

## **Complicating the Complex: China's ADIZ**

by Lowell Bautista and Julio Amador III

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In a move that further escalated tension in the region, China's announcement of an Air Defense Identification Zone (ADIZ) in the East China Sea, elicited strong protests from the United States, Japan, and South Korea. The Chinese ADIZ includes airspace over the Diaoyu/Senkaku Islands claimed by both China and Japan and requires that aircraft entering its ADIZ must report flight information to Chinese authorities, otherwise, "China's armed forces will adopt defensive emergency measures to respond to aircraft that do not cooperate in the identification or refuse to follow the instructions." These measures are clearly provocative, contrary to international practice, and increase the risk for clashes and collisions which could escalate into a larger and more serious conflict.

### **ADIZ and International Law**

An ADIZ is an area in airspace over land or water in which ready identification, location, and control of all aircraft is required in the interest of national security. It is principally for the purpose of pre-emption and prevention based on the principles of self-defense, national security, and precaution. ADIZs are not uncommon. Canada, India, Japan, Pakistan, Norway and the United Kingdom, China, South Korea, Taiwan, and the United States, are some of the countries that maintain air identification zones. It must be clarified that ADIZs are not territorial boundaries, and neither do they justify unlawful interference of another State's rights of aerial navigation in international law especially over the high seas.

The legal validity of air identification zones in international law has never been subject to serious challenge. However, neither is it explicitly proscribed, prohibited, or regulated under any existing international treaty or by any international institution. Nevertheless, the jurisdictional extension of a state's enforcement powers beyond its national airspace is not supported under relevant international law. In addition, the traditional overflight freedoms accorded to military aircraft must be respected.

The traditional hostility of states to the idea of subjecting military aircraft to international regulation is based on the notion that such are tools and symbols of military power,

sovereignty, independence, and prestige. This is where China's ADIZ differs markedly with those of other ADIZ. The Chinese ADIZ in the East China Sea imposes requirements on both civilian and military aircraft; all other ADIZs apply only to civilian aircraft. This is contrary to standard international practice. In contrast, the US ADIZ procedures are not applied to foreign state aircraft not bound for US territorial airspace.

### **Regional security implications**

China's decision to establish an ADIZ that overlaps with Japan's and South Korea's ADIZs complicates an already volatile regional security environment. Some Chinese analysts justified Beijing's move as an important step in military transparency because it increases its air defense early warning ability, and avoids military misjudgments with foreign aircraft. Protests, however, from its neighbors cast doubts on the nature of the ADIZ. Japan's senior officials starting with Prime Minister Abe Shinzo have already issued statements condemning China's moves as attempts to change the status quo. They have asked Beijing to revoke its decision as it would "infringe upon the freedom of flight in international airspace." Japanese Foreign Minister, Kishida Fumio and Defense Minister Onodera Itsunori have received phone calls from their US counterparts, Secretary John Kerry and Secretary Chuck Hagel, reassuring them that Washington views Beijing's moves as an unnecessary escalation. The two allies have agreed not to recognize China's ADIZ and the US has flown B-52 bombers to challenge China's ability to enforce its rules.

South Korea, which has been in a state of cozy cooperation with China, has declared that it will not recognize the Chinese ADIZ. Beijing's ADIZ effectively intrudes upon the airspace over the territorial waters of Jeju Island. Ieodo Rock, a point of dispute between the two countries, is now also within Beijing's ADIZ. Foreign and defense ministry officials have officially voiced "regret" over Beijing's unilateral moves, declared that Seoul will not recognize the ADIZ, and brought up the issue during the defense vice-ministerial strategic dialogue.

The reactions from Beijing's neighbors reflect the lack of consultation. Thus far, instead of reassuring them of its intentions, China has called on these countries to respect its decision. Furthermore, China expressed indignation over the US protest and blames it for "irresponsibly" making remarks over the ADIZ. Beijing plans to establish additional ADIZs and there are fears that these will cover the Yellow Sea and the South China Sea. China's Defense Ministry, which is tasked with monitoring and regulating the ADIZ, announced that it will "establish other air defense identification zones at an appropriate time after completing preparations."

The US and Japan have tested Beijing's new policy by flying aircraft over the ADIZ and having elicited no response

even as it threatened to “take timely measures to deal with air threats and unidentified flying objects from the sea.” What will happen next if China feels the need to fully follow through with its threat? Chinese netizens and news media have derided their government’s non-response to the flight of US *Stratofortresses* over the area.

### **ADIZ and the South China Sea**

China’s Foreign Ministry has indicated plans to establish a second ADIZ over the South China Sea. Such a move will be destabilizing to the region and will be perceived as provocative and aggressive by other claimant states. A unilateral ADIZ over disputed islands in the South China Sea also violates the spirit of the 2002 Declaration on the Conduct of Parties in the South China Sea (DOC-SCS).

ASEAN has not made any official statements regarding the Chinese ADIZ. However, the silence of ASEAN or any of its 10-member states must not be seen as indicative of acquiescence or approval. It is not too late for ASEAN to take a leading role to diffuse tension and preemptively preclude a similar move in the South China Sea in the interest of regional stability. ASEAN could be proactive and as a body ask Beijing to confirm or deny any plans for an ADIZ over the South China Sea. That would test Beijing’s commitment to work closely with ASEAN to prevent instability.

The role of extra-regional actors and powers need not be overstated. The US, largely perceived as the principal underwriter of stability in the region, will continue a pivotal role. The strong and unequivocal protests of other states will be needed to counterbalance and curb China’s increasingly assertive actions especially those that challenge international legal norms. The international community has a moral interest not only in the maintenance of peace, order, and stability of the region but making sure that international law is observed and respected. China, on the cusp of being the next global superpower, is again the focus of world attention and every indication is that the coming Asian century will not have a benevolent, international-law abiding, superpower. This does not augur well for China or the world.

*PacNet commentaries represent the views of the respective authors. Alternative viewpoints are always welcomed.*