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Space law Developments in Asia-Pacific: Diverging national space legislation with regard to the applicability of space law to suborbital flights (4)

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AN ENABLER OR A BARRIER?: "NEWSPACE" AND JAPAN'S TWO NATIONAL SPACE ACTS OF  
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**Abstract**

On November 16, 2016, two new national space acts were promulgated in Japan. One is Space Activities Act which provides for the licensing and supervision systems of launching a rocket and satellite. The other is High-Resolution Remote Sensing Satellite and Data Act (Remote Sensing Act) in order to protect national and international security while promoting business using the remotely-sensed data from outer space. Among the two, Space Activities Act is especially supposed to aim at enhancing the potentials of private space actors. However, this Space Activities Act may be, at least at its first glance, found as rather conservative in contents as it does not allow private entities to venture into a human space project even if that is suborbital. Nor does it refer to the recovery of extraterritorial resources, active space debris removal nor on-orbit servicing of satellites. The main reason for this lies in the fact that Japan's law making has the tacit principle that without a series of actual technological demonstration, no legal conditions for the authorization are set out. However, it does not necessarily hinder private companies to start "NewSpace" businesses except space tourism, which is prohibited under this Space Activities Act. This article studies if "NewSpace" activities can be fully developed into a business under the licensing system of the 2016 Space Activities Act of Japan through the interpretation of this Act. In doing so, emphasis is placed on the characteristics of this Act such as the scope of the required licensees narrower and the national jurisdiction rather restricted in comparison with other national space acts as well as the new elements found in this Act to lead to the conclusion that conservative national act is not a disabler of "NewSpace." The function of the Remote Sensing Act to promote "NewSpace" is also explored. Finally, a certain proposals will be made to the Cabinet Ordinances and other licensing regulations of the two new national space acts in the making.