1 Dec. 2011
Galloway 6

The National Space Law of Japan: Basic Space Law and the Space Activities Act in the Making

Setsuko AOKI
Professor of International Law,
Faculty of Policy Management, Keio University
aosets@sfc.keio.ac.jp

Table of Contents

I Introduction: Prior to Basic Space Law (2008)

II Basic Space Law

III Space Activities Act (SAA) in the Making

IV Recent Policies to Influence SAA

V Conclusion

I Introduction:
Prior to Basic Space Law (2008)

Act to Establish Space Agencies:

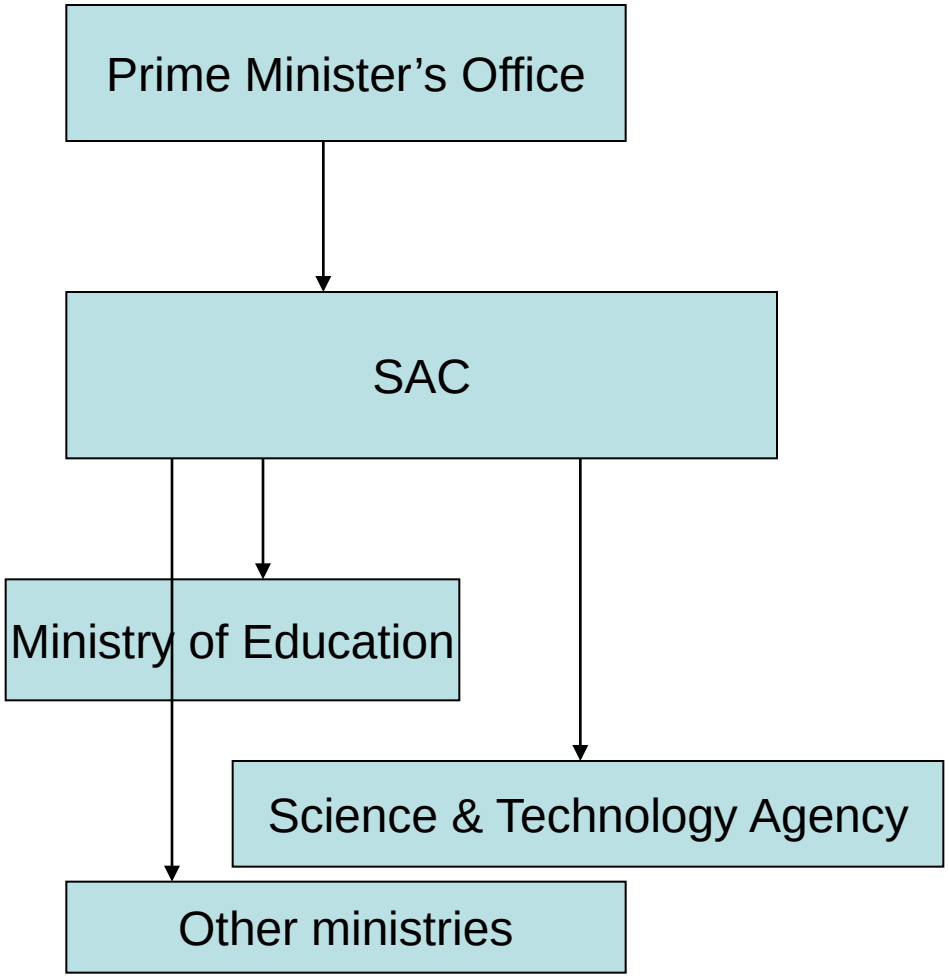
1968 Space Activities Commission (SAC)

1969 National Space Development Agency of Japan (NASDA)

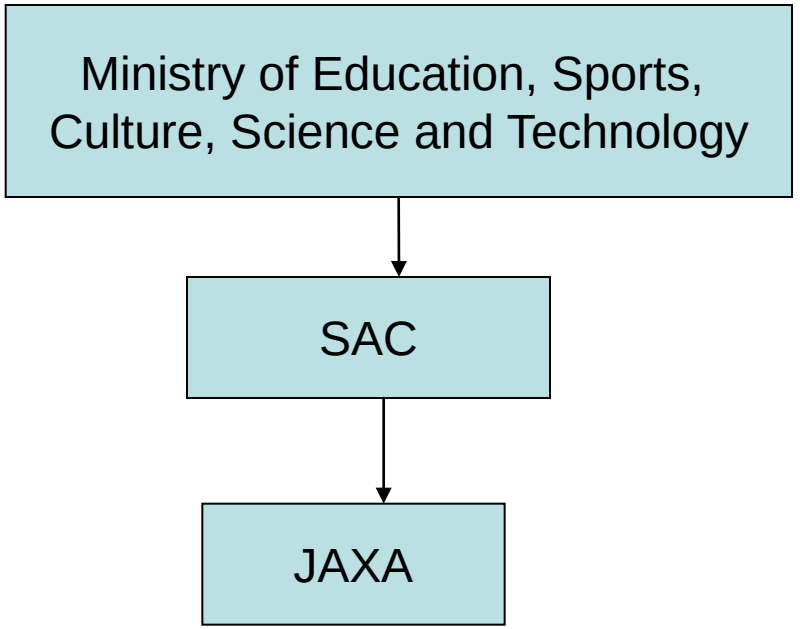
2003 Japan Aerospace Exploration Agency (JAXA)

Agencies to Make a Space Policy

1968- 5 Jan. 2001



6 Jan 2001 ～



National Laws to Regulate Space Activities before 2008

In order to operate a satellite:

1949 Foreign Exchange and Foreign Trade Act

1960 Radio Law

1984 Telecommunications Business Law, etc.

In order to launch a space object:

1950 Gun-Powder Control Law

1951 High-Pressured Gas Safety Law

1964 Electricity Utility Law, etc.

II Basic Space Law (BSL)

27 August 2008 Effective

1 Establishment of Strategic Headquarters

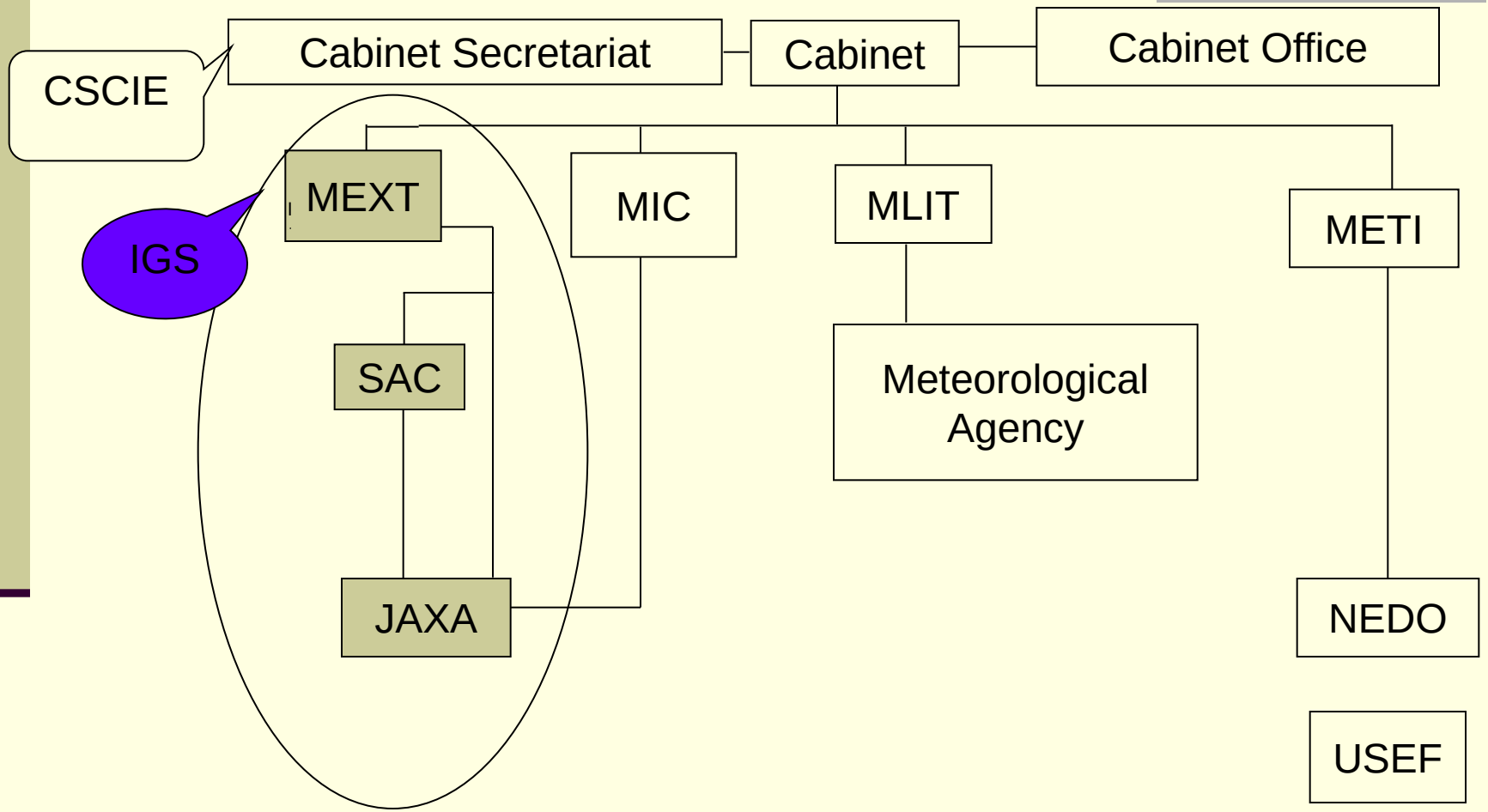
2 End of the Non-Military Policy

3 Promotion of the Commercialization of Space

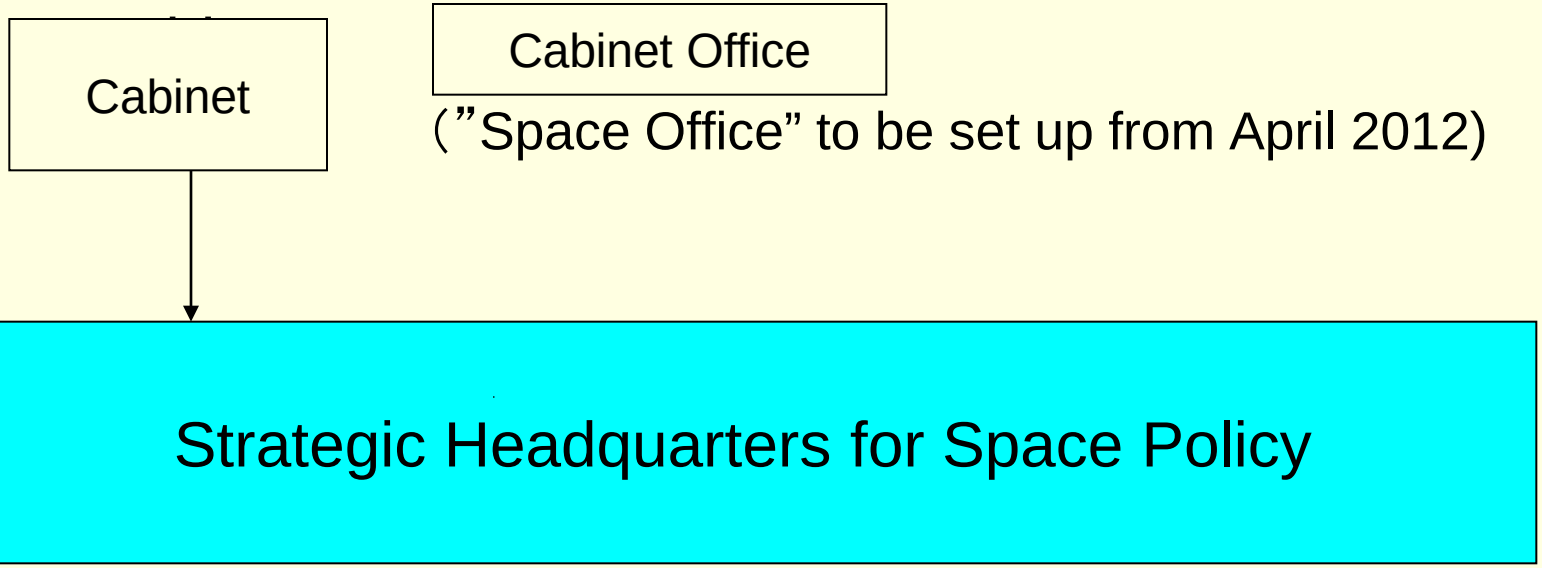
1 Establishment of Strategic Headquarters

Before and After

Space Management Structure before BSL



Restructuring of Space Organizations by BSL



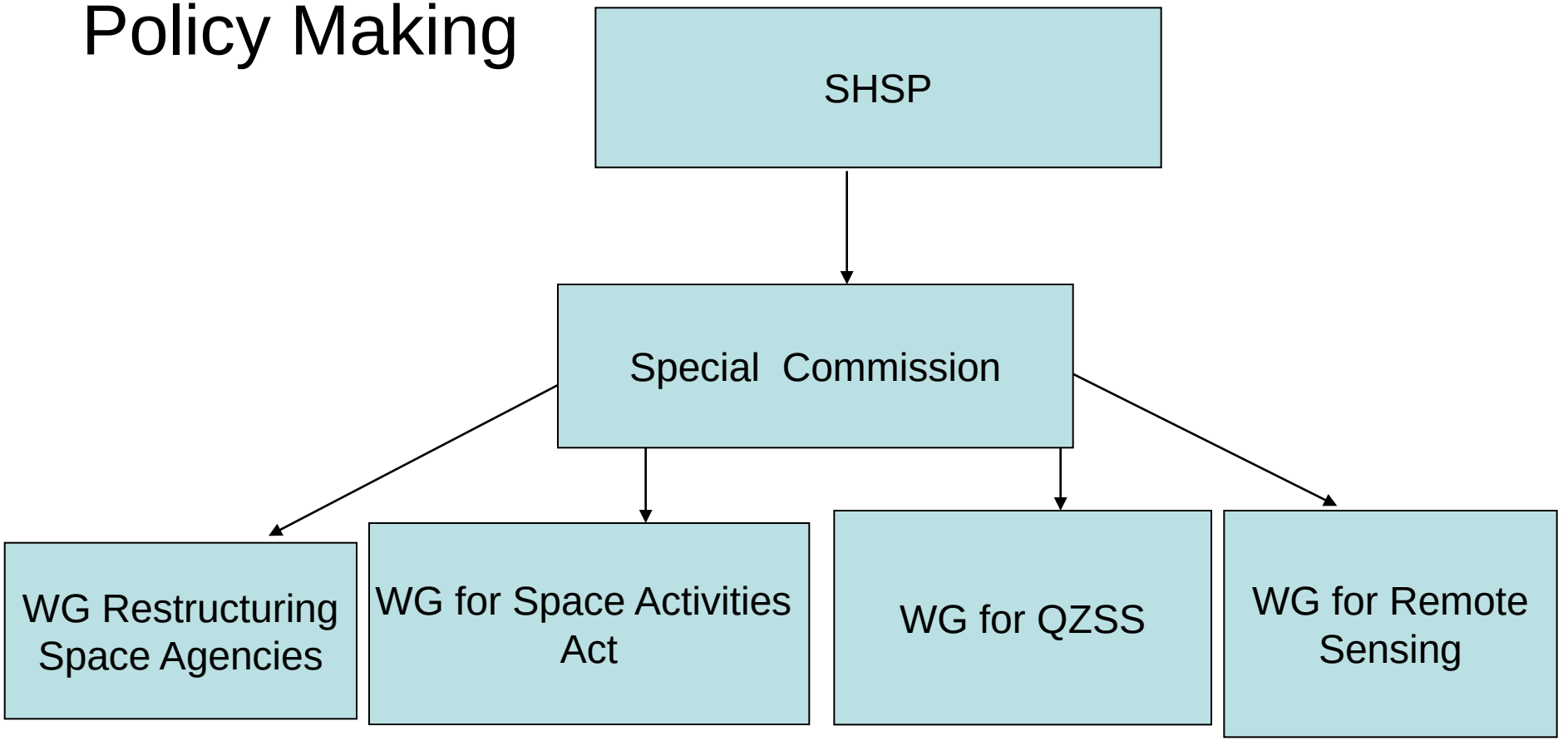
Chairman: Prime Minister

Vice- Chairmen: Cabinet Secretary and
Minister of Space Affairs

Members: all ministers

Structure of SHSP

Policy Making



2 End of the Non-Military Policy

2008 as a turning point

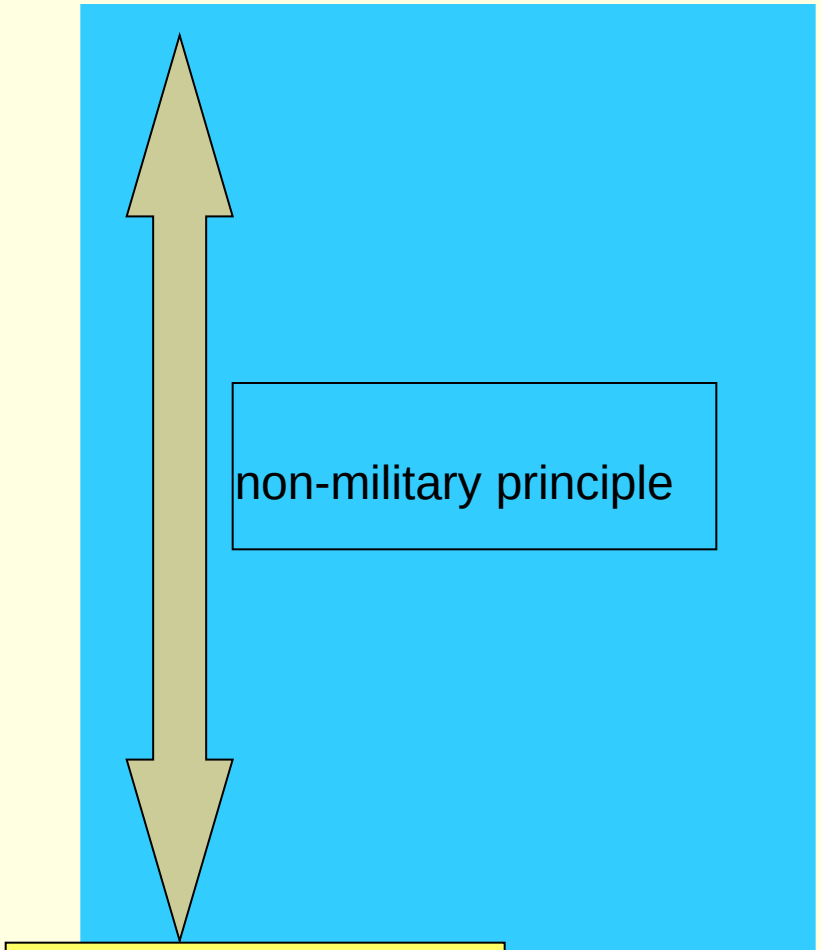
Japan's Long Standing Space Policy

1 1969 Diet Resolution Non-military Use Principle unanimously adopted

2 1985 Unified Governmental View

3 1998 Development of Information Gathering Satellite (IGS) Decided

4 2003 The decision of the introduction of Ballistic Missile Defense (BMD)



Art. 2 （Peaceful Uses of Outer Space）

change of the interpretation from non-military to non-aggressive

Space Development and Use shall be 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.

Scope of Japan's
new space activities = non-aggressive use – the limitation of Constitution of Japan

3 Promotion of the Commercialization of Space

As a governmental obligation

Art. 16 of the BSL
Promotion of Commercialization

The obligations of the State:

*to procure systematically goods and services of private business operators

*to maintain launching sites and other facilities

*to transfer of the results of R & D to the private sector and promote private space development

* to take necessary taxational and financial measures to promote commercialization of space

Art.35 to enact Space Activities Act

(1) The Government shall carry out the enactment of legislation on necessary matters.

(2) The enactment of legislation shall be carried out:

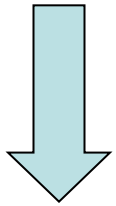
(i) to advance national interests of Japan in international society; and

(ii) to contribute to the promotion of space activities by the private sector.

III Space Activities Act (SAA) in the Making

1 Drafting Process of the SAA

WG for SAA met 6 times Oct. 2008-Aug.2009 →Interim Report adopted →Public Comments (3 weeks) →coordination in the WG



March 2009 Final Report released in the Internet →Bill not submitted to the Diet. Ministry to issue a license concerning SAA not decided.

2 Purposes of SAA

(i) implement Art. VI of the OST;

(ii) ensure the public health and safety;

(iii) guarantee Third Party Liability (TPL);

(iv) promote private space activities

(v) play an active role in fulfilling international responsibility for the sustainable development of space.

3 Activities required for the Authorization/License

(i) Launch;

(ii) Procurement of a Foreign launch;

(iii) Reentry;

(iv) Satellite Operation;

(v) Launch & Reentry Site Operation

Who should apply for the Authorization/Licenses

(i) In the territory of Japan*:* all natural persons, corporations, governmental agencies and other legal bodies

(ii) Irrespective of the places: natural persons with Japanese nationality, corporations and other legal bodies founded by Japanese law, as well as Japanese governmental agencies

Criteria of Authorization (1)

Launch, Reentry and Foreign Procurement

(1) Technological & financial capability
(2) Observance with International law and foreign policy
(3) Safety review
(4) Debris mitigation requirements

Some steps may be exempted if appropriate review had been conducted by a foreign authority.

(2)
Satellite Operation

(1) Technological & financial capability

(2) Observance with International law and foreign policy

(3) Debris mitigation requirements

(3)
Launch & Reentry Site Operation

(1) Technological & financial capability

(2) Observance with International law and foreign policy

(3) Safety review

4 Third Party Liability (TPL)

1 Exclusive liability for launch and reentry providers

* TPL insurance

*government indemnification concerning the damage not covered by the TPL insurance

2 Absolute liability damage on the Earth

3 Fault liability damage in outer space

5 Future Tasks

Not included SAA

* human space flight;
* sea launch, air launch;
* remote sensing data policy
* promotion of space industry

IV Recent Policies to Influence SAA

Space Policy and related guidelines

1 June 2009 Basic Plan for Space Policy

2 May 2010 Important Measures in Space Activities: Strategic Space Policy to Promote Japan's Growth

As of Nov 2011 Draft Policy for the Strategic Promotion of Space Activities : Selection and Improved Efficiency

Basic Plan for Space Policy
2009-2014

5 Satellite Systems (A to E) and 4 Programs (F-I)

D Quasi-Zenith Satellite (QZS)

3 constellation → supplementary to GPS

The possible 7 constellation → self-contained system

One of the 7 Action Plans

security use rather modest

(1) Goal: 4 IGS constellation (2 optical, 2 radar)

(2)The research of the early-warning sensor of dual use, which can be also used for detecting forest fire.

Not even R & D, but just research of the sensor, “dual use” and “spin-on.”

2010
Important Measures

1 Space Business for the growth of Japan

* small satellites; remote sensing satellites and user-friendly data utilization system

*national legislation

2 Expanding international cooperation and promoting space business

3 State-of-the-art Space Technology as an innovation engine

*satellite use as “environmental guard”

2011
Selection and Improved Efficiency

QZS and other programs

1 Focus on the construction of QZS

4 QZS by later part of 2010's→ eventually 7 QZS

2 Other than QZS

* Remote sensing data: on its own (incl. small satellites) and foreign data purchase

*International space station

*science; *exploration; *transportation, etc.

2011
Selection and Improved Efficiency

QZS and other programs

1 Focus on the construction of QZS

2 Other than QZS

* Remote sensing data: on its own (incl. small satellites) and foreign data purchase

*International space station

*science; *exploration; *transportation, etc.

V Conclusion

1 Basic Space Law

* declaration of the governmental commitment to promote commercial use

* the end of non-military policy, but not for a significant military use; space for dual use

2 Space Activities Act in the Making

Licensing regime and TPL

(2) What type of Spacefaring State Japan will be?

Medium power with a state-of-the art science and technology in a certain area

Commercialization and privatization of space
→Space Activities Act will promote that process→urgent necessity is to decide the ministry or agency to issue a license