



## Enacting Japan's Basic Law for space activities: Revolution or evolution?

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### ARTICLE INFO

#### Article history:

Received 27 February 2012

Received in revised form

26 July 2012

Accepted 1 August 2012

Available online 27 December 2012

### ABSTRACT

In June 2012, four whole years after the Basic Space Law mandated a fundamental reorientation of Japan's space policy objectives towards applications, including national security and the use of space as a diplomatic tool, legislation was passed by Japan's Diet that alters who controls Japan's space policy. The new legislation involves a curious compromise between competing aims and objectives of different parts of Japan's central bureaucracy. But it also clearly represents a break from the past and potentially a decisive step toward new directions for Japan's governmental space efforts. Contextualizing the deeper and immediate background, this article seeks to elucidate just how deep, or indeed shallow, some of the forthcoming changes are.

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### 1. Introduction

On 20 June 2012, Japan's Upper House passed the "Partial Revision of the Cabinet Office Establishment Act" enabling the prime minister's Cabinet Office (CO) to take more control of the planning and budgeting of Japan's government space programs [1]. Among other things, the law has enabled the CO to set up a Space Policy Commission (SPC) reporting directly to the prime minister that will provide policy, program prioritization and budgeting recommendations for Japan's space program, replacing *de facto* control of Japanese space policy by the Ministry of Education, Culture, Sports, Science and Technology (MEXT) and putting it into the CO [2]. The law could well presage fundamental – though probably not immediate – changes in the nation's space policy and represents a major evolution in Japanese space policy making and administration. While the new law actually only formalizes many stipulations of the landmark Basic Space Law (Basic Law), and the follow-on Basic Plan for Space Policy of June 2009 (Basic Plan), the new law's formulation follows several years of struggle within Japan's central bureaucracy over who will control the programs and purse strings. This article explains the salient features of the new law and examines the bureaucratic context, summarizing the law's key points. It then provides more detail on the Basic Law and Basic Plan, before moving to a brief discussion of the immediate and possible longer-term implications [3].

### 2. Summary of key points of the law

For the purposes of this article, the law can be divided into several sections on: the setting up of the SPC and the legislation required to amend the role of the CO to accommodate the change; the CO's brand new role; and necessary shifts in the extant administration and legal framework to accommodate the changes.

A major portion of the law deals with the intricacies of establishing CO authority to control the budgeting and planning of Japan's publicly funded space activities, granting it 1) final say and control of budget in the planning of space development and space applications in line with the Basic Law; 2) the authority to coordinate all the other space-related government organs involved in space; 3) the authority to promote programs and development except for those belonging to each specific ministry; and 4) the authority to control the budget and operational planning of projects promoted by multiple ministries. The law underscores CO authority by establishing the SPC within the CO that will make the key recommendations on program prioritization, schedule and budget. Importantly, as discussed below, while the prime minister will be the final arbiter, the opinions and recommendations of key ministers will be heard in the SPC [4].

The legislation passed on 20 June also contains revisions that affect MEXT and its implementation arm, the Japan Aerospace Exploration Agency (JAXA). One area concerning JAXA has received the most media attention, and focuses on the provisions of JAXA's Law of 2003, when the agency was established. The new law scraps the original Article 4 (Objectives of the Agency) that mandated that JAXA's space programs be "for peaceful purposes only". It refers to Article 2 of the Basic Law: "Space Development and Use shall be

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carried out in accordance with treaties and other international agreements with regard to Space Development and Use including the Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, including the Moon and other Celestial Bodies, in accordance with the pacifism of the Constitution of Japan.” Thus, although the new law does not specifically mention the 1967 Outer Space Treaty (OST), it effectively brings JAXA into line with the OST, which allows for the non-aggressive military use of space while forbidding the placement of weapons of mass destruction on orbit. The June legislation also abolished one of the most venerable and durable features of Japanese space policy making, the MEXT-controlled Space Activities Commission (SAC) [5]. The June law stipulates that JAXA’s programs now be aimed at applications that reflect user needs, and that its mid-term goals reflect those coordinated by the CO. JAXA will be co-administered by MEXT and the Ministry of Internal Affairs and Communications (MIC) but with significant input and program jurisdictional rights from the CO and the Ministry of Economy, Trade and Industry (METI). Subsequently, in July 2012, the CO moved quickly to set up a Strategic Space Office (SSO) of just over 20 members and a seven-member SPC, in time for the new structure to begin its work preparing for the 2013 budget [6].

How much of a change does the legislation really imply? Immediately it appears that MEXT, which had oversight of JAXA, accounting for about 60% of Japan’s annual space activities budget, has ceded its *de facto* exclusive control of JAXA and space policy by losing SAC [7]. But, on closer examination, MEXT will continue to play a key role in recommending policy for JAXA, while the CO will have a much stronger coordination and policy role. On the other hand, compared to one longstanding option for implementing the Basic Law — namely to set up a space agency (「宇宙庁」 *Uchū-cho*) within the CO that would have annexed the space development staff of some ten ministries with space development budget lines and drawn them into the CO, creating a sort of super agency — June’s law looks quite tame.

To understand these changes, it is necessary to compare the June legislation with the legal and administrative framework from which they were conceived; not only the Basic Law and Basic Plan, but further back. This essentially means tracing two decouplings: one from Japan’s uniquely restrictive Peaceful Purposes Resolution (PPR) of 1969, and one shifting MEXT from a focus on research and development towards an emphasis on applications and national security use, as mandated by the Basic Law.

### 3. Origins of Japanese space policy

Japan’s rationale for space development was formalized in 1969 with the establishment of the PPR, and the National Space Development Agency (NASDA) under the former Science and Technology Agency (STA). The PPR severely circumscribed Japan’s space activities to exclusively peaceful purposes — a restriction far beyond the uses commonly understood by the OST. The law establishing NASDA also contained a similarly restrictive supplementary provision, as we have seen [8].

Until the early 2000s Japan’s space policy focused on technological and scientific aspirations, the former through NASDA and the latter mainly through the space science program of the Institute of Space and Astronautical Science (ISAS), which merged with NASDA to form JAXA in 2003 (see below). SAC, formed in 1968 under the General Administrative Agency of the Cabinet, released several iterations of the *Fundamental Policy* between 1978 and 1996, and emphasized bringing Japan’s space technologies up to the level of the USA, while espousing the use of space to enrich Japanese and global society built on civilian use and international cooperation [9].

By the 2000s, however, it was apparent that Japan’s strategic space development needs had outgrown its deliberately naïve PPR-based focus on R&D and science. Several strains had emerged. In the 1980s, the PPR was reinterpreted so that the Japan Defense Agency (which became the Ministry of Defense in 2007) could use commercially available satellite communications technology for defensive military uses, allowing it to rent communications transponders on Japanese commercial satellites. Then the outcry following the August 1998 flyover of a North Korea Taepodong missile (an attempted satellite launch) moved Japan to develop the Information Gathering Satellite (IGS) reconnaissance program to monitor its antagonistic neighbor. In deference to the PPR paradigm subsequent satellites were presented as a “multi-purpose information gathering program,” and placed under the control of the Cabinet Satellite Intelligence Center in the Prime Minister’s Cabinet Secretariat [10].

During the 2000s the pressures for change multiplied. With space spending limited to R&D purposes and budget flat, industry, anxious to expand spending and promote commercialization, worked with the government on two Public–Private Partnership (PPP) programs that were to become the GX medium class rocket and a Japanese regional GPS system now called Quasi Zenith Satellite System (QZSS). Subsequent troubles with both further proved just how much Japan’s R&D-focused space administration structure was ripe for change.

Administratively this direction was formally initiated by the actions of the 14-member Council for Science and Technology Policy (CSTP) chaired by the prime minister, which assumed responsibility for national strategy over science and technology policy. Realizing Japan’s space needs were outgrowing its administrative and legal structure, the CSTP sought to take space planning beyond the R&D focus favored by the STA, NASDA and SAC into a wider strategic paradigm. The CSTP successively refocused its space-related policy so that, by 2004, the CSTP’s Basic Strategy came to focus directly on national security through development of the IGS program, maintenance of solid-propellant technology and independent space access, and the QZSS system.

The advent of the CSTP, however, led to unfortunate disconnects. As part of a wider rationalization of the central government, the STA was merged with the MOE, to form MEXT. Then NASDA and ISAS were merged with another body, the National Aerospace Laboratory, to form JAXA in 2003. SAC’s role had already been folded into MEXT, leaving the latter, through SAC, to effectively regulate itself, a clear case — to some — of regulatory capture, as SAC’s position and JAXA’s rationale borrowed from the traditional preoccupations of the MOE, STA, NASDA and ISAS (with its own mission selection and review systems for scientific research from a broad and committed expert scientist community). Subsequently, CSTP’s vision and MEXT/SAC/JAXA priorities effectively existed on parallel tracks [11].

This disconnect was brought into sharp relief when multiple high-profile JAXA mission failures, in particular that of H2A flight 6, destroying two IGS craft, during the tenure of MEXT Minister Takeo Kawamura, pushed him into actions that evolved into the Basic Law. It was this loss that most incensed Kawamura. After watching different parts of Japan’s space establishment blame each other, he decided that “no one was in charge” of Japan’s space policy. Kawamura initiated fundamental changes to reinforce the strategic goals of space development and introduce streamlined executive control away from the partial (in both senses) management of SAC and MEXT.

The need for change was further reinforced by the inability of the government and industry to agree on who was to pay to develop various parts of the proposed QZSS system, and which of a basketful of ministries involved with the R&D and development

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