Article 52, paragraph (10), security designation, extension under the provisions of the second sentence of Article 70, paragraph (3), permission under the provisions of the proviso to Article 73, paragraph (1), and approval under the provisions of Article 76, paragraph (1).

(Transitional Measures)

Article 89 When an order is established, revised, or abolished pursuant to the provisions of this Act, the order may provide necessary transitional measures (including transitional measures concerning penal provisions) to the extent that it is judged reasonably necessary for its establishment, revision, or abolishment.

(Sincere Implementation of International Agreements)

Article 90 In the enforcement of this Act, care must be taken not to prevent the sincere implementation of treaties and other international agreements which Japan has concluded.

(Delegation to Orders)

Article 91 Beyond what is stated in this Act, matters necessary to implement this Act are provided by order.

## **Chapter VII Penal Provisions**

Article 92 (1) If a person falls under any of the following items, the person who committed the relevant violation is punished by imprisonment for not more than two years, a fine of not more than one million yen, or both.

- (i) when a person has failed to make a notification or made a false notification in violation of the provisions of Article 52, paragraph (1) or Article 54, paragraph (1) (including as applied mutatis mutandis pursuant to Article 54, paragraph (5)) and introduced or entrusted critical maintenance and management etc. of specified critical facilities, etc.;
- (ii) when a person has introduced or entrusted critical maintenance and management, etc. of specified critical facilities during the period provided in the main clause of Article 52, paragraph (3) (if extended under the provisions Article 52, paragraph (4) (including as applied mutatis mutandis pursuant to Article 54, paragraph (2)) or shortened under the provisions of the proviso to Article 52, paragraph (3) or Article 52, paragraph (5) (including cases when these provisions are applied mutatis mutandis pursuant to Article 54, paragraph (2)), the relevant extended or shortened period) in violation of the provisions of Article 52, paragraph (3) (including as applied mutatis mutandis pursuant to Article 54, paragraph (2) (including as applied mutatis mutandis pursuant to Article 54, paragraph (5); hereinafter the same applies in this paragraph));
- (iii) when a person has introduced or entrusted critical maintenance and management, etc. of specified critical facilities in violation of the provisions of Article 52, paragraph (8) (including as applied mutatis mutandis pursuant to Article 54, paragraph (2) and Article 55, paragraph (3));
- (iv) when a person has violated an order under the provisions of Article 52, paragraph (10) (including cases when applied mutatis mutandis to Article 54, paragraph (2) and Article 55, paragraph (3)) or Article 83, paragraph (2) or (3);
- (v) when a person has failed to make a notification or made a false notification under the provisions of Article 52, paragraph (11) or Article 54, paragraph (3) (including as applied mutatis mutandis pursuant to Article 54, paragraph

- (5));
  - (vi) when a person has worked an invention for security designation in violation of the conditions attached to authorization under the provisions of Article 73, paragraph (1) or the provisions of Article 73, Paragraph (4);
  - (vii) when a person has received permission under the provisions of the proviso to Article 73, paragraph (1) or approval under the provisions of Article 76, paragraph (1) through deception or other wrongful means; or
  - (viii) When a person has disclosed the details of an invention for security designation in violation of the provisions of Article 74, paragraph (1).
- (2) A person who attempts the crimes prescribed in items (vi) and (viii) of the preceding paragraph is subject to punishment.
- (3) The crimes prescribed in paragraph (1), items (vi) and (viii) also apply to a person who has committed the crimes prescribed in these items outside Japan.

Article 93 A person who has divulged or misappropriated without reasonable grounds any secret that the person has come to know in connection with affairs pertaining to seeking reports or the submission of materials under the provisions of Article 48, paragraph (1) is punished by imprisonment for not more than two years or a fine of not more than one million yen.

- Article 94 (1) When a person has made a foreign application in violation of the provisions of Article 78, paragraph (1) (except in cases falling under Article 92, paragraph (1), item (viii)), the person who committed the relevant violation is punished by imprisonment for not more than one year, a fine of not more than five hundred thousand yen, or both.
- (2) The crime prescribed in the preceding paragraph also applies to a person who has committed the crime prescribed in the paragraph outside Japan.

Article 95 (1) A person who falls under any of the following items is punished by imprisonment for not more than one year or a fine of not more than five hundred thousand yen.

- (i) a person who has divulged or misappropriated any secret in violation of the provisions of Article 37, Article 62, paragraph (7) (including as applied *mutatis mutandis* pursuant to Article 63, paragraph (5)) or Article 64, paragraph (4); or
- (ii) a person who has divulged or misappropriated any secret in violation of the provisions of Article 67, paragraph (8) (including as applied *mutatis mutandis* pursuant to Article 70, paragraph (4), Article 73, paragraph (5), Article 77, paragraph (3), and Article 80, paragraph (4)) (excluding a person who has committed a violation falling under Article 92, paragraph (1), item (vi) or (viii));

- (2) The crime prescribed in item (ii) of the preceding paragraph also apply to a person who has committed the crime prescribed in the item outside Japan.

Article 96 A person who has committed a violation that falls under any of the following items is punished by a fine of not more than three hundred thousand yen.

- (i) when a person has failed to keep books or to make entries in the books, has made false entries in the books, or has failed to retain the books in violation of the provisions of Article 20 or 38;
- (ii) when a person has discontinued or abolished operations to promote ensuring supply in whole or in part without making notification or has made a false notification under the provisions of Article 22, paragraph 1;
- (iii) when a person has discontinued or abolished ensuring stable supply support operations in whole or in part without receiving permission under the provision of Article 40, paragraph (1);
- (iv) when a person has failed to report or submit materials, has made a false report, or has submitted false materials under the provisions of Article 48, paragraph (4) or Article 58, paragraph (1);
- (v) when a person has failed to report or submit materials, has made a false report, has submitted false materials, has failed to answer the questions from the relevant employee, has given a false answer, or has refused, obstructed, or avoided an inspection under the provisions of Article 48, paragraphs (5) through (7), Article 58, paragraph (2), or Article 84, paragraph (1);
- (vi) when a person has modified the name or address without making a notification or made a false notification under the provisions of Article 50, paragraph (3); or
- (vii) when a person has failed to make a report or has made a false report under the provisions of Article 54, paragraph (4) (including as applied *mutatis mutandis* pursuant to Article 54, paragraph (5)).

Article 97 When a representative of a corporation or an agent, employee or other worker of a corporation or an individual has committed a violation listed in one of the items in Article 92, paragraph (1), Article 94, paragraph (1), or one of the items in the preceding Article with regard to the operations of the corporation or individual, in addition to the offender being subject to punishment, the corporation or individual is subject to the fine referred to in the relevant Article.

Article 98 If a director or executive officer of JFC falls under any of the following items, the director or executive officer who has committed the relevant



violation is punished by a fine of not more than one million yen.

- (i) when a person has provided or modified an implementation policy for operations to facilitate promotion of ensuring supply without obtaining authorization under the provisions of Article 15, paragraph (2); or
- (ii) when a person has concluded or modified an agreement provided under Article 19, paragraph (1) without obtaining authorization under Article 19, paragraph (2).

Article 99 When an ensuring stable supply support corporation or ensuring stable supply support incorporated administrative agency has managed the ensuring stable supply support corporation fund or the ensuring stable supply support incorporated administrative agency fund in violation of the provisions of Article 34, paragraph (4) or Article 47 of the Act on General Rules for Incorporated Administrative Agencies, as applied mutatis mutandis following the deemed replacement of terms in Article 43, paragraph (3), the officer of the ensuring stable supply support corporation or ensuring stable supply support incorporated administrative agency who has committed that violation is punished by a fine of not more than 200,000 yen.

### **Supplementary Provisions [Extract]**

(Effective Date)

Article 1 This Act takes effect as of the date provided by Cabinet Order within a period not exceeding nine months from the date of promulgation; provided, however, that the provisions listed in the following items take effect as of the date provided in the relevant item:

- (i) provisions of Articles 1 and 2 and Supplemental Provisions Articles 3 and 9 through 11: date provided by Cabinet Order within a period not exceeding six months from the date of promulgation;
- (ii) provisions of Articles 49 and 65: date provided by Cabinet Order within a period not exceeding one year from the date of promulgation;
- (iii) provisions of Articles 50, 51, 58, 59, Article 86, paragraphs (2) and (3) (limited to portions related to Chapter III), Article 96, item (iv) (limited to portions related to Article 58, paragraph (1)), item (v) (limited to portions related to Article 58, paragraph (2)), and item (vi), and Article 97 (limited to portions related to Article 96, item (iv) (limited to portions related to Article 58, paragraph (1)), item (v) (limited to portions related to Article 58, paragraph (2)), and item (vi)): date provided by Cabinet Order within a period not exceeding one year and six months from the date of promulgation;
- (iv) provisions of Articles 52 through 57, Article 88 (excluding portions related to Chapter V), Article 92 (excluding portions related to paragraph (1), item

- (iv) (limited to portions related to Article 83, paragraphs (2) and (3)) and items (vi) through (viii) and paragraphs (2) and (3)), Article 96, item (vii), and Article 97 (limited to portions related to Article 92, paragraph (1), items (i) through (iii), item (iv) (excluding portions related to Article 83, paragraphs (2) and (3)), item (v), and Article 96, item (vii)): date specified by Cabinet Order within a period not exceeding one year and nine months from the date of promulgation; and
- (v) provisions of Articles 66 through 85, Article 88 (limited to portions related to Chapter V), Article 92, paragraph (1), item (iv) (limited to portions related to Article 83, paragraphs (2) and (3)) and items (vi) through (viii) and paragraphs (2) and (3), Article 94, Article 95, paragraph (1), item (ii) and paragraph (2), Article 96, item (v) (limited to portions related to Article 84, paragraph (1)), Article 97 (limited to portions related to Article 92, paragraph (1), item (iv) (limited to portions related to Article 83, paragraphs (2) and (3)) and items (vi) through (viii), Article 94, paragraph (1), and Article 96, item (v) (limited to portions related to Article 84, paragraph (1))), and the following Article: date provided by Cabinet Order within a period not exceeding two years from the date of promulgation.

(Transitional Measures)

Article 2 The provisions of Article 66, paragraph (1) do not apply to a patent application that is pending with the Japan Patent Office at the time of enforcement of provisions stated in item (v) of the preceding Article.

(Delegation to Cabinet Order)

Article 3 Beyond what is stated in the provisions of the preceding Article, transitional measures necessary for the enforcement of this Act are provided by Cabinet Order.

(Review)

Article 4 The government is to review the state of enforcement of this Act approximately three years after this Act comes into effect, and when it finds it necessary, is to take necessary measures based on the result.

Appended Table (Related to Articles 42 and 86)

- (i) National Institutes of Biomedical Innovation, Health and Nutrition
- (ii) Japan Organization for Metals and Energy Security
- (iii) New Energy and Industrial Technology Development Organization