

Japan's Economic Security Bill: "New Form of Capitalism Realization"

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Abstract: *The introduction of the new economic security bill by Japan is being touted as a geopolitical tool to safeguard Tokyo's cutting-edge technology from being exploited by the likes of Russia, China and North Korea. At the same time, it is also being promoted as a means to secure the domestic supply-chain of sensitive items such as semiconductors, medical supplies and rare-earth metals. This article seeks to find the focus of the economic security bill and the reasons for its introduction by Japan at this juncture. It will also delve into the possibility of how the bill may impact Japan's strategic partners, particularly India, which depends on defence and technology cooperation with Tokyo. With Indian defence and high-tech industries lacking indigenous manufacturing, and the unacceptability of continued dependence upon China for sensitive high-end technologies like semiconductors, certain facets of the economic security bill require further examination.*

Keywords: Economic Security, Japan, Cyber-attacks, Semiconductors, Technology transfer, Patents

Introduction

On 25 February 2022, Japan's Cabinet had approved a draft law to promote economic security by "strengthening supply chains for vital products such as semiconductors and to better cope with geopolitical risks".¹ Japan's Economic Security Bill focuses upon four main areas: "strengthening the security of key infrastructure, reinforcing supply chain stability, facilitating public-private cooperation on developing cutting-edge technology, and keeping patents on sensitive technologies secret".² The bill is currently placed for discussion in the ongoing parliamentary session and the government of Japan is expecting that it will be cleared through the Diet by June 2022.³ This bill is part of Prime Minister Fumio Kishida's emergency proposal for a "New Form of Capitalism Realization", which was also his campaign slogan in October 2021, and through which he has signalled his concept of a new, post-Covid-19 society.⁴ The economic security segment is the fourth part of the growth-strategy envisioned in the outline of the emergency proposal. The emergency proposal, which was published officially on November 8, 2021, consists of a vision, growth and distribution strategy.⁵ Prime Minister Fumio Kishida is on a

¹ Manichi Japan. 2022. *Japan's Cabinet approves draft law to promote economic security*. February 26. Accessed March 11, 2022. <https://mainichi.jp/english/articles/20220226/p2g/00m/0na/006000c>.

² Nagata, Kazuaki. 2022. *The Japan Times*. February 25. Accessed March 11, 2022. <https://www.japantimes.co.jp/news/2022/02/25/business/economic-security-bill-cabinet/>.

³ Ibid.

⁴ Prime Minister of Japan and his Cabinet. 2021. *Outline of Emergency Proposal Toward the Launch of a "New Form of Capitalism" that Carves Out the Future*. November 8. Accessed March 11, 2022. https://japan.kantei.go.jp/ongoingtopics/_00001.html

⁵ Ibid.

pressing course to introduce his policy for reviving and sustaining the Japanese economy through the domestic approach, while leaving behind the pre-Covid-19 era of “Abenomics”.

The Economic Security Bill

The plans on the economic-security legislation found firm ground once the “*first-ever ministerial post for economic security*” was established in October 2021.⁶ The third-term Liberal Democratic Party (LDP) member, Takayuki Kobayashi, was appointed by Prime Minister Fumio Kishida to man the helm. Japan’s trysts with policies to promote economic security on a global level have been remarkable. In the years of Abe’s second stint as the Prime Minister of Japan, his administration had established an advisory council to develop a strategy for infrastructure exports, with emphasis on “quality infrastructure” and “quality investment”. It was the outcome of what had been touted as the policy of “Abenomics” in 2013. India had also sought to align herself through the “Act East Policy” with Japan’s “Partnership for Quality Infrastructure” in 2015, as had been stated in the joint statement on *India and Japan Vision 2025*.⁷ It showcased Japan’s more proactive drive towards an economic statecraft, which, according to Ikagata and Glosserman (2021), was based on three factors. First, the changing nature of advanced technologies. Second, how the Free and Open Indo-Pacific (FOIP) concept was framing Japan’s policy. Finally, the impact of China’s rise and the resultant aggressive policies.⁸

However, under the “New Form of Capitalism Realization”, the current economic security bill approved by the Cabinet and tabled for discussion in the national diet is proving to be a more domestically-oriented piece of legislation. It is stipulated that the current bill would primarily focus upon safeguarding key infrastructure from cyber-attacks, while pushing for a public-private partnership in developing cutting-edge technologies and ensuring that certain patents related to sensitive technologies were not made public.⁹ Companies would have to mandatorily demonstrate that sufficient precautions against cyber-attacks had been taken and foreign-made equipment was not being procured.¹⁰ In addition, companies would also have to submit their factory blueprints for government assessment. The bill carries a penal provision for non-compliance, wherein defaulting companies could be fined a maximum of JPY 1 Million (USD 8,650) or up to two years of imprisonment for the person-in-charge.¹¹ Japanese business lobbies had already advised that the

⁶ Goodman, Matthew P. 2021. *CSIS*. October 27. Accessed March 11, 2022. <https://www.csis.org/analysis/economic-security-shared-us-japan-priority>.

⁷ Ministry of External Affairs. 2015. "Joint Statement on India and Japan Vision 2025: Special Strategic and Global Partnership Working Together for Peace and Prosperity of the Indo-Pacific Region and the World (December 12, 2015)." *Ministry of External Affairs*. December 12. Accessed March 11, 2022. https://www.mea.gov.in/bilateral-documents.htm?dtl/26176/Joint_Statement_on_India_and_Japan_Vision_2025_Special_Strategic_and_Global_Partnership_Working_Together_for_Peace_and_Prosperty_of_the_IndoPacific_R.

⁸ Akira Igata & Brad Glosserman. 2021. “Japan’s New Economic Statecraft.” *The Washington Quarterly*, 44:3, 25-42. Accessed March 11, 2022. DOI: 10.1080/0163660X.2021.1970334

⁹ Ibid 1.

¹⁰ Ryutaro Abe. 2022. “New economic security law now before Diet for approval.” *The Asahi Shimbun*. February 26. Accessed March 12, 2022. <https://www.asahi.com/ajw/articles/14558513>

¹¹ Ibid.

excessive restrictions and penalties might hurt Japanese firms competitively.¹² There are concerns over how the bill would eventually infringe upon private-sector economic activity, with the government retaining the authority to evaluate corporate plans. For companies handling goods such as semiconductors, medical supplies, and rare earth metals, the government is offering financial support if they are compliant with the upcoming law.¹³

Threats and Vulnerabilities for Japan

Japan's Ministry of Economy, Trade and Industry (METI) had issued a press release on February 23, 2022, regarding strengthening cyber-security measures based on the Ukraine-Russia situation.¹⁴ Japan's automobile manufacturer, Toyota Motor Corporation, incidentally, suffered a one-day shutdown of its plants on 28 February 2022, as a result of a system malfunction caused by a cyberattack.¹⁵ There have been no official confirmation as to whether the cyber-attack originated from Russia as a retaliation to the sanctions imposed by Japan on Moscow. However, the METI was clear enough in its press release of March 1, 2022, to suggest that the "recent situation" could potentially increase the risks of cyberattacks on Japan. Additionally, METI listed measures to strengthen or implement appropriate cybersecurity in government agencies and critical infrastructure operations. Notice was intimated to examine entire supply-chains, including SMEs and their business associates, for taking steps to control risks against cyberattacks.¹⁶

The Economic Security Bill arrives amid concerns over the lack of safeguards in Japan's strategic research and technology patents, especially those related to national security. The threat of intellectual property-theft of emerging technologies because of patents being exploited for dual use, along with dangers of espionage or cyberattacks from Russia, China and North Korea, has dominated discussions on the economic security bill. The importance of semiconductors and rare earth metals is becoming more visible not just in everyday items but also for military purposes. Therefore, immense thrust is being given to strengthen domestic supply-chains and to encourage companies to invest in producing these strategically vital goods. In fact, the telecommunication sector, which is part of the 14 key sectors identified to be protected from cyber-attacks is an area of great vulnerability with the ensuing US-China geopolitical rivalry over Huawei's 4G and 5G

¹² The Japan News. 2022. "Japan to fast-track economic security bill amid growing geopolitical tensions." *Inquirer.net*. March 6. Accessed March 11, 2022. <https://newsinfo.inquirer.net/1564212/japan-to-fast-track-economic-security-bill-amid-growing-geopolitical-tensions>

¹³ Ibid 2.

¹⁴ METI. 2022. *Call Attention: Strengthen Cybersecurity Measures Based on the Recent Situation*. February 23. Accessed March 12, 2022. https://www.meti.go.jp/english/press/2022/0223_002.html

¹⁵ The Japan Times. 2022. *Toyota to restart all suspended Japan plants after supplier cyberattack*. February 28. Accessed March 12, 2022. <https://www.japantimes.co.jp/news/2022/02/28/business/corporate-business/toyota-plants-close-cyberattack/>

¹⁶ METI. 2022. *Call Attention: Strengthening Cybersecurity Measures*. March 1. Accessed March 12, 2022. https://www.meti.go.jp/english/press/2022/0301_003.html

networks. As per the emergency proposal of the “New Form of Capitalism Realization”, it is most likely that Japan is already focusing on “promotion of the so-called 6G (Beyond 5G)”.¹⁷

Ripple effect of the Economic Security Bill

When the economic security bill becomes a law, it will almost certainly result in constricting access for Chinese entities, as the screening of foreign investments in the domestic market will become far stricter. As a result, retaliations by Beijing on Japanese companies operating in China ought to be expected. Indeed, the Global Times of China published an editorial on January 18, 2022, where they warned that the Economic Security Bill would significantly affect bilateral cooperation on high-end manufacturing and high-tech fields.¹⁸ The view from China has been that such economic security legislation on the pretext of mitigating geopolitical risks will only promote rising competition and containment against China rather than cooperation.¹⁹ With China accounting for nearly one-fifth of the foreign revenues of Japanese firms, there will be losses for Japan in the short term.²⁰ The Japanese firm, Toko Tekko, which produces and sells agricultural and industrial-use drones has already raised concerns on the vagueness of the grounds for “security” in the Economic Security Bill. Hitoshi Ito, Vice-President of Toko Tekko, foresees his businesses being adversely impacted as they rely heavily upon parts made in China.²¹

The Shift in Economic Statecraft: Impact on India

Japan’s economic statecraft, which was outward oriented in the last decade, as can be recognised from the earlier policies of “quality infrastructure” and “quality investments” now appears to be shifting towards securing its domestic industry. Earlier, the objective was to provide an alternative to China’s infrastructure investments; lately, however, it is moving towards direct competition through domestic policies, with a clear focus on national security. Tokyo has a plan in place to make itself more self-sufficient and safeguard its sensitive industries. However, the policy will attract attention not only from China but from India as well. The key sectors that Japan is now looking to insulate from external influences could also have a bearing on India. It is not yet clear if the economic security legislation will impact any of the mutual defence and security agreements already in place with India. A case in point is the agreement on “Transfer of Defence Equipment and

¹⁷ Prime Minister of Japan and his Cabinet. 2021. *Outline of Emergency Proposal Toward the Launch of a "New Form of Capitalism" that Carves Out the Future*. November 8. Accessed March 12, 2022.

https://japan.kantei.go.jp/ongoingtopics/_00001.html

¹⁸ The Global Times. 2022. *Japan's economic security bill to hurt its companies in China, experts warn*. January 18. Accessed March 12, 2022. <https://www.globaltimes.cn/page/202201/1246297.shtml>

¹⁹ Ibid.

²⁰ Walter Sim. 2022. “Japan to fast-track economic security Bill amid growing geopolitical tensions.” *The Straits Times*. March 5. Accessed March 12, 2022. <https://www.straitstimes.com/asia/east-asia/japan-to-fast-track-economic-security-bill-amid-growing-geopolitical-tensions>

²¹ Tetsushi Takahashi. 2022. “Corporate Japan fears economic security bill's impact on China trade.” *Nikkei Asia*. January 16. Accessed March 12, 2022. <https://asia.nikkei.com/Spotlight/Comment/Corporate-Japan-fears-economic-security-bill-s-impact-on-China-trade>

Technology” that came into effect in March 2016.²² Similarly, the “India-Japan Cooperation on Digital Partnership” agreement that was signed in 2018, seeks cooperation in areas of next-generation technologies, such as Artificial Intelligence (AI) and Internet of Things (IoT).

The concern that these agreements will have with the new economic security legislation is in the transfer of technology and dual-use patents. Even without the economic security legislation, India had already faced a hurdle, when the Indian Navy, in July 2017, had issued a Request for Information (RFI) to Mitsubishi Heavy industries and Kawasaki Heavy industries for the *Soryu* class submarine.²³ Australia, too, had faced a similar situation when Japan became reluctant to share technology after Tokyo had initially (in 2014) offered *Soryu* submarines to Canberra.²⁴ India’s “Make in India” initiative, under which it invites foreign investments, including those from Japan, could also face difficulties if Japan’s new economic security legislation ends-up making it more restrictive to share technologies and patents of sensitive sectors pertaining to national security. Unless Tokyo manages to clarify that the new bill would not have a ripple effect with its other strategic partners, it seems quite likely that Japan will be re-entering its pre-2014 era of focusing solely on domestic markets and restricting itself from participating in joint development and production of high-end technologies. The often-agreed views between Japan and India regarding robust engagements in “high-technology areas in the defence and security sectors” might, in such an eventuality, remain only on paper.²⁵

Way Forward

There is no doubt that India needs Japanese technological prowess to pursue its own defence modernisation and diversify from its traditional sources of defence acquisitions. The progress of defence technology cooperation between Japan and India has been slow even without the impact of this new legislation. There is some apprehension that the new economic security legislation could push the two countries right back to the starting line itself. India will need to keep a close eye on developments in this regard and determine, as early as possible, whether any mechanisms can be found to override the provisions that Japan is using to protect its sensitive industries, high-end technologies from external shocks in the upcoming economic security legislation. Insofar as sensitive industries and technologies related to national security are concerned, India is still very dependent on procuring and acquiring equipment from its strategic partners. It may not bode well for India’s defence sector modernisation, if it were to attempt a similar economic security bill.

²² Ministry of Defense of Japan. 2020. *Defense Equipment and Technology Cooperation with Other Countries*. Accessed March 12, 2022. https://www.mod.go.jp/en/equipment/tec_cooperation/index.html

²³ Ankit Panda. 2017. “Will Japan’s Mitsubishi and Kawasaki Build India’s Next Project 75(I) AIP Submarine?.” *The Diplomat*. July 24. Accessed March 12, 2022. <https://thediplomat.com/2017/07/will-japans-mitsubishi-and-kawasaki-build-indias-next-project-75i-aip-submarine/>

²⁴ Matthew Carney. 2014. “Soryu submarine deal: Japanese insiders warn sub program will cost more, hurt Australian jobs.” *ABC News*. September 15. Accessed March 12, 2022. <https://www.abc.net.au/news/2014-09-15/japanese-concerns-over-submarine-deal/5743022?nw=0&r=HtmlFragment>

²⁵ Keidanren. 2017. *Joint Report of the India-Japan Business Leaders Forum 2017*. September 14. Accessed March 12, 2022. <http://www.keidanren.or.jp/en/policy/2017/066.html>

India's indigenisation programme has been continuing since 1983 but the country is nevertheless ranked as the world's second-largest arms importer in the years from 2016 to 2020.²⁶ The Indian defence industry has a mandated requirement of procuring 50% of its requirement from indigenous sources, which, of course, implies the remaining 50% would still need to be sourced through foreign procurements. As such, India can hardly afford to follow in Tokyo's steps by introducing an Indian version of the Economic Security Bill. Instead, New Delhi would be well advised to pursue a watertight agreement with Japan for future high-end defence technology transfer, cooperation and production.

New Delhi should, in fact, continue to focus on the "Make in India" initiative, wherein it invites joint ventures for sensitive technologies such as semiconductor manufacturing. India already has plans to develop a semiconductor ecosystem and introduced an incentive of USD 10 billion that would be offered to companies over a period of six years.²⁷ Through the incentive scheme, the government of India expects to draw investments worth INR 1.70 trillion for more than 20 units. In the post-Covid 19 geopolitical scenario, India is also seeking to reshape supply chains and stop being dependent on China alone. Amidst the growing competition for control over the production and manufacturing of sensitive, high-end technologies such as semiconductors, there are also increasingly vociferous concerns being raised regarding the adverse environmental-impact of developing a semiconductor ecosystem. On the other hand, with semiconductor technology becoming ever more crucial for everyday items as well as for military purposes, and with estimations of the semiconductor market in India reaching USD 63 billion by 2026 as compared to USD 15 billion in 2020, New Delhi will need to demonstrate uncommon deftness in balancing national security with environmental risks.²⁸

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²⁶ Rajat Pandit. 2021. "India's weapon imports fell by 33% in last five years but remains world's second-largest arms importer." *The Times of India*. March 16. Accessed March 12, 2022. <https://timesofindia.indiatimes.com/india/indias-weapon-imports-fell-by-33-in-last-five-years-but-remains-worlds-second-largest-arms-importer/articleshow/81516403.cms>

²⁷ Gulveen Aulakh. 2021. "Govt rolls out \$10 bn red carpet for chipmakers." *Mint*. December 16. Accessed 12 March, 2022. <https://www.livemint.com/technology/tech-news/govt-rolls-out-10-bn-red-carpet-for-chipmakers-11639593541288.html>

²⁸ Krishna Veera Vanamali. 2022. "India's plan to develop semiconductor ecosystem set in motion." *The Business Standard*. February 22. Accessed March 12, 2022. https://www.business-standard.com/podcast/current-affairs/india-s-plan-to-develop-semiconductor-ecosystem-set-in-motion-122022200086_1.html