

## Client Alert

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### Legal Issues in Space Business in Japan - Volume 1

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## Legal Issues in Space Business in Japan - Volume 1

The privatization of space business is spreading around the world. In Japan, there have been significant developments in recent years of policies and laws regarding the space industry. As the space industry rapidly expands, the number of legal issues related to space business will increase. This series of client alerts will describe some of the legal issues concerning space business in Japan.

### Government Policies on Space Business

Over the last few years, the Japanese government has announced several policies and initiatives encouraging the growth of the space industry. The Japanese government<sup>1</sup> released the Amended Basic Plan on Space Policy on 30 June 2020 (the "**Basic Plan**")<sup>2</sup>. This Basic Plan focuses on the following areas, among others:

- Regulatory environment necessary for **suborbital flight**<sup>3</sup>, **space resource exploitation, on-orbit servicing and space traffic management** (by 2024);
- Identifying necessary measures for the development of **launch sites and spaceports**;
- Promoting the creation of **new business services in low-Earth orbit**;
- Research and development of future **space transportation systems**;
- Consideration of ideal **human space activities**;
- **Space debris management**<sup>4</sup>; and
- Research and development of **space-based solar power system**.

This is consistent with the Japanese government's "Space Industry Vision 2030"<sup>5</sup>, released in 2017, announcing their aim to expand the market scale of

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<sup>1</sup> The Strategic Headquarters for National Space Policy (*uchu kaihatsu sennyaku honbu*) of the Cabinet Office (*naikaku-fu*) is in charge of policy planning and supervision of the space industry.

<sup>2</sup> English translation of an abstract of the amended Basic Plan on Space Policy is available on the Cabinet Office website (<https://www8.cao.go.jp/space/english/basicplan/basicplan.html>).

<sup>3</sup> The Japanese government held the Suborbital Flight Public-Private Conference in 2018 (<https://www8.cao.go.jp/space/policy/suborbi/kaisai.html>) (Japanese only).

<sup>4</sup> The Japanese government established the Space Debris Task Force in 2019 (<https://www8.cao.go.jp/space/taskforce/debris/kaisai.html>) (Japanese only).

<sup>5</sup> <https://www8.cao.go.jp/space/vision/vision.html> (Japanese only).



space business in Japan from current the JPY 1.2 trillion to JPY 2.4 trillion in the 2030's.

To financially support the industry, the Japanese government decided in 2018 to provide JPY 100 billion of "risk-money" to space venture businesses through the Development Bank of Japan and Japan Investment Corporation<sup>6</sup>.

Furthermore, the following three initiatives have been launched by the Japanese government to facilitate space ventures:

- Space Booster (S-Booster), a space business idea competition<sup>7</sup>;
- S-NET, a space business network<sup>8</sup>;
- S-Matching, a service matching venture capital firms with space ventures<sup>9</sup>.

## Space Laws in Japan

Japan is a party to the international space laws below:

- Outer Space Treaty<sup>10</sup>
- Rescue Agreement<sup>11</sup>
- Liability Convention<sup>12</sup>
- Registration Convention<sup>13</sup>

Notably, Japan is not a party to the Moon Agreement.<sup>14</sup>

Article 2 of the Outer Space Treaty stipulates that "outer space, including the Moon and other celestial bodies, is not subject to national appropriation by claim of sovereignty, by means of use or occupation, or by any other means". This raises the issue of whether or not space mining business is allowed pursuant to this clause. In some jurisdictions, the law explicitly allows for space mining. An example of this is the United States, which clearly allows for space mining by a private entity under the Space Act of 2015. The space laws of Japan do not explicitly allow space mining business, however, the Japanese government has invested in ispace, inc.<sup>15</sup>, a Japanese space venture company whose purpose is space mining, through the Development Bank of Japan. It is evident from this that the Japanese government, at the very least, does not intend to ban space mining.

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<sup>6</sup> Space News as of 21 March 2018 (<https://spacenews.com/new-fund-to-boost-japanese-space-startups/>)

<sup>7</sup> <https://www8.cao.go.jp/space/english/s-net/s-booster/index.html>

<sup>8</sup> <https://s-net.space/about> (Japanese only)

<sup>9</sup> <https://s-matching.jp/> (Japanese only)

<sup>10</sup> "Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, including the Moon and Other Celestial Bodies"

<sup>11</sup> "Agreement on the Rescue of Astronauts, the Return of Astronauts and the Return of Objects Launched into Outer Space"

<sup>12</sup> "Convention on International Liability for Damage Caused by Space Objects"

<sup>13</sup> "Convention on Registration of Objects Launched into Outer Space"

<sup>14</sup> "Agreement Governing the Activities of States on the Moon and Other Celestial Bodies"

<sup>15</sup> <https://ispace-inc.com/>



Japan has recently enacted and enforced two important space laws: the Space Activity Act<sup>16</sup> and the Remote Sensing Data Act<sup>17</sup>. We will elaborate on these two space laws in our subsequent client alerts. The outline of the laws are as follows:

### **[Space Activity Act]**

The Space Activity Act was enacted in 2018. It includes provisions on:

- (i) Permission and Certification
  - Permission for launching
  - Certification for launch sites
  - Certification for launch vehicles
  - Permission for spacecraft operation
  
- (ii) Compensation obligation
  - for launch vehicle fall damage
  - for spacecraft fall damage

### **[Remote Sensing Data Act]**

The Remote Sensing Data Act was enacted in 2017. It includes provisions on:

- (i) Licensing and Certification
  - Licensing for the use of satellite remote sensing equipment
  - Certification for handling satellite remote sensing data
  
- (ii) Regulations on the Handling of Satellite Remote Sensing Data

## **Legal Issues in Space Business**

We will describe some of the legal issues arising in the space industry in subsequent client alerts. These legal issues include:

- Personal data protection issues related to the remote sensing data business
- Legal framework for suborbital flight
- Legality of compensation liability waivers for suborbital flight
- Legal considerations for debris removal business
- Legality of space mining business
- Legal framework for spacecraft finance, including the effectiveness of spacecraft collaterals
- Permissions and licenses necessary for each space business, including satellite internet provider services

We will also introduce and describe various legal considerations concerning intellectual property and the M&A of space ventures.

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<sup>16</sup> "Act on Launching of Spacecraft, etc. and Control of Spacecraft (Act No. 76 of 2016)"

([https://www8.cao.go.jp/space/english/activity/documents/space\\_activity\\_act.pdf](https://www8.cao.go.jp/space/english/activity/documents/space_activity_act.pdf))

<sup>17</sup> "Act on Ensuring Appropriate Handling of Satellite Remote Sensing Data (Act No. 77 of November 16, 2016)" ([https://www8.cao.go.jp/space/english/rs/rs\\_act.pdf](https://www8.cao.go.jp/space/english/rs/rs_act.pdf))