

Outline of the Economic Security Promotion Act

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

Purpose

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

Outline of the Act

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

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

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

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

Designation of Specified Critical Products

- Designating critical products which are vital for the survival of the citizens or on which their daily lives or the economic activities depend, and of which stable supply is particularly necessary.

Plan Approval and Support Measures for the Business Entities

- Business entities may elaborate and apply a plan for ensuring supply of specified critical products or their raw materials, parts, etc., which is subject to approval by the competent ministers.
- For approved business entities, grant by stable supply support corporations, etc. or support such as "two-step loans", etc. are provided.

Government Initiatives

- Stockpiling and other necessary measures are taken by the competent ministers when it is necessary to take such supplementary measures

Others

- Surveys of business entities by the competent ministers

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

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

Scope of Screening

- Specified essential infrastructure business : the covered business sectors (e.g. electric power business) are narrowed down by Cabinet Order after the outer boundary is indicated by the Act
- Specified essential infrastructure service providers: the entities conducting specified essential infrastructure business that satisfy the criteria stipulated by Order of the competent ministries, is designated

Prior Notification and Screening

- Requires prior notification of plans for the installation and entrustment of maintenance, etc. of critical facilities
- Period for screening: 30 days, in principle (may be shortened or extended)

Recommendations and Orders

- Based on screening results, the government makes recommendations or orders to the business entities on necessary measures (e.g. change, cancellation, etc. of the plan for installation or entrustment of maintenance, etc. of critical facilities) to prevent disruptive actions

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

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

Government Support

- The Act mandates, as appropriate, the government to provide SCTs researchers with necessary information and financial support through designated funds.

The Public-Private Cooperation Council (the PPCC)

- The Act authorizes Ministers to establish the PPCC for each project, with the consent of research representatives.
- Members: The heads of relevant administrative organs, research representatives/workers, etc.
- Confidentiality obligation is imposed on the members with respect to sensitive information shared under mutual consent through the PPCC.

Entrustment of Surveys and Research (Research Institutions)

- Conducting technological surveys and research of SCTs can be entrusted to capable research institutions, imposing confidentiality

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

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

Review from a Perspective of Technology Fields, etc. (primary review)

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

Security Review (secondary review)

- Review from perspectives of:
- (1) the risk of detrimental impact to the security of the nation and its citizens; and
 - (2) impact on the industrial development due to non-disclosure of the invention, etc.

Security Designation

- Effect of the designation: prohibition on application withdrawal, requirement of permission to work a patent, prohibition on disclosure, requirement of appropriate management of information, etc.

Foreign Filing Restrictions

Compensation

Effective Date

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

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

Purpose

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

Outline

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

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

Specified
critical
products

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

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

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

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

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

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

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

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

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

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

7. Other

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

Effective date

- Within 9 months after promulgation

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

Purpose

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

Outline

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

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

2. Scope of screening

(1) Specified essential infrastructure business (covered business sectors are narrowed down by Cabinet Order after the outer boundary is indicated by the Act)

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

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

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

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

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

<Examples of items to be included in the plan>

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

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

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

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

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

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

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

5. Responsibilities of competent ministers for essential infrastructure businesses

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

Effective date

- **(1) Screening scope: Within 1 year and 6 months after promulgation;**

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

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

Outline of systems for enhancing development of designated critical technologies (Economic Security Promotion Act, Chapter 4)

Purpose

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

Outline

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

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

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

(1) Establishment

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

(2) Members

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

(3) Functions

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

3. Entrustment of surveys and research (research institution)

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

Effective date

- Within 9 months after promulgation

Outline of system for non-disclosure of selected patent applications (Economic Security Promotion Act, Chapter V)

Purpose

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

Outline

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

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

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

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

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

3. Security review (secondary review)

·Factors considered for the security review (e.g. reviewing on whether it is appropriate to protect the invention)

(1) Risk of detrimental impact to the security of the nation and its citizens

(2) Impact on the development of industry due to non-disclosure of the invention, etc.

- ▶ The Cabinet Office may seek cooperation of interested government agencies and specialists outside the government conducting the review, and deliberates with interested government agencies
- ▶ The Cabinet Office asks the applicant if the person has an intention to maintain the patent application process before conducting security designation

4. Security designation

·The Cabinet Office designates selected invention as “invention for security designation”, and notifies it to the patent applicant.

*Designation period: Within one year; thereafter, decision made each year on the necessity of the extension

*Effects of designation:

- ▶ Prohibition on application withdrawal
- ▶ Requirement of permission to work (meaning “work” under Article 2, paragraph (3) of the Patent Act (Act No.121 of April 13, 1959)) a patent
- ▶ Prohibition in principle of the disclosure of invention details
- ▶ Obligation to properly manage invention information
- ▶ Requirement of approval for sharing the invention with other businesses
- ▶ Prohibition on filing of applications in foreign countries

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

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

6. Compensation

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

Effective date

- Within 2 years after promulgation

経済安全保障推進法の概要

(経済施策を一体的に講ずることによる安全保障の確保の推進に関する法律)

法律の趣旨

国際情勢の複雑化、社会経済構造の変化等に伴い、安全保障を確保するためには、経済活動に関して行われる国家及び国民の安全を害する行為を未然に防止する重要性が増大していることに鑑み、安全保障の確保に関する経済施策を総合的かつ効果的に推進するため、基本方針を策定するとともに、安全保障の確保に関する経済施策として、所要の制度を創設する。

法律の概要

1. 基本方針の策定等（第1章）

- ・経済施策を一体的に講ずることによる安全保障の確保の推進に関する基本方針を策定。
- ・規制措置は、経済活動に与える影響を考慮し、安全保障を確保するため合理的に必要と認められる限度において行われなければならない。

2. 重要物資の安定的な供給の確保に関する制度（第2章）

国民の生存や、国民生活・経済活動に甚大な影響のある物資の安定供給の確保を図るため、特定重要物資の指定、民間事業者の計画の認定・支援措置、特別の対策としての政府による取組等を措置。

特定重要物資の指定

- ・国民の生存に必要不可欠又は国民生活・経済活動が依拠している物資で、安定供給確保が特に必要な物資を指定

事業者の計画認定・支援措置

- ・民間事業者は、特定重要物資等の供給確保計画を作成し、所管大臣が認定
- ・認定事業者に対し、安定供給確保支援法人等による助成やツーステップローン等の支援

政府による取組

- ・特別の対策を講ずる必要がある場合に、所管大臣による備蓄等の必要な措置

その他

- ・所管大臣による事業者への調査

3. 基幹インフラ役務の安定的な提供の確保に関する制度（第3章）

基幹インフラの重要設備が我が国の外部から行われる役務の安定的な提供を妨害する行為の手段として使用されることを防止するため、重要設備の導入・維持管理等の委託の事前審査、勧告・命令等を措置。

審査対象

- ・対象事業：法律で対象事業の外縁（例：電気事業）を示した上で、政令で絞り込み
- ・対象事業者：対象事業を行う者のうち、主務省令で定める基準に該当する者を指定

事前届出・審査

- ・重要設備の導入・維持管理等の委託に関する計画書の事前届出
- ・事前審査期間：原則30日（場合により、短縮・延長が可能）

勧告・命令

- ・審査の結果に基づき、妨害行為を防止するため必要な措置（重要設備の導入・維持管理等の内容の変更・中止等）を勧告・命令

4. 先端的な重要技術の開発支援に関する制度（第4章）

先端的な重要技術の研究開発の促進とその成果の適切な活用のため、資金支援、官民伴走支援のための協議会設置、調査研究業務の委託（シンクタンク）等を措置。

国による支援

- ・重要技術の研究開発等に対する必要な情報提供・資金支援等

官民パートナーシップ（協議会）

- ・個別プロジェクトごとに、研究代表者の同意を得て設置
- ・構成員：関係行政機関の長、研究代表者/従事者等
- ・相互了解の下で共有される機微情報は構成員に守秘義務

調査研究業務の委託（シンクタンク）

- ・重要技術の調査研究を一定の能力を有する者に委託、守秘義務を定める

5. 特許出願の非公開に関する制度（第5章）

安全保障上機微な発明の特許出願につき、公開や流出を防止するとともに、安全保障を損なわずに特許法上の権利を得られるようにするため、保全指定をして公開を留保する仕組みや、外国出願制限等を措置。

技術分野等によるスクリーニング（第一次審査）

- ・特許庁は、特定の技術分野に属する発明の特許出願を内閣府に送付

保全審査（第二次審査）

- ① 国家及び国民の安全を損なう事態を生ずるおそれの程度
- ② 発明を非公開とした場合に産業の発達に及ぼす影響等を考慮

保全指定

- ・指定の効果：出願の取下げ禁止、実施の許可制、開示の禁止、情報の適正管理等

外国出願制限

補償

施行期日

・公布（令和4年5月18日）後6月以内～2年以内 ※段階的に施行

重要物資の安定的な供給の確保に関する制度の概要

(経済安全保障推進法 第2章)

趣旨

- 国民の生存や、国民生活・経済に甚大な影響のある物資の安定供給の確保を図ることは重要。
- 重要な物資の安定供給確保を講じる制度を整備する必要。
- 政府は安定供給を確保すべき物資を指定。所管大臣は民間事業者が策定した供給確保のための計画を認定し支援措置を実施。民間への支援では対応が難しい場合には特別の対策を措置。

概要

1. 特定重要物資の安定供給確保に関する基本指針を策定

2. 特定重要物資の指定（政令指定）

特定重要物資	国民の生存に必要不可欠又は広く国民生活・経済活動が依拠している重要な物資で、当該物資又はその原材料等を外部に過度に依存し、又は依存するおそれがある場合において、外部の行為により国家及び国民の安全を損なう事態を未然に防止するため、安定供給の確保を図ることが特に必要と認められる物資
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3. 安定供給確保取組方針の策定

- ・所管大臣が特定重要物資又はその原材料等の安定供給確保を図るための取組方針を策定。

4. 民間事業者による供給確保計画の策定と支援措置

- ・民間事業者は、特定重要物資等の安定供給確保のための取組（※）に関する計画を作成し、所管大臣の認定を受けることが可能。認定を受けた事業者は、以下の支援を受けることが可能。

（※）生産基盤の整備、供給源の多様化、備蓄、生産技術開発、代替物資開発 等

(1) 安定供給確保支援法人等による助成等の支援

- ① 認定供給確保事業者の取組への助成
- ② 認定供給確保事業者へ融資を行う金融機関への利子補給

(2) 株式会社日本政策金融公庫法の特例（ツーステップローン）

(3) 中小企業投資育成株式会社法の特例

(4) 中小企業信用保険法の特例

5. 特別の対策を講ずる必要がある特定重要物資と政府による取組等

- ・4. の民間事業者への支援措置では安定供給確保を図ることが困難な場合、所管大臣は「特別の対策を講ずる必要がある特定重要物資」として指定。所管大臣は、備蓄等の必要な措置を講ずる。

6. 特定重要物資等に係る市場環境の整備（公正取引委員会・関税定率法との関係）

7. その他

- ・所管大臣は各物資の生産・輸入・販売の事業を行う者に対し、その状況について調査を実施可。

施行期日

- ・公布後9月以内

基幹インフラ役務の安定的な提供の確保に関する制度の概要

(経済安全保障推進法 第3章)

趣旨

- 基幹インフラ役務（電気・ガス・水道等）の安定的な提供の確保は安全保障上重要。
- 基幹インフラの重要設備は役務の安定的な提供を妨害する行為の手段として使用されるおそれあり。
- 基幹インフラの重要設備が我が国の外部から行われる役務の安定的な提供を妨害する行為の手段として使用されることを防止するため、重要設備の導入・維持管理等の委託を事前に審査。

概要

1. 基幹インフラ役務の安定的な提供の確保に関する基本指針を策定

- ・対象事業者の指定に関する基本的な事項（当該指定に関し経済的社会的観点から留意すべき事項を含む）
- ・配慮すべき事項（重要設備等を定める主務省令の立案に当たって配慮すべき事項を含む）
- ・対象事業者その他の関係者との連携に関する事項 等

2. 審査対象

(1) 対象分野（法律で対象事業の外縁を示した上で、政令で絞り込み）

電気	ガス	石油	水道	鉄道
貨物自動車運送	外航貨物	航空	空港	電気通信
放送	郵便	金融	クレジットカード	

(2) 対象事業者・・・主務大臣が指定

- ・対象事業を行う者のうち、①重要設備（具体的な重要設備は主務省令で指定）の機能が停止・低下した場合に、②役務の安定的な提供に支障が生じ、③国家・国民の安全（国民の生存・社会経済秩序の平穏）を損なうおそれが大きいものとして主務省令で定める基準に該当する者

3. 審査（重要設備が我が国の外部から行われる役務の安定的な提供を妨害する行為の手段として使用されるおそれが大きいかどうか）

(1) 重要設備の導入・維持管理等の委託に関する計画書の事前届出

<計画書の記載事項の例>

- ①導入の場合 重要設備の概要、内容・時期、供給者、重要設備の部品等
- ②維持管理等の委託の場合 重要設備の概要、内容・期間、委託の相手方、再委託等

(2) 事前審査期間（原則として届出受理から30日間）

- ・審査の必要がないときは短縮可。
- ・審査や勧告・命令に必要なときは延長可（届出受理から最長4月間）。

4. 勧告・命令（妨害行為を防止するため必要な措置）

- ・審査の結果、重要設備が我が国の外部から行われる役務の安定的な提供を妨害する行為の手段として使用されるおそれが大きいと認めるときは、妨害行為を防止するため必要な措置（重要設備の導入・維持管理等の内容の変更・中止等）を勧告。
- ・勧告後10日以内に勧告を応諾するかしないかの通知を義務付け。
- ・勧告を応諾するかしないかの通知がないときや、応諾しない旨の通知があったとき（正当な理由がある場合を除く）は、勧告に係る措置を命令。

5. 主務大臣の責務（対象事業者に対し、妨害行為の防止に資する情報を提供）

施行期日

- ①審査対象 公布後1年6月以内 ②審査・勧告・命令 公布後1年9月以内

（対象事業者の指定から6月間は経過措置として適用を開始しない）

先端的な重要技術の開発支援に関する制度の概要

(経済安全保障推進法 第4章)

趣旨

- 民間部門のみならず、政府インフラ、テロ・サイバー攻撃対策、安全保障等の様々な分野で今後利用可能性がある先端的な重要技術の研究開発の促進とその成果の適切な活用は、中長期的に我が国が国際社会における確固たる地位を確保し続ける上で不可欠。
- このため、特定重要技術研究開発基本指針を策定するとともに、資金支援、官民伴走支援のための協議会設置、調査研究業務の委託（シンクタンク）等を措置。

概要

1. 特定重要技術研究開発基本指針の策定及び国による支援

- ・政府は、特定重要技術の研究開発の促進及びその成果の適切な活用に関する基本指針を策定。
- ・本指針に基づき、特定重要技術の研究開発等に対し、必要な情報提供・資金支援等を実施。

特定重要
技術

先端的な技術のうち、研究開発情報の外部からの不当な利用や、当該技術により外部から行われる妨害等により、国家及び国民の安全を損なう事態を生ずるおそれがあるもの
(具体的には、宇宙・海洋・量子・AI等の分野における先端的な重要技術を想定)

2. 官民パートナーシップ[°]（協議会）

(1) 協議会の設置

- ・国の資金により行われる特定重要技術の研究開発等について、その資金を交付する大臣（研究開発大臣）が、基本指針に基づき、個別プロジェクトごとに、研究代表者の同意を得て協議会を設置。必要と認める者を、その同意を得て構成員として追加。

※指定基金（経済安全保障重要技術育成プログラム（令和3年度補正予算））においては必置

(2) 協議会の構成員

- ・研究開発大臣 ・国の関係行政機関の長 ・研究代表者/従事者 ・シンクタンク 等

(3) 協議会の機能

- ・研究開発の推進に有用なシーズ・ニーズ情報の共有や社会実装に向けた制度面での協力など、政府が積極的な伴走支援を実施。
- ・お互いの了解の下で共有される機微な情報について、協議会構成員に対し、適切な情報管理と国家公務員と同等の守秘義務を求める。

※守秘義務の対象となる情報は、政府のこれまでの研究成果、サイバーセキュリティの脆弱性情報等を想定。

※研究成果は公開が基本。研究者を含む協議会が、研究開発の進展や技術の特性、政府インフラ、テロ・サイバー攻撃対策、安全保障等での利用において支障のある技術に関し、研究開発の促進方策や個々の技術の成果の取扱等を決定。

3. 調査研究業務の委託（シンクタンク）

- ・特定重要技術の見定めやその研究開発等に資する調査研究を、内閣総理大臣が一定の能力を有する機関（特定重要技術調査研究機関）に委託し、守秘義務を求める。

施行期日

- ・公布後9月以内

特許出願の非公開に関する制度の概要

(経済安全保障推進法 第5章)

趣旨

特許出願の非公開制度を導入することにより、

- 公にすることにより国家及び国民の安全を損なう事態を生ずるおそれ大きい発明が記載されている特許出願につき、出願公開等の手続を留保するとともに、その間、必要な情報保全措置を講じることで、特許手続を通じた機微な技術の公開や情報流出を防止。
- これまで安全保障上の観点から特許出願を諦めざるを得なかった発明者に特許法上の権利を受ける途を開く。

概要

1. 特許出願の非公開に関する基本指針を策定

2. 技術分野等によるスクリーニング（第一次審査）

- ・特許庁は、公にすることにより国家及び国民の安全を損なう事態を生ずるおそれ大きい発明が含まれ得る技術分野（※）に属する発明が記載されている特許出願を、内閣府に送付

※ 核技術、先進武器技術等の中から下記3①②の観点を踏まえて絞り込んだもの

▶ 第一次・第二次審査中及び保全指定中は、出願公開及び特許査定を留保

3. 保全審査（第二次審査）

- ・「保全審査」（＝発明の情報を保全することが適当と認められるかの審査）における考慮要素

① 国家及び国民の安全を損なう事態を生ずるおそれの程度

② 発明を非公開とした場合に産業の発達に及ぼす影響 等

▶ 内閣府は、審査に当たり、国の機関や外部の専門家の協力を得、また、国の関係機関に協議

▶ 保全指定をする前に、出願人に対し、特許出願を維持するか意思確認を実施

4. 保全指定

- ・「保全対象発明」を指定、出願人に通知

※ 指定の期間：1年以内、以後、1年ごとに延長の可否を判断

※ 指定の効果：

- | | |
|--------------------|---------------|
| ▶ 出願の取下げ禁止 | ▶ 発明の実施の許可制 |
| ▶ 発明内容の開示の原則禁止 | ▶ 発明情報の適正管理義務 |
| ▶ 他の事業者との発明の共有の承認制 | ▶ 外国への出願の禁止 |

5. 外国出願制限（第一国出願義務）

- ・日本でした2の技術分野に属する発明については、まず日本に出願しなければならないこととする第一国出願義務を規定（特許庁に対し、該当するかどうかを事前相談可能）

6. 補償

- ・発明の実施の不許可等により損失を受けた者に対し、通常生ずべき損失を補償

施行期日

- ・公布後2年以内