

AJISS-Commentary

The Association of Japanese Institutes of Strategic Studies

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Policy Studies



The Japan Forum on
International Relations

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International Affairs
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Peace and Security

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No.34. 26 June 2008

CHALLENGES FOR JAPAN'S SPACE STRATEGY

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On 21 May 2008, the Basic Space Bill became a full-fledged law. The main purposes of the Basic Space Law include lifting the long-standing ban on the military use of space assets and promoting the space industry. To realize these purposes, the law focuses on the reorganization of Japan's space management structure. A new Headquarters for Space Development and Strategy is to be set up under the Cabinet, with the Prime Minister serving as its Director-General, to develop a comprehensive space strategy.

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When Japan's space agency was established in 1969, the Diet unanimously adopted a resolution committing Japan to using space "for peaceful purposes only." While the term "peaceful purposes" has internationally been understood as "non-aggressive" from the advent of the space age, the same term has been interpreted as "non-military" in Japan. The 1967 Outer Space Treaty (OST) endorsed the former interpretation, which allows the military use of space within the boundaries of the inherent right of self-defense. Since space activities are characterized by their dual civilian-military nature, restricting the development and use of space to the "non-military" realm was impossible, especially as the rapid development of space technology blurred the demarcation between civil and military functions. Sooner or later, Japan's "non-military" principle was doomed to be circumvented to adjust to the new reality.

That day came in 1985 when a unified governmental view was issued that interpreted the "non-military" principle as permitting the use of satellites by the Self Defense Forces (SDF) as long as these satellites were widely used in everyday civil life. This interpretation paved the way for the SDF to use images gathered by Information Gathering Satellites (IGSs) in 2003 to assess the missile threat posed by North Korea. Yet problems remained. Operated for "civilian" purposes, IGSs were under the control of the Cabinet Satellite Intelligence Center, not the SDF. Furthermore, the image resolution of the IGSs was no higher than that of commercial satellites available in the market. As a consequence, IGSs were almost of no use for true defense purposes.

The Basic Space Law, therefore, changes the interpretation of "peaceful purposes" from "non-military" to "non-aggressive" as understood by the rest of the world. Article 2 of the law specifies that the development and use of outer space shall be carried out in accordance with international law, including the OST, based on the pacifist spirit of the Constitution of Japan.

Under the new law, the SDF can manufacture, possess, and operate its own satellites to support its terrestrial military operations, including ballistic missile defense (BMD). Immediate candidates for SDF procurement would be satellites for reconnaissance, early warning, and tracking and communications –

all to enhance BMD capabilities. Given that Japan is the United States' largest BMD partner, Washington may eventually expect Tokyo to intercept a missile launched toward US territory should a Japanese satellite detect such an attack. However, this is not possible under the current interpretation of Article 9 of Japan's Constitution, which prohibits Tokyo from exercising the right to collective self-defense.

Japan's inability to intercept a missile targeted at its ally while possessing the capability to detect such an attack may lead to the weakening of one of the most important alliances in the world. Because collective self-defense is a delicate issue in Japan that goes well beyond space policy, an easy solution cannot be presented here. A realistic goal, I think, is to reach a comprehensive strategic agreement between Japan and the US covering both military and civilian use of space, in which challenges faced by the two countries are adequately addressed.

Such challenges include the clarification of the roles and functions of space assets used in the BMD partnership and the dissolution of the 1990 Japan-US Satellite Procurement Agreement. Concluded at a time of escalating trade friction with the US, the procurement agreement obliges Japan to open its non-R&D satellite procurement to foreign satellite markets. The conditions imposed on Japan by the agreement are stricter than those set by the WTO Agreement on Government Procurement. Reflecting Japan's disadvantageous position compared with European countries vis-à-vis the US, 12 out of the 13 satellites that the Japanese government has procured since 1990 were US-made. Therefore, it is not surprising that Japanese industry, which has taken the 1990 procurement agreement as excluding satellites for defense purposes, expects that lifting the "non-military" principle will create opportunities to obtain governmental contracts for non-R&D defense-purpose satellites. Japan's struggling financial situation may well disappoint the industry, though.

If Tokyo and Washington want to build healthier bilateral space cooperation, both military and civilian, they must face up to and negotiate issues about which each nation feels dissatisfaction. Japan is an important partner for US civil space programs ranging from the construction of the International Space

Station to the GPS Standardization Agreement and lunar exploration. When it comes to the GPS agreement, Japan has always stood by the US strategy. Security and economic ramifications have changed considerably since the early 1990s, and Japan is no longer an economic threat to the United States.

In this context, discarding the 1990 Satellite Procurement Agreement would benefit not only Japan but also the United States. Such a generous move by Japan's most important partner would enable closer cooperation between Japan and the US in their civil and defense space activities by allowing Japan to develop its own satellites and strengthen its space capabilities. By reinforcing their alliance, Japan and the US can help bring peace and stability to East Asia, which would surely be in the interest of the United States. 

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