

Keidanren's actions on Economic Security Bill (tentative translation)

March 30, 2022

Keidanren (Japan Business Federation)

Jun. 2020	Keidanren	Discussions begin on economic security, including interviews with government officials and experts
Nov. 26, 2021	Government of Japan	Council of Experts on Economic Security Legislation launched
Feb. 1, 2022	Council of Experts on Economic Security Legislation	“Proposal on Economic Security Legislation” released
Feb. 7	Keidanren	Meeting with Takayuki KOBAYASHI, Minister in Charge of Economic Security
Feb. 9	Keidanren	“Views on Economic Security Legislation” hand overed to Minister KOBAYASHI
Feb. 25	Government of Japan	Cabinet Decision on Economic Security Bill
Mar. 14	Keidanren, JCCI (Japan Chamber of Commerce and Industry), Kankeiren (Kansai Economic Federation)	“Calling for Early Enactment of the Economic Security Bill” hand overed to Minister KOBAYASHI
Mar. 17	Diet	Deliberations begin on Economic Security Bill

Meeting with Minister KOBAYASHI

- On Feb. 7, Keidanren met with Minister KOBAYASHI and requested to minimize governmental restrictions on corporate activity when considering Economic Security Bill



Chairman Masakazu TOKURA's statement:

- Ensuring economic security while maintaining free economic activity is an urgent issue
- The Japanese government has already initiated various measures, and in addition, is planning to introduce a bill which includes issues that require legal basis. Keidanren supports this policy
- When considering the bill and governmental or ministerial order, we look forward to Minister Kobayashi's leadership to keep any restrictions on corporate activity to the minimum and to ensure predictability



Minister KOBAYASHI's statement:

- Economic security is an urgent issue, and has been designated one of the Kishida administration's top priorities
- "Proposal on Economic Security Legislation" by the Council of Experts reflects many of the Keidanren's opinions.
- Freedom is the major premise behind economic activity. Predictability for companies should be enhanced and regulations should be kept to the minimum. We plan to formulate the bill with Keidanren's views into consideration.

Keidanren: “Views on Economic Security Legislation” (Feb. 9, 2022)

- It is impossible to separate economy and national security. Ensuring security on economic aspects is an urgent task
- The Japanese government has already initiated various measures, and in addition, is planning to introduce a bill which includes issues that require legal basis Keidanren supports this policy
- “Proposal on Economic Security Legislation” by the Council of Experts, as a whole, considers freedom of economic activity and consistency with international law

The following:

- Expresses the Keidanren’s basic views on points to consider, etc. when considering the draft of Economic Security Bill in line with the four areas in the Council of Experts proposal (I)
- Recommends policies to be discussed and initiated in parallel to enhance the effectiveness of the bill (II)

I. Views on the legislation

○ Items to be considered cross-sectionally

1. Strengthening supply chain resilience

- (1) Basic stance
- (2) Scope of the legislation
- (3) Supportive measures
- (4) Investigation

2. Ensuring security and reliability of core infrastructure

- (1) Basic stance
- (2) Scope of the legislation
- (3) Preliminary review
- (4) Retroactive application

3. Public-private cooperation on technology

- (1) Basic stance
- (2) Scope of support (Advanced important technology)
- (3) Council
- (4) Think tanks

4. Non-disclosure of patent application

- (1) Basic stance
- (2) Scope of the legislation
- (3) Review process
- (4) Usage of the non-disclosure invention
- (5) Compensation

II. Issues to be discussed and initiated in parallel

1. Strengthening economic intelligence

2. Discussing information security system

Policy measures to promote the expansion of inward investment

3. Dealing with extraterritorial application

4. Dealing with human rights issues

Policy measures required to strengthen supply chain resilience

Proposals Hand Overed to Minister KOBAYASHI

- On Feb. 9, Chairs of Committee on Foreign Affairs Shinya KATANOZAKA and Takeo OBAYASHI, and Chair of Planning Subcommittee Kenichi KOKUBO hand overed “Views on Economic Security Legislation” to Minister KOBAYASHI, and requested to take Keidanren views into consideration in formulating the legislation.



* From left: Parliamentary Vice-Minister of Cabinet Office Hiroo KOTERA, State Minister of Cabinet Office Keitaro OHNO, Minister KOBAYASHI, Chair KATANOZAKA, Chair OBAYASHI, Subcommittee Chair KOKUBO

Keidanren statements:

- Keidanren supports the Government’s initiative to develop a new legislation
- “Proposal on Economic Security Legislation” by the Council of Experts is overall considerate of freedom of economic activity and consistent with international rules
- We ask that the Keidanren’s views are duly reflected in formulating the bill

Minister KOBAYASHI’s response:

- In light of the Keidanren recommendations, we would like to accelerate preparations to formulate the legislation
- We would like to keep close communication with business on the details after the enactment of the bill

Overview of Economic Security Bill

(Bill on Promotion of Ensuring Security by Taking Economic Measures in an Integrated Manner)

Purpose

With increased complexity in international conditions and changes in socioeconomic structure, etc., to ensure security, there is an increasing importance of preventing actions that would harm the safety of the nation or citizens with respect to economic activity in advance; in light of this, to comprehensively and effectively promote economic measures to ensure security, this Bill establishes necessary programs as economic measures to ensure security and formulates a basic policy.

Overview

General Provisions, etc.

- Formulates basic policy regarding promotion of ensuring security by taking economic measures in an integrated manner
(Based on basic policy, basic guidelines for each sector is formulated through hearing views from persons with expertise)
- Regulatory measures shall be limited to the reasonably necessary extent to ensure security with consideration to impact on economic activity

Programs to ensure stable supply of critical materials

To ensure stable supply of materials with tremendous influence on citizens' lives, lifestyles, or economy, Government designates specified critical materials, certifies and supports private-sector businesses' plans, and carries out special countermeasure initiatives, etc.

Programs to ensure stable supply of core infrastructure services

To prevent critical core infrastructure equipment from being used as means to impede the stable provision of services from outside Japan, Government conducts prior review and makes recommendations or orders, etc. when necessary for the adoption, maintenance, and management, etc. of critical equipment

Programs to support development of critical state-of-the-art technologies

To promote research and development of state-of-the-art critical technologies and appropriately leverage the output thereof, Government provides monetary support, establish councils for public-private partnerships, and outsource investigation and research operations (think tanks), etc.

Programs for non-disclosure of patent applications

To prevent disclosure or leaks of patent applications for inventions that are sensitive from a security perspective, and ensure that rights under patent law can be obtained without harming security, Government establishes a mechanism to withhold disclosure by designating security and restricts foreign patent application etc.

Joint Statement of Three Organization

Calling for Early Enactment of the Economic Security Bill

March 14, 2022

Japan Business Federation (Keidanren)

Japan Chamber of Commerce and Industry (JCCI)

Kansai Economic Federation (Kankeiren)

As international conditions become increasingly challenging, it is no longer possible to consider economy and security separately. Ensuring security from an economic perspective is an urgent issue.

In this context, on Feb. 25 the Japanese Government gave Cabinet approval to the “Bill on Promotion of Ensuring Security by Taking Economic Measures in an Integrated Manner” and is seeking its enactment in the current ordinary Diet session. As business, we support this policy.

Overall, the bill is considerate of freedom of economic activity and consistency with international rules, reflecting proposals by the Council of Experts on Economic Security Legislation established through intensive, robust debate, including refraining from retroactive application on review of critical equipment for core infrastructure.

At the same time, in developing Basic guidelines or Cabinet/ministerial orders in each sector, the scope should be limited to the minimum to avoid excessive burdens on businesses. In particular, in designating companies and equipment targeted by measures to ensure safety and reliability of core infrastructure, particular consideration for burdens and impacts on small/medium-sized enterprises should be considered.

We request the Government put utmost effort to pass and enact the proposed legislation, and once it is enacted, we request the Government to establish Cabinet and ministerial orders, etc. with reflecting the business views fully. In addition, to enhance Japan’s international competitiveness, it is necessary to take various initiatives simultaneously to strengthen Japan’s industrial competitiveness, including efforts to take further steps to promote regulatory reform, attain international standards, and develop/secure talent.

Joint Statement Hand Overed to Minister KOBAYASHI

- On Mar. 14, Chair of Committee on Foreign Affairs KATANOZAKA and representatives from JCCI and Kankeiren hand overed a joint statement “Calling for Early Enactment of the Economic Security Bill” to Minister KOBAYASHI



* From left: Parliamentary Vice-Minister of Cabinet Office KOTERA, State Minister of Cabinet Office OHNO, Minister KOBAYASHI, Chair of Committee on Foreign Affairs KATANOZAKA, Executive Managing Director of JCCI KUGAI, Senior Managing Director of Kankeiren SEKI

Business community's statements

- We support the Government for preparing new legislation. Following Enactment of the bill, we request that Cabinet/ministerial orders, etc. be formulated reflecting the business' views (Keidanren)
- We hope that consideration will be given to small/medium-sized companies (JCCI)
- We hope for close communication with industry (Kankeiren)

Minister KOBAYASHI's response

- It is encouraging to receive this proposal calling for prompt enactment of the bill. I will make best effort towards enactment.
- I pledge to work with industry in developing Cabinet/ministerial orders

Issues to be discussed and initiated in parallel with the Economic Security Bill (1)

1. Strengthening economic intelligence

To enhance the effectiveness of economic security policy, the governments' economic intelligence should be strengthened. It is necessary to strengthen the capability of each intelligence institution, as well as deepening information sharing with allied countries and relevant agencies and sharing with companies to the extent possible. The Government should also continue to strengthen control on the leaks of sensitive information, etc.

2. Discussing an information security system

As a medium- to long-term issue, the Government should aim to adopt an effective information security system which can earn the trust of partner countries.

3. Dealing with Extraterritorial application

Other countries' extraterritorial application of economic security laws and regulations is opaque and unpredictable for Japanese companies and could even inhibit free corporate activity. While making efforts to ensure self-sufficiency, it is necessary to address measures to minimize the impact on Japanese companies via, at minimum, prior consultations, etc.

4. Dealing with human rights issues

Alongside ensuring economic security, dealing with human rights issues has become a subject for enhancing supply chain resilience for companies. There are concerns that stopping transactions with certain companies will lead to retaliatory measures in that country, or a company which could not prove that a supplier suspected of abetting human rights violations are not included in the supply chain will be subject to import restrictions. It is impossible for a single company to address such a situation on its own, so as a government, recommending companies to do their due diligence will not solve the problem. As such, it will be necessary for the Government of Japan to quickly consider how to deal with the above-mentioned retaliatory measures and import restrictions.

Issues to be discussed and initiated in parallel with the Economic Security Bill (2)

To enhance Strategic Autonomy and ensure Strategic Indispensability, it is necessary to expand domestic investment, through arranging proper conditions. In addition to securing the necessary budget for fiscal support, it is necessary to promote the following initiatives simultaneously to be evaluated as wise spending.

- Further promotion of regulatory reform
- Establishing international standards
- Developing and securing highly skilled talent, particularly in the digital area etc.

Making efforts toward the following is essential to enhance supply chain resiliency

- Expanding and deepening EPAs and FTAs
- Amending and entering into investment and tax treaties (Asia, Central/South America, Africa, etc.)
- Enhancing transparency of various countries' trade- and investment-related measures
- Promoting Data Free Flow with Trust; DFFT (formulating multilateral digital rules)
- Strengthening connectivity through high-quality infrastructure
- Harmonization/mutual recognition of standards and criteria with other countries
- Ensuring marine transportation and aviation services