Japan's economic security legislation

At their summit in Hiroshima (Japan), G7 leaders agreed to coordinate their approach to economic resilience and economic security. In the EU, this was followed by the Economic Security Strategy presented in June 2023. Among the G7 countries, Japan was the first to announce, in the autumn of 2021, a legislative package meant to reinforce economic resilience and economic security, now in the final stage of implementation. Cooperation on economic security will feature on the agenda of the 29th EU–Japan summit on 13 July 2023.

Japan, the 'early bird' of economic security legislation

In the run-up to his appointment as Japan's 102nd prime minister on 4 October 2021, Kishida Fumio had made it understood that he wanted 'to create a new ministerial post for economic security', which some media described as a 'veiled counter to alleged technology theft by China'. On 11 May 2022, the Diet of Japan approved the 'Act on the promotion of national security through integrated economic measures' (Act No 43 of 2022), based on a draft proposal adopted by the Cabinet on 25 February 2022. Key features of this Economic Security Protection Act (ESPA) include the establishment of:

1. a system to ensure stable supplies of critical materials (Articles 6 to 40);
2. a system to ensure stable provision of services using critical infrastructure (Articles 40 to 59);
3. a system that supports the development of critical technologies (Articles 60 to 64);
4. a secret patent system (Articles 65 to 85).

Major decisions are prepared and taken by the 'Council of Experts on Economic Security Legislation' established on 25 July 2022. Members of this Expert Council have been recruited from think-tanks, universities, business associations and big companies. The Council meets regularly, and its meetings are steered by the Minister in charge of economic security, currently Takaishi Sanae.

Timeline of implementing the ESPA

The ESPA left details of the regulation to cabinet and ministerial orders, and envisaged the following schedule for the basic policy (document) and for the entry into force of the envisaged (basic) legal guidelines in the four areas mentioned above: i) resilient supply chain and reinforcement of technological base: 18 February 2023; ii) security of critical infrastructure: 18 November 2023; iii) secret patents: 18 May 2024. The adoption of relevant legal rules has advanced faster than planned. In the area of 'reinforcement of technological base', for instance, the Cabinet adopted the 'basic guidelines' for the promotion of specific key technologies on 30 September 2022. According to the Nikkei newspaper, the extra budget for fiscal year 2022/2023 (which ended on 1 March 2023) allocated 1.03 trillion Japanese Yen (US$7.8 billion) towards the costs of providing assistance under the economic security law. (More details on the further advancement of implementing measures can be found on the homepage of the 'Expert Council on Economic Security Legislation', taking into account that the Japanese year of reiwa 5 corresponds to the Western calendar year of 2023.)

State of implementation in the four areas defined by the ESPA

Supply chains

The guidelines set four conditions for an item to qualify for government support: it has to be essential for the survival of the people, is currently overly reliant on external supplies, might be subject to supply disruptions, and is needed to ensure stable supplies.

In-between, 11 goods (semiconductors, rare earths, medical supplies, fertilisers, ship parts, liquefied natural gas, aircraft parts, cloud applications, antimicrobials, storage batteries, industrial robots and machine tools) have been qualified as 'specifically designated important supplies'.


Businesses supplying these products will submit plans to diversify sources and stockpile goods, and can then ask for financial support from the government.

**Critical infrastructure**

On 12 June 2023, the government **presented** the Expert Council with criteria for conducting screenings before new facilities are set up in well-defined sectors, in order to protect critical infrastructure from cyber-attacks and other threats (**Status of Consideration** for the Commencement of Operation of the System for Securing the Stable Provision of Specified Social Infrastructure Services'). The sectors concerned are: electricity distribution; gas pipelines; railways and cargo transport; air transport and airports; telecommunications; terrestrial broadcasting; postal service; banking, fund transfer, insurances and financial markets; and payment systems. The 'Basic Policy on Economic and Fiscal Management and Reform 2023' **document** (a kind of annual economic and fiscal work programme), which was approved by the Cabinet on 16 June 2023, states that 'in the field of critical infrastructure, we will cooperate with allies and comrades, including improving the autonomy of international communications'.

**Promotion of critical technologies**

As of October 2022, the government **had singled** out the following 20 technologies as critical fields: biotechnology; medical and public health technology; artificial intelligence and machine learning; advanced computing; microprocessor and semiconductor technology; data science, analysis, storage and management; advanced engineering and manufacturing technology; robotics; quantum information science; advanced surveillance, positioning and sensing technology; neurocomputing and brain interface technology; advanced energy and energy storage technology; advanced information, communication and networking technology; cybersecurity; space technology, marine technology; transport technology; hypersonics; chemical, biological, radiation and nuclear technology; and advanced materials science. In its 2023 economic and fiscal work programme **work programme** (see above), approved by the Cabinet on 16 June 2023, the government has also announced financial support for and public capital participation in companies with advanced technology.

**Secret patents/Non-disclosure of patents for security reasons**

On 12 June 2023, the government submitted to the Expert Council the **Status of Consideration** for the Commencement of Operation of the Non-Disclosure System for Patent Applications', in which it **proposes** 25 technical fields that might be used for military purposes and in which patents should therefore be kept secret. These include technologies for unmanned aerial and underwater vehicles, for position management, for defence against aircraft and guided missiles, and technologies relating to telecommunications, to nuclear explosive devices, and to ammunitions and warheads.

**Economic security and EU–Japan relations**

Japan’s (new) **National Security Strategy** (NSS) adopted by the Cabinet on 16 December 2022, in its chapter 5 (Promoting economic security policies to achieve autonomous economic prosperity) takes up these four areas in need of public intervention and announces ‘additional measures to enhance investment screening and export controls’. The strategy also announces effective efforts against economic coercion by foreign countries. The **Joint communication** by the Commission and the High Representative on a European economic security strategy' of 20 June 2023 focuses on interventions in four areas, of which at least two – supply chains, critical infrastructure – seem to be defined very similarly. Furthermore, the additional measures announced by Japan in its new NSS, in particular on investment screening and economic coercion touch upon areas in which the EU has already introduced **legislation** or reached a **political agreement**. This increasing convergence in the approach to economic security could explain why this topic ranks prominently on the agenda of the **EU–Japan Summit** of 13 July 2023. On 3 July 2023, on the occasion of the first meeting of the EU–Japan Digital Partnership Council in Tokyo, the EU and Japan signed a **memorandum of cooperation** on submarine cables for secure, resilient and sustainable global connectivity.

Discussions at the summit will also focus on the bilateral green alliance and the digital partnership, in line with the EU’s commitment to the green and digital transitions and with the outline of Japan’s 2021 **growth strategy**.